IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress

INTRODUCTION

IRC § 7803(c)(2)(B)(ii) requires the National Taxpayer Advocate to submit an Annual Report to Congress that, among other things, contains administrative recommendations to resolve problems encountered by taxpayers. For 2019, the National Taxpayer Advocate proposed 78 such recommendations to assist the IRS and Congress.[1]

By way of background, IRC § 7803(c)(2)(B)(iii) requires the National Taxpayer Advocate to submit her reports "directly" to the House Committee on Ways and Means and the Senate Committee on Finance "without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget." This provision protects the independence of the National Taxpayer Advocate's reports.

IRC § 7803(c)(3) provides that when the National Taxpayer Advocate submits recommendations to the Commissioner, "[t]he Commissioner shall establish procedures requiring a formal response . . . within 3 months." TAS submitted all administrative recommendations from the 2019 National Taxpayer Advocate's report to the Commissioner shortly after publication. These included administrative recommendations made in four sections of the report — the "most serious problems" (MSP) section, the "status updates" section, the "most litigated issues" section, and the section containing TAS research studies. The Commissioner has provided written responses to these recommendations.

The IRS responded directly to administrative recommendations proposed in the MSP section of the report. In response to administrative recommendations proposed in other sections of the report, the IRS declined to respond directly, providing only general and sometimes incomplete narrative responses. The IRS has explained it believes it is only required to respond directly to administrative recommendations proposed in the MSP section and not to administrative recommendations proposed in other sections. It argues that IRC § 7803(c)(2)(B)(ii) subsections (III)–(VI), read in combination, require TAS to maintain "inventories" of actions that have been taken, that remain to be completed, and that have not been taken in response to MSPs but not to discussions in other sections of the report. The National Taxpayer Advocate disagrees.

We believe the IRS's position misinterprets the statute and deprives Congress and the public of answers they deserve. As noted, we have submitted our administrative recommendations to the IRS pursuant to IRC § 7803(c)(3), which requires a formal response to each administrative recommendation the National Taxpayer Advocate makes. There is nothing in this subsection that limits the National Taxpayer Advocate to recommending actions that are proposed in the MSP section of the annual report. In fact, there is nothing in this subsection that limits the National Taxpayer Advocate to recommending actions that are proposed in the report at all. The intent of

1 *See* National Taxpayer Advocate 2019 Annual Report to Congress, https://taxpayeradvocate.irs.gov/2019AnnualReport.

the statute is clear: If the National Taxpayer Advocate makes an administrative recommendation to mitigate a taxpayer problem — regardless of whether or where it has appeared in a report — the IRS should evaluate it and respond in writing so that TAS, Congress, and the taxpaying public know whether the IRS plans to implement the recommendation and, if not, why not. General narrative discussions that do not address recommendations directly fail to satisfy this objective. We note in this appendix where IRS narratives are not responsive.

In this appendix, we present the problems, administrative recommendations, and responses in the following format:

- A problem statement for each MSP and status update and from some of the most litigated issues (MLIs) and TAS research studies included in the 2019 Annual Report;
- A summary analysis of the problem;[2]
- The National Taxpayer Advocate's recommendations to address the problem;
- The IRS's narrative response;
- The National Taxpayer Advocate's comments on the IRS's narrative response; and
- A figure showing the IRS's responses and actions relating to each recommendation, along with the National Taxpayer Advocate's response.

Some narratives in the 2019 Annual Report to Congress include recommendations for consideration by Congress. This appendix presents only the administrative recommendations directed to the IRS.

2019 Annual Report to Congress Recommendations and Intended Audience

Title	Narrative Included Recommendations to the IRS That Are Included in This Appendix	Narrative Included Recommendations to Congress
MSP 1: Customer Service Strategy: The IRS Needs to Develop a Comprehensive Customer Service Strategy That Puts Taxpayers First, Incorporates Research on Customer Needs and Preferences, and Focuses on Measurable Results	✔	✔
MSP 2: Information Technology Modernization: The IRS Modernization Plan's Goal to Improve the Taxpayer Experience Is Commendable, But the IRS Needs Additional Multi-Year Funding to Bring It to Fruition	✔	✔
MSP 3: IRS Funding: The IRS Does Not Have Sufficient Resources to Provide Quality Service		✔
MSP 4: Processing Delays: Refund Fraud Filters Continue to Delay Taxpayer Refunds for Legitimately Filed Returns, Potentially Causing Financial Hardship	✔	
MSP 5: Free File: Substantial Free File Program Changes Are Necessary to Meet the Needs of Eligible Taxpayers	✔	✔
MSP 6: Return Preparer Strategy: The IRS Lacks a Comprehensive Servicewide Return Preparer Strategy	✔	✔

2 See National Taxpayer Advocate 2019 Annual Report to Congress, https://taxpayeradvocate.irs.gov/2019AnnualReport.

Title	Narrative Included Recommendations to the IRS That Are Included in This Appendix	Narrative Included Recommendations to Congress
MSP 7: Appeals: The Inclusion of Chief Counsel and Compliance Personnel in Taxpayer Conferences Undermines the Independence of the Office of Appeals	✔	
MSP 8: Multilingual Notices: The IRS Undermines Taxpayer Rights When It Does Not Provide Notices in Foreign Languages	✔	
MSP 9: Combination Letters: Combination Letters May Confuse Taxpayers and Undermine Taxpayer Rights	✔	
MSP 10: Offer in Compromise: The IRS's Administration of the Offer in Compromise Program Falls Short of Congress's Expectations	✔	
Status Update 1: Private Debt Collection: Forthcoming Changes to the Private Debt Collection Program Will Better Protect Low-Income Taxpayers and Achieve a Program That More Appropriately Respects Taxpayer Rights	✔	
Status Update 2: Automated Substitute for Return: The IRS Has Revised the Selection Criteria for Its Reinstated Automated Substitute for Return Program, But Some Concerns Remain Unaddressed	✔	
MLI 3: Accuracy-Related Penalty Under IRC § 6662(b)(1) and (2)	✔	✔
MLI 5: Summons Enforcement Under IRC §§ 7602, 7604, and 7609	✔	✔
MLI 6: Civil Actions to Enforce Federal Tax Liens or to Subject Property to Payment of Tax Under IRC § 7403		✔
MLI 8: Itemized Deductions Reported on Schedule A (Form 1040)	✔	
MLI 9: Charitable Contribution Deductions Under IRC § 170	✔	
Research Study 1: Study of Subsequent Compliance of Taxpayers Who Received Educational Letters From the National Taxpayer Advocate	✔	
Research Study 2: Study of Two-Year Bans on the Earned Income Tax Credit, Child Tax Credit, and American Opportunity Tax Credit	✔	
Research Study 4: Study of the Extent to Which the IRS Continues to Erroneously Approve Form 1023-EZ Applications	✔	

MSP #1: CUSTOMER SERVICE STRATEGY: The IRS Needs to Develop a Comprehensive Customer Service Strategy That Puts Taxpayers First, Incorporates Research on Customer Needs and Preferences, and Focuses on Measurable Results

PROBLEM

The Taxpayer First Act requires the IRS to create and submit a comprehensive customer service strategy to Congress by July 1, 2020. As the IRS develops this strategy, the National Taxpayer Advocate has identified several concerns with the IRS's current approach to customer service that the new plan should address. Most importantly, the IRS does not currently view itself as a service organization first and foremost. In addition, customer service decisions are not informed by using multi-disciplined, comprehensive research into customer needs and preferences. Forcing some taxpayers to use digital channels undermines taxpayer rights. Moreover, a service strategy would be incomplete if it did not address services to practitioners. Finally, the new strategy should correct the current absence of meaningful customer service measures to effect desired results and it should not be merely aspirational — it needs to include an implementation plan complete with cost estimates.

ANALYSIS

The IRS provides service through various communication channels such as the internet, phone, and in-person assistance. Taxpayers and representatives have different preferences for each of these channels and these preferences may vary depending on the specific needs of the taxpayer or the type of task the taxpayer or representative is trying to accomplish. The IRS must base service strategy decisions on research into customer needs, rather than on what the IRS thinks is best and lowest cost. The IRS's reduction in staff and the number of Taxpayer Assistance Centers (TACs), the switch to appointments only in the TACs and the low percentage of telephone calls answered by live assistors, leaves taxpayers with little choice but to attempt to complete tax-related tasks on the internet (which often does not resolve the taxpayer's issue) or to spend money for professional assistance.

TAS RECOMMENDATIONS

[1-1] Ensure that each taxpayer segment and BOD are part of the overall customer service strategy to ensure the IRS is addressing the needs of all customers and responsibility is not falling on any one part of the IRS.

[1-2] Appoint a Chief Customer Experience Officer, reporting to the Commissioner or Deputy Commissioner, to unify all taxpayer initiatives across different functions.

[1-3] Work with NIST to determine how to make e-authentication requirements as least burdensome as possible and review the e-authentication methods used by other international taxing authorities.

[1-4] Conduct research into why taxpayers and practitioners do not use certain service channels for particular tasks to enable the IRS to minimize any existing barriers and improve services in that area.

[1-5] Establish a 311-type phone system to provide the taxpayer or practitioner the option to connect with an initial operator who would ask questions to understand the reason for the call. The operator would then match the caller with the specific office within the IRS that handles that particular issue or case.

[1-6] Conduct research into why a significant number of customers who call the various IRS phone lines hang up either before or after they are placed in a queue for a particular phone line (primary and secondary abandonments).

[1-7] Work with TAS to create a Taxpayer Anxiety Index.

[1-8] Track the subject of taxpayer and practitioner complaints for each service channel to better understand the customer's satisfaction with actual usage of each service channel.

[1-9] Develop meaningful and transparent measures to monitor the success of all customer service initiatives, including first contact resolution and more transparent telephone level of service measures.

[1-10] Coordinate the team developing the Servicewide return preparer strategy to ensure consistency of strategies.

[1-11] Collaborate with TAS throughout the development of the comprehensive customer service strategy required by the Taxpayer First Act.

[1-12] Couple the customer service strategy with an implementation plan, complete with cost estimates for various initiatives.

[1-13] Provide the necessary funding to the IRS for the adequate staffing, budget, and technology needed to provide a robust, world class customer service experience.

IRS NARRATIVE RESPONSE

The IRS consistently strives to deliver excellent taxpayer service by using available resources in the most effective way. Passage of the Taxpayer First Act of 2019 (TFA) provides us with an historic opportunity to transform how we interact with our diverse taxpayer base. Section 1101 of the TFA requires the IRS to deliver a written comprehensive taxpayer service strategy that includes:

(1) a plan to provide assistance to taxpayers that is secure, designed to meet reasonable taxpayer expectations, and adopts appropriate best practices, including online services, telephone callback services, and employee training;

(2) an assessment of opportunities to co-locate with other federal services or offer self-service options;

(3) proposals to improve IRS taxpayer service in the short term, medium term, and long term;

(4) a plan to update guidance and training materials for taxpayer service employees; and

(5) metrics and benchmarks for quantitatively measuring our progress implementing the strategy.

Implementing the TFA is an agency-wide effort. To facilitate this process, we established the TFA Office, comprised of four project directors supported by a small number of subject matter experts, including a senior member of the TAS organization. The TFA Office is responsible for coordinating delivery of a comprehensive taxpayer experience strategy, a proposal to update the IRS organizational structure, and a comprehensive training strategy based on input from an array of stakeholders, including taxpayers, tax professionals, IRS leadership, oversight organizations, IRS employees, and the National Treasury Employees Union.

The IRS has conducted extensive outreach to ensure our taxpayer experience strategy thoughtfully integrates taxpayers' perspectives. For example, the TFA Office visited Taxpayer Assistance Centers to interview staff and better understand taxpayers' needs. The TFA Office also met with and gathered information from more than 100 organizations representing all types of taxpayers (individuals, small businesses, large businesses, tax-exempt entities, and taxpayers living overseas), as well as advisory groups, tax professionals, and other Federal agencies. This is just a small sample of the outreach conducted.

We recognize that taxpayers need access to effective service options to understand their tax obligations and pay their taxes timely. The taxpayer experience is the backbone of our mission. We are building our comprehensive taxpayer experience strategy based on the needs of our taxpayers and other stakeholders.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's efforts to integrate taxpayers' perspective and experience into the development of its comprehensive customer service strategy will help the IRS develop a strategy that is responsive to taxpayer needs. It is encouraging that the IRS has adopted many of TAS's recommendations, including those partially adopted. The TFA Office has also reviewed TAS's recommendations and prior reports, leveraging TAS's knowledge and experience. This information should be particularly helpful given TAS's unique perspective and role in ensuring the Taxpayer Bill of Rights is effectuated and realized.

With the passage of the TFA, the IRS was given a congressional directive to improve the ways in which it serves taxpayers to ensure that the *right to quality service* is realized to a greater extent. The IRS has indicated that it plans to develop an omnichannel approach to interact with taxpayers, and this plan is consistent with TAS's recommendations. TAS has recommended that the IRS be mindful that taxpayers prefer to communicate in a variety of ways. Even though some groups of taxpayers may be able to resolve their issues over the phone, the accessibility of in-person Taxpayer Assistance Centers should be preserved and improved for those groups of taxpayers whose needs are more effectively addressed through quick and easy in-person support.

Furthermore, TAS has recommended that the IRS follow the example of other federal agencies, such as the General Services Administration, and create a position of a Chief Customer Experience Officer, or a similar position, to oversee a team of employees committed to monitoring and improving the taxpayer experience over all communication channels and to help implement the IRS's comprehensive customer service strategy.

As the IRS develops improved customer service measures as part of its customer service strategy, TAS recommends that the IRS focus on linking quality metrics to specific initiatives and use those metrics to influence key organizational decisions, as required by the Taxpayer First Act. Ultimately, the IRS should base service strategy decisions on research into customer needs rather than on what seems best or on the lowest cost so that it can provide world class service to taxpayers and protect their *right to quality service*.

The National Taxpayer Advocate plans to continue our coordinated efforts and eagerly anticipates the IRS's report to Congress in December. TAS stands ready to assist the IRS in facilitating the effective implementation of the comprehensive strategies in the report.

TAS Recommendation	**[1-1] Ensure that each taxpayer segment and BOD are part of the overall customer service strategy to ensure the IRS is addressing the needs of all customers and responsibility is not falling on any one part of the IRS.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	[*As of April 22, 2020*] As required by the TFA, the IRS is currently developing a comprehensive taxpayer experience strategy that encompasses all IRS business operating divisions and taxpayer segments, as well as other stakeholders. With this comprehensive strategy, the IRS strives to: ■ Understand, inform, and educate our diverse taxpayer base by providing clear and timely communications and building partnerships; ■ Provide a seamless taxpayer experience by enhancing self-service and full-service capabilities, expanding access to the IRS, and simplifying the tax process; and ■ Empower our workforce to provide exceptional service. This December the IRS will submit to Congress a written report detailing the comprehensive taxpayer experience strategy, organizational redesign, and training strategy developed pursuant to the TFA.
TAS Response	The IRS's efforts to date have been encouraging. Under this comprehensive strategy, TAS expects that each Business Operating Division (BOD) will consider the application of the overarching strategy to its taxpayer populations and design a specific plan for taxpayers' needs during those interactions. The IRS can only provide a seamless taxpayer experience when all parts of the organization work in concert.

TAS Recommendation	**[1-2] Appoint a Chief Customer Experience Officer, reporting to the Commissioner or Deputy Commissioner, to unify all taxpayer initiatives across different functions.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	[*As of April 22, 2020*] The IRS understands the importance of an integrated, agency-wide approach to taxpayer service. Development of the comprehensive taxpayer experience strategy includes assessing various options to manage and oversee its delivery throughout the IRS. While our objective is to unify taxpayer experience initiatives across all IRS functions, we are still evaluating how best to achieve this goal. As previously noted, in December the IRS will submit to Congress a written report detailing the comprehensive taxpayer experience strategy, organizational redesign, and training strategy developed pursuant to the TFA.
TAS Response	The IRS would benefit from having a Chief Customer Experience Officer (CCEO) who serves as a liaison to coordinate all service initiatives and strategies across different functions of the IRS. A CCEO would ensure that IRS senior leadership consider decisions through the lens of the taxpayers' experience. We continue to recommend the IRS consider implementing this recommendation in full in the future.

TAS Recommendation	**[1-3] Work with NIST to determine how to make e-authentication requirements as least burdensome as possible and review the e-authentication methods used by other international taxing authorities.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS is working with NIST to make e-authentication requirements as least burdensome as possible while retaining effectiveness. We are also exploring other effective e-authentication methods including those used by international taxing authorities. The IRS established the Secure Access Digital Identity (SADI) initiative to satisfy current NIST guidelines. The SADI initiative maintains a "security first" approach, which enhances the user experience by providing a high-availability platform that meets Federal compliance requirements coupled with the level of authentication for the access needed. We are committed to continual learning and assessment to achieve secure digital communications that are effective but not overly burdensome. For example, the IRS explores authentication opportunities by using innovation studies to: ■ implement new and innovative ideas in a safe and well-defined environment; ■ learn about new technologies and practices; ■ improve upon current authentication, authorization, and access processes; and ■ evaluate products and offerings from outside vendors. Additionally, we recently met with Canadian and Australian tax officials to share best practices and hosted the leader of the International Association of Privacy Professionals to gain insight into the global privacy community. We believe these efforts are vitally important to identifying global privacy and authentication opportunities and risks.

continued on next page

TAS Response	TAS welcomes the IRS implementation of the best practices it has gathered. One of the most important parts of an effective comprehensive taxpayer service strategy is enabling both taxpayers and practitioners to interact digitally with the IRS. The ability for digital communication with taxpayers and representatives was heightened by the COVID-19 pandemic and the impact to IRS operations. We continue to recommend the IRS work toward providing this means of communication with taxpayers in a safe and well-defined environment.

TAS Recommendation	**[1-4] Conduct research into why taxpayers and practitioners do not use certain service channels for particular tasks to enable the IRS to minimize any existing barriers and improve services in that area.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS strives to provide outstanding customer service through an omni-channel approach consisting of internet capabilities, correspondence, telephone, and face-to-face interactions. The annual Wage & Investment Division (W&I) Taxpayer Experience Survey provides information about why taxpayers opt to use certain service channels and the specific tasks they like to perform on each channel. Based on a statistically valid sample, findings from the 2019 Taxpayer Experience Survey reveal that taxpayers choose to go to IRS.gov before other sources for convenience. Taxpayers also view the IRS toll-free line as a convenient source for the most reliable information. Additionally, the IRS selects toll-free call transcripts for review based on key word searches to identify problem areas and emerging issues. Leveraging work done previously by our Research, Applied Analytics, and Statistics (RAAS) and Online Services (OLS) business units and W&I, the IRS conducted extensive research to develop the comprehensive taxpayer experience strategy mandated by the TFA. This research includes a review of recommendations and reports issued by the Treasury Inspector General for Tax Administration (TIGTA), U.S. Government Accountability Office (GAO), and the National Taxpayer Advocate's annual reports to Congress. For additional information, the TFA Office conducted extensive outreach, as described above. With the comprehensive taxpayer experience strategy, the IRS strives to expand taxpayers' access to service — particularly for underserved taxpayers, such as taxpayers with limited English proficiency. The IRS is committed to continuing to conduct research to better understand and evaluate taxpayers' needs.
TAS Response	Leveraging existing research to develop a comprehensive customer service strategy makes a lot of sense and is laudable. It is important for the IRS to better understand why taxpayers or their representatives do not use certain service channels for particular tasks so that the IRS can minimize existing barriers and improve services for those tasks.

TAS Recommendation	**[1-5] Establish a 311-type phone system to provide the taxpayer or practitioner the option to connect with an initial operator who would ask questions to understand the reason for the call. The operator would then match the caller with the specific office within the IRS that handles that particular issue or case.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	[*As of April 22, 2020*] Development of the comprehensive taxpayer experience strategy includes assessing various options to improve telephone service. While our objective is to provide a seamless taxpayer experience across all aspects of tax administration, we are still evaluating how best to achieve this goal. As previously noted, in December the IRS will submit to Congress a written report detailing the comprehensive taxpayer experience strategy, organizational redesign, and training strategy developed pursuant to the TFA.
TAS Response	The IRS response suggests that it is still considering whether to adopt a 311 system. TAS continues to believe that a 311 system, or one similar, would facilitate increased efficiencies, decrease wait times, and improve interactions between taxpayers and appropriate IRS personnel. This type of a system, if fully implemented, would fit well within the IRS's comprehensive omnichannel strategy.

TAS Recommendation	**[1-6] Conduct research into why a significant number of customers who call the various IRS phone lines hang up either before or after they are placed in a queue for a particular phone line (primary and secondary abandonments).**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	While the IRS can monitor the volumes of calls that disconnect immediately, we currently have no way to solicit feedback from taxpayers who call the IRS but hang up prior to being placed in a queue for assistance (referred to as a "primary abandon"). IRS toll-free channels use an interactive voice response methodology that requires the taxpayer to connect to an assistor prior to being invited to participate in the customer satisfaction survey. In the past, the IRS performed studies to identify patterns in "secondary abandons," *i.e.*, when a taxpayer hangs up after making a selection from the telephone menu options and being placed in queue for assistance. Data points to identify potential abandon patterns have included prominence on certain applications, days of the week, time of day, auto-dialers, and patterns by individuals or practitioners. We used this data to determine the effect of messaging on the toll-free lines, including the addition of wait time estimates on certain lines. Through these studies, the IRS determined that taxpayers have different tolerances depending on the telephone lines dialed and the type of issue in question. The IRS uses this information to strategically play messages that inform callers of available services, such as those on IRS.gov and automated services like "Where's My Refund?". As mentioned above, with the comprehensive taxpayer experience strategy, the IRS expects to further facilitate taxpayers' access to services. The IRS is committed to continuing to conduct research to better understand and evaluate taxpayers' needs.

continued on next page

TAS Response	The IRS's response indicates that studies of secondary abandons have determined that taxpayers have different tolerances depending on the telephone lines dialed and the type of issue they are calling about. TAS continues to believe that expanding these types of studies will help the IRS to better understand taxpayer preferences and how to improve service. In addition, TAS agrees with the IRS that expanding the use of callback technology will improve service. This capability may assist in significantly reducing the number of primary and secondary abandons and in providing a more seamless taxpayer experience.

TAS Recommendation	**[1-7] Work with TAS to create a Taxpayer Anxiety Index.**
IRS Response	IRS does not agree to implement TAS recommendation. The IRS currently assesses the taxpayer experience using functional, point of transaction surveys (*e.g.*, automated surveys on the toll-free channel and Field Assistance Comment Card Surveys), following issue resolution (*e.g.*, Injured Spouse Customer Satisfaction surveys, the Appeals Customer Satisfaction Survey, etc.), and at the end of filing season (*e.g.*, W&I Taxpayer Experience Survey). Taken together, these surveys provide a range of information about the taxpayer experience, including feelings about the IRS, elements of satisfaction, and potential areas for improvement. Given that different individuals may respond to similar circumstances in a myriad of ways — many of which are unpredictable or inextricably linked to externalities — it is not feasible to develop a standard measure for "taxpayer anxiety" that accurately reflects aspects of tax administration within IRS control. For example, taxpayer anxiety may result from the taxpayer's financial circumstances or temperament or from tax law complexity. The IRS is committed to developing effective and meaningful measures by which to evaluate taxpayer service and to conducting ongoing research to better understand taxpayers' needs as part of the comprehensive taxpayer experience strategy required by the TFA.
IRS Action	N/A
TAS Response	TAS agrees that the IRS must develop feasible, effective, and meaningful measures to help guide its decisions about how to interact with taxpayers. In deciding how to interact with taxpayers, the IRS should consider that forcing taxpayers into digital services for transactions associated with high anxiety levels, without providing for more personal services, is unlikely to satisfy them. TAS will continue to evaluate the best method to measure and identify the types of interactions that require more personal services to help the IRS better understand taxpayers' needs.

TAS Recommendation	**[1-8] Track the subject of taxpayer and practitioner complaints for each service channel to better understand the customer's satisfaction with actual usage of each service channel.**
IRS Response	IRS does not agree to implement TAS recommendation. Currently, overall satisfaction with IRS service channels is captured in the individual surveys administered by various IRS organizations, and more generally in the Taxpayer Experience Survey. The IRS also receives specific taxpayer complaints through Congress, the White House, the IRS Commissioner's office, the Department of Treasury, the Employee Conduct & Compliance Office, and TIGTA. The IRS tracks and monitors these inquiries, which allows IRS leadership to timely and effectively address issues raised and manage responses. As outlined in the Internal Revenue Manual, each business operating division has an internal process to handle taxpayer and practitioner complaints in real time. For example, employees are required to provide supervisor contact information to taxpayers upon request and to fully document interactions with taxpayers in case files for management review. The IRS also uses the Customer Early Warning System (CEWS), a partnership with Accounts Management, Submission Processing, Contact Analytics, and a number of other taxpayer-facing organizations, to identify potential service issue trends and elevate them for response. We view these mechanisms, along with proactive stakeholder engagement, quality/program reviews, and employee feedback, as effective ways to identify trends in taxpayer concerns. Still, we continue to evaluate the feasibility of other measures and metrics as part of the development of the comprehensive taxpayer experience strategy required by the TFA.
IRS Action	N/A
TAS Response	Under the *right to quality service*, taxpayers have a right to speak to a supervisor about inadequate service. Although each business operating division has its own internal process to handle taxpayer and practitioner complaints in real time, these efforts are not coordinated nor are they properly studied Servicewide. The IRS should conduct an agency-wide systemic review of complaints and responses to enable meaningful oversight of organizational responsiveness. TAS will continue to monitor and verify actions the IRS takes upon submission of the comprehensive report.

TAS Recommendation	**[1-9] Develop meaningful and transparent measures to monitor the success of all customer service initiatives, including first contact resolution and more transparent telephone level of service measures.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	Development of the comprehensive taxpayer experience strategy includes identifying meaningful and transparent measures to monitor the strategy's effectiveness. While our objective is to improve on and standardize existing measures across all IRS functions, we are still evaluating how best to achieve this goal. As noted above, in December the IRS will submit to Congress a written report detailing the comprehensive taxpayer experience strategy, organizational redesign, and training strategy developed pursuant to the TFA.
TAS Response	It is crucial that the IRS develop measures that ensure its functions are truly focusing on taxpayer service. This includes measures such as the rate of first contact resolution for each service channel and better telephone Level of Service (LOS) measures. The IRS should consider revisiting existing telephone LOS measures to improve transparency. Doing so might enable the IRS to identify gaps in performance because the current LOS measure does not capture all calls to the IRS and insufficiently gauges what the taxpayer experiences when making a telephone call.

TAS Recommendation	**[1-10] Coordinate the team developing the Servicewide return preparer strategy to ensure consistency of strategies.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	Developing the comprehensive taxpayer experience strategy is a coordinated, agency-wide process. The IRS is taking a holistic approach to taxpayer service that takes into consideration tax professionals, in their dual roles as customers of IRS services and service providers to their clients (taxpayers).
TAS Response	The IRS's efforts to develop a comprehensive customer service strategy seem promising. It should be noted that the development of a comprehensive customer service strategy would be incomplete without addressing the service needs and preferences of practitioners and conducting research to determine which service channels practitioners prefer for various service tasks.

TAS Recommendation	**[1-11] Collaborate with TAS throughout the development of the comprehensive customer service strategy required by the Taxpayer First Act.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	Throughout the development of the comprehensive taxpayer experience strategy, the TFA Office core team has collaborated extensively with all IRS business operating divisions and functions, including TAS. The TFA Office is responsible for coordinating delivery of a comprehensive service strategy based on input from an array of stakeholders, including taxpayers, tax professionals, IRS leadership, oversight organizations, IRS employees, and the National Treasury Employees Union. The TFA Office core team is supported by a small number of subject matter experts, including a senior member of the TAS organization. In key ways, TAS plays an important role in developing the comprehensive taxpayer experience strategy. As a member of the senior executive team, the National Taxpayer Advocate (NTA) sits on the Innovation Advisory Council, a forum created specifically to allow senior executives and the TFA Office core team to have an open dialogue about TFA deliverables on a biweekly basis. Once a month, the core team also briefs senior executives about TFA developments at regularly-scheduled senior executive team meetings. Moreover, the TFAO hosts a biweekly meeting with senior leaders designated as TFA points of contact by each IRS function, including TAS. At these meetings, points of contact discuss significant TFA-related issues. Outside of these frequent interactions, the TFA Office has taken additional steps to work with TAS to develop the comprehensive taxpayer experience strategy. For example, a TFA core team member and the Acting NTA met periodically to collaborate on key aspects of the taxpayer experience strategy. Likewise, for one of its first listening sessions, the TFA core team met with TAS leadership and 78 Local Taxpayer Advocates, who represent taxpayers from across the country. The TFA Office also participated in the Low Income Taxpayer Clinic (LITC) annual conference, sponsored by TAS, and held a TFA round-table discussion with LITC national leadership. Working with the Acting NTA's staff, the TFA Office held two listening sessions with the Taxpayer Advocacy Panel, a group of 75 citizen volunteers who advise the IRS on how to improve our products, services, and customer satisfaction. Furthermore, with other members of the senior executive team, the NTA is a key reviewer of the written report to Congress detailing the three comprehensive strategies.
TAS Response	The National Taxpayer Advocate welcomes the IRS's outreach efforts and collaboration with TAS. TAS anticipates continued collaboration with the IRS and stands ready to assist in facilitating the effective implementation of the future TFA comprehensive strategies.

TAS Recommendation	**[1-12] Couple the customer service strategy with an implementation plan, complete with cost estimates for various initiatives.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	As noted earlier, in December the IRS intends to deliver to Congress a combined report detailing the comprehensive taxpayer experience strategy, organizational redesign, and training strategy developed pursuant to the TFA. The report will include an implementation plan and cost estimates, with future refinement to be provided in the out-years.
TAS Response	TAS stands ready to assist the IRS in effectively implementing the taxpayer experience strategy, organizational redesign, and training strategy being developed pursuant to the TFA and is ready to support the IRS with TAS's expertise acquired through decades of experience in interacting with and assisting taxpayers and their representatives.

TAS Recommendation	**[1-13] Provide the necessary funding to the IRS for the adequate staffing, budget, and technology needed to provide a robust, world class customer service experience.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

MSP #2: INFORMATION TECHNOLOGY MODERNIZATION: The IRS Modernization Plan's Goal to Improve the Taxpayer Experience Is Commendable, But the IRS Needs Additional Multi-Year Funding to Bring It to Fruition

PROBLEM

Aging IRS information technology (IT) infrastructure continues to plague the IRS and directly impact taxpayers. To address the IRS's failing IT infrastructure and its need for updated technology, the IRS developed its Integrated Modernization Business Plan (Plan), which aims to improve "the taxpayer experience, by modernizing core tax administration systems, IRS operations and cybersecurity." While this Most Serious Problem raises a few issues with the Plan, if implemented, the Plan would greatly improve the IRS's IT infrastructure, make tax administration more efficient, and enable the IRS to provide better taxpayer service. While the Plan does not address all of the IRS's IT issues, for the IRS to make any progress in modernizing its systems, its efforts must be fully funded.

ANALYSIS

In April 2019, the IRS released the Plan and a related Companion Document to address various components of the IRS IT strategy for the near future. This multi-year Plan will need to be further updated to comply with all of the requirements of the Taxpayer First Act, but the Plan is a great start, focusing in large part on updates to IRS systems to improve taxpayer experience and service. The Plan's success will largely depend on the funding it receives, and full, dedicated, multi-year funding is needed for the Plan's complete implementation. The IRS estimates the Plan will cost approximately $2.3 to $2.7 billion overall, including $289.7 million spent in fiscal year (FY) 2019 and $300 million forecast for FY 2020. However, it will likely need more than $2 billion for the remaining years to meet its estimated cost for total implementation. Without this full funding, the IRS will fall short of its goals to modernize its systems and enhance taxpayer service.

A part of the IRS's modernization will be major updates to IRS IT systems, which are some of the oldest still in use in the federal government. However, IT modernization projects are massive and generally span years. In order to be able to award funding for these projects, the IRS needs consistent multi-year funding. For example, the Plan includes the IRS's existing efforts to standardize technology support for IRS business processes, creating an Enterprise Case Management (ECM) system. Through ECM the IRS plans to create a simplified infrastructure, hopefully eliminating the need to maintain or rebuild older IT systems. ECM is currently estimated to take six years to develop and implement, so absent continued multi-year funding, the IRS will be unable to make progress in its ECM efforts.

One concern TAS has with the Plan, is that while the Plan modernizes the Individual Master File (IMF) by implementing Customer Account Data Engine (CADE) 2, which will help the IRS provide better service and support to individual taxpayers, the Plan does not include modernization of the Business Master File (BMF). This gap in the Plan could result in an inability for the IRS to provide the same level of service to business taxpayers that it will provide to individual taxpayers.

The IRS has been rolling out numerous services to improve taxpayer service in the past several years and is looking at similar improvements to enhance taxpayer service in the near term. These improvements can help address current issues with taxpayer services. For example, overwhelmed phones can be aided by customer callback rollout, which allows taxpayers to request a call back when an employee is free instead of waiting on hold. Taxpayers with minor issues that only require a brief interaction with the IRS can use Webchat, freeing up the phone lines for customers who need more in-depth assistance, which could help to reduce call waiting times. The IRS is trying to roll out Secure Messaging, which allows taxpayers and IRS employees to exchange documentation safely, securely, and quickly without having to use traditional channels like mail and fax. New and improved online taxpayer accounts can securely provide information on amount of taxes owed, payment options, and payment history, in addition to access to tax transcripts.

TAS RECOMMENDATIONS

[2-1] Modify the Plan to conform to the requirements of the TFA, by itemizing the anticipated project costs and potential risks if the Plan is not fully funded.

[2-2] Conduct independent verification and validation of the updated plan to verify that it will result in complete modernization of IRS IT systems, similar to the independent verification and validation required in the TFA of the CADE 2 and ECM systems. The IRS should include for all modernization projects a process and plan to release funding as results are demonstrated in the programs relating to taxpayer and/or customer experience improvements.

[2-3] Include in future modernization plans the modernization of the BMF system.

[2-4] Provide the IRS with additional dedicated multi-year funding to replace its aging IT systems pursuant to a plan that sets forth specific goals and metrics and is evaluated annually by an independent third party.

IRS NARRATIVE RESPONSE

We appreciate and agree with your support for full, consistent multi-year funding for the IRS Integrated Modernization Business Plan (Modernization Plan), as well as adequate funding to maintain and update existing systems. As the National Taxpayer Advocate (NTA) recognized, the IRS has rolled out numerous services to improve taxpayer service in the past several years, with many additional improvements included in the Modernization Plan.

We also welcome the NTA's research and recognition that modernization of information technology systems is central to achieving the IRS's mission. In particular, we note the statement within the NTA's 2019 Annual Report to Congress that "improved customer service resulting from funding the IRS's modernization plans is likely to improve taxpayer trust of the IRS and, in turn, increase voluntary compliance, increasing overall revenue for the federal government."

Although they will take several years to fully implement, services such as customer callback, webchat, secure messaging, case management, and many others will help improve the taxpayer experience, as well as IRS employees' and tax practitioners' ability to provide efficient, high quality service. These capabilities and others will remain priorities within the customer service strategy and information technology strategic plan required by the Taxpayer First Act (TFA).

One of the key insights from the first year of the Modernization Plan was that a strong partnership and frequent communications with oversight groups (such as GAO and Congressional staff) reinforces IRS's commitment to transparency and enhances our ongoing planning and execution. We will continue to regularly report implementation progress, challenges, successes, costs, and risks to Congress and other stakeholders, and generally welcome independent review of our plans as recommended by the NTA.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS and IRS's interests are aligned. There is no disagreement that the IRS needs to continue to invest in information technology to better serve taxpayers. For the IRS to fully implement its Modernization Plan and provide efficient, high-quality customer service, Congress needs to provide sufficient funding.

TAS Recommendation	**[2-1] Modify the Plan to conform to the requirements of the TFA, by itemizing the anticipated project costs and potential risks if the Plan is not fully funded.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As required by the TFA, the IRS is developing a multi-year strategic plan for its information technology needs. This strategic plan will supplement the Modernization Plan with additional commentary, including workforce needs, enterprise architecture concepts, and alignment with the IRS Strategic plan. The IRS also updates the Modernization Plan at least annually, itemizing the expected costs and risks for each of the programs within the plan.
TAS Response	We appreciate the IRS's commitment to take these actions. This issue is further exacerbated by the impact of COVID-19 and the IRS's ability to work remotely with the necessary systems in place.

TAS Recommendation	**[2-2] Conduct independent verification and validation of the updated plan to verify that it will result in complete modernization of IRS IT systems, similar to the independent verification and validation required in the TFA of the CADE 2 and ECM systems. The IRS should include for all modernization projects a process and plan to release funding as results are demonstrated in the programs relating to taxpayer and/or customer experience improvements.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	Consistent with the Consolidated Appropriations Act of 2020 (PL 116-93), GAO is directed to conduct an annual review of Business Systems Modernization (BSM) funded initiatives — *i.e.*, the Modernization Plan. This independent assessment largely fulfills the intent of NTA's recommendation; therefore, an additional independent assessment will not be pursued. The IRS will rely upon this assessment, and act upon GAO's recommendations each year when it updates the Modernization Plan.
TAS Response	We understand the IRS's desire to avoid an overlap of responsibilities, given limited funding. However, the GAO annual review does not ensure a complete modernization of IRS IT; it is merely a review after the fact. The IRS would benefit from developing a process and plan to release funding as results are demonstrated in the programs relating to taxpayer and/or customer experience improvements.

TAS Recommendation	**[2-3] Include in future modernization plans the modernization of the BMF system.**
IRS Response	IRS does not agree to implement TAS recommendation. We agree with the importance of the Business Master File (BMF) and continued modernization of the business taxpayer experience in parallel with improvements to the individual taxpayer experience. The IRS continues to make improvements for business taxpayers in fiscal years 2019 and 2020, including customer callback on the employment tax phone application, integration of BMF data with ECM, and digital communication pilots with several types of individual, business, and tax-exempt customers. With the limited resources available for modernization of those programs already prioritized by the organization, modernization of the BMF will not be considered at this time.
IRS Action	N/A
TAS Response	We ask that the IRS keep open the possibility of modernizing its BMF system.

TAS Recommendation	**[2-4] Provide the IRS with additional dedicated multi-year funding to replace its aging IT systems pursuant to a plan that sets forth specific goals and metrics and is evaluated annually by an independent third party.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

MSP # 4: PROCESSING DELAYS: Refund Fraud Filters Continue to Delay Taxpayer Refunds for Legitimately Filed Returns, Potentially Causing Financial Hardship

PROBLEM

The IRS has designed a number of filters to assist in the detection and prevention of non-identity theft (non-IDT) refund fraud (the Pre-Refund Wage Verification Hold Program or PRWVH). Despite improvements to this program for the 2019 filing season, issues persisted that affected both taxpayers and TAS, including: delays in releasing legitimate refunds, false positive rates (FPR) as high as 71 percent, and inadequate information as to the reasons for refund delays and what steps taxpayers can take to expedite the process.

ANALYSIS

Taxpayers whose returns are selected into the non-IDT refund fraud program often experience delays in receiving the refunds claimed on their original returns. About a quarter of the returns selected by a new filter for the 2019 filing season took more than 40 days to be processed. This delay was due in part to the Social Security Administration's (SSA) slow transmittal of paper Form W-2 information, which is used to verify information on returns. Further, nearly half the legitimate returns that comprise the 71 percent FPR took more than four weeks to be processed. Additionally, out of a review of 309 TAS PRWVH case receipts between August 25 and August 31, 2019, 236 waited an average of 141 days from the date the returns were filed to be screened and determinations made that the information on the returns could not be verified. While it is essential for the IRS to prevent fraud and protect revenue, these processing delays caused a financial hardship for many taxpayers. Compounding taxpayers' frustration is that not all taxpayers whose refunds are held as part of the non-IDT refund fraud program receive the same periodic update notices. When taxpayers do receive a letter, it does not always provide guidance as to what they can do to expedite the process. The financial hardship caused by refund delays, along with inadequate IRS notices, contributed to a 405 percent increase in TAS non-IDT refund fraud inventory from January 1 through September 30, 2019, compared with the same timeframe in 2017.

TAS RECOMMENDATIONS

[4-1] Work with SSA to speed up the transmission of paper W-2 data to earlier in the year.

[4-2] Identify acceptable FPR and Operational FPR ranges each year as part of its refund fraud projections.

[4-3] Continue to learn from the returns that were part of the FPR to further refine the filters and continually work to lower the false positive rate.

[4-4] Increase RIVO staffing to improve the processing time for validating information on returns, and assigning returns to a compliance stream for further treatment.

[4-5] Send an interim letter every 60 days to all taxpayers whose returns it is holding in the PRWVH.

[4-6] Revise Letter 4464C initial contact notice instructing taxpayers to review their returns to verify the income and withholding reported is accurate and correct, and if a mistake is identified, to file an amended return.

[4-7] Instruct RIVO to send Letter 86C, Referring Taxpayer Inquiry/Forms to Another Office, informing taxpayers that it has referred their return to Another IRS function, and providing them with the name of the specific function and contact information.

IRS NARRATIVE RESPONSE

We appreciate your support of the IRS goals of detecting and mitigating refund fraud while working to decrease burden on taxpayers. As you note, the process for resolving cases of fraud can be complicated for some taxpayers. Roughly 98 percent of refund returns are not selected by fraud filters. The remaining 2 percent often have reported information that may not adhere to known patterns and may not have the information returns needed to validate reported amounts. Without proper validation the IRS risks issuing improper refunds.

The IRS and the Social Security Administration (SSA) are collaborating to enhance operations in both agencies, including reducing the processing time of paper Forms W-2, Wage and Tax Statement, which is a driver in the longer resolution time for some non-identity theft (IDT) cases. The False Positive Rate (FPR) calculation for 2019 is based on about 2.5 million refund returns that initially triggered the fraud filters and were held for additional review. The IDT filters detected roughly two million of these returns, and first-party fraud filters identified the remaining 500,000. We subsequently released over half of these returns after receiving valid third-party data or upon authentication of the actual taxpayer. As you note, the operational FPR specific to the first-party fraud population improved, decreasing from 72 percent to 55 percent in one year. Another factor reducing case resolution times is the amount of manual work required to validate third-party returns and route cases to the proper workstream. We continually explore ways to refine processes and identify opportunities to improve the taxpayer experience. The IRS is working on efforts to improve case resolution, including automation of manual processes as well as adding more resources to reduce processing times.

The IRS agrees that keeping taxpayers informed of their case status is important and we have made many of the changes recommended by TAS, including providing taxpayers a status update every 60 days when they are in a pre-refund wage verification hold, ensuring we send an initial contact notice to taxpayers in a timely manner, and updating the initial contact notice to instruct taxpayers to review their returns, verify they are accurate, and submit an amended return if necessary. These actions ensure taxpayers are kept aware of their case status and the options available to review and amend returns to expedite processing.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS will continue to work with the IRS to ensure that the refund fraud program achieves its objective of protecting revenue while minimizing the burden on taxpayers who have filed legitimate returns. The IRS's collaboration with the Social Security Administration to obtain paper W-2s earlier in the filing season will allow it to verify information on returns more quickly, thereby reducing the time for which legitimate returns will be held. The IRS's shift from manual to automated processes should also help the IRS reduce processing times. TAS will continue to assist in identifying instances where such process improvements would be useful. Where the IRS cannot reduce processing times further, TAS will advocate that the IRS reduce its FPR and its Operational FPR. The IRS's commitment to send 60-day notices to all taxpayers who have had their returns held for additional review provides more transparency to taxpayers regarding the status of their returns and what, if anything, they can do to assist in the process. TAS and the IRS will continue to work together to identify even more opportunities where communication with taxpayers can be enhanced and more information regarding the status of taxpayer refunds can be provided, thereby fully observing a taxpayer's *right to be informed.*

TAS Recommendation	**[4-1] Work with SSA to speed up the transmission of paper W-2 data to earlier in the year.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	In 2019, the IRS established a working group with SSA focused on opportunities to mitigate fraud through information sharing, analytics, and risk management. One sub-group focuses specifically on wage reporting and efficient sharing of information to combat fraud. Also, as part of the Taxpayer First Act, requirements or thresholds for businesses to electronically file information returns such as the Form W-2 were lowered. Currently, companies filing more than 250 Forms W-2 are required to electronically file. In 2021, the threshold drops to 100 Forms W-2. By 2022, businesses that file more than 10 Forms W-2 will be required to electronically file. This change will result in a sharp decrease in the number of paper Forms W-2 that must be transcribed by the SSA before transmission to the IRS.
TAS Response	Both the IRS's efforts to work with the SSA and the provision in the Taxpayer First Act that authorizes the IRS to require more employers to file W-2s electronically will undoubtedly result in more information getting to the IRS sooner, thereby resulting in returns being verified faster. TAS will continue to work with the IRS to identify ways in which the IRS can obtain more information earlier in the filing season.

TAS Recommendation	**[4-2] Identify acceptable FPR and Operational FPR ranges each year as part of its refund fraud projections.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	Every year the IRS examines different fraud scenarios and their impact on taxpayers, revenue protected, false detections, and IRS workload to set refund fraud projections, including a projected False Positive Rate (FPR). The IRS continues to explore ways to improve the FPR. As TAS notes, the FPR dropped by 10 percent in one year and the speed of resolution increased. To the extent we are able to improve models and more effectively separate out true and false positives, we will explore scenarios resulting in further decreases in FPR. As more information returns are e-filed, resolution times are expected to continue to decrease. The IRS continues to strive to minimize the burden of these detections while protecting taxpayers and government revenue from the risks posed by third-party data breaches and highly sophisticated cybercriminals.
TAS Response	TAS looks forward to continuing to work with the IRS on identifying the appropriate balance between protecting revenue and reducing burden on taxpayers who file legitimate returns by lowering both the FPR and the Operational FPR, particularly in circumstances where processing times cannot be reduced.

TAS Recommendation	**[4-3] Continue to learn from the returns that were part of the FPR to further refine the filters and continually work to lower the false positive rate.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS continually evaluates changes in the tax system and makes improvements to our refund fraud detection methods, including refining our filters. We continue to improve the filters using a variety of methodologies, algorithms, data sets, and techniques to help stay ahead of fraudsters. We evaluate and monitor the performance of each filter on a weekly basis and adjust filters that are not performing as expected. We apply lessons learned from confirmed cases and consider emerging trends. We will continue to rebuild and refresh our filters and models each year to better detect emerging schemes, taking into account historical patterns. We continually explore ways to improve the false positive rate while ensuring protection to legitimate taxpayers' accounts.
TAS Response	TAS will continue to work with the IRS to identify the appropriate balance between revenue protection, FPRs, and processing times.

TAS Recommendation	**[4-4] Increase RIVO staffing to improve the processing time for validating information on returns, and assigning returns to a compliance stream for further treatment.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS is hiring additional staff in the Return Integrity Verification Operation (RIVO). In addition, we continually explore ways to enhance processes to improve the taxpayer experience, such as automating manual processes to reduce process times. Automation is contingent on Information Technology resources.
TAS Response	The additional hiring in RIVO, depending on the level, will help reduce processing times and will address RIVO's limited resources. TAS will continue to advocate that the IRS adopt automated processes where possible while reducing processing times for its manual work and thus reducing processing times across the board.

TAS Recommendation	**[4-5] Send an interim letter every 60 days to all taxpayers whose returns it is holding in the PRWVH.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS has implemented changes to provide taxpayers in the Pre-Refund Wage Verification Hold Program (PRWVH) a status letter every 60 days.
TAS Response	Ensuring that taxpayers receive a status letter every 60 days will appropriately observe the taxpayers' *right to be informed*, ensuring that taxpayers are aware of the status of their return and what steps they can take to resolve the issue causing the delay.

TAS Recommendation	**[4-6] Revise Letter 4464C Initial Contact Notice instructing taxpayers to review their returns to verify the income and withholding reported is accurate and correct, and if a mistake is identified, to file an amended return.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	We have revised Letter 4464C to instruct taxpayers to review their returns, verify they are accurate, and submit an amended return if necessary.
TAS Response	TAS is working with the IRS to include necessary revisions to Letter 4464C. These revisions recommend taxpayers review their returns and all income information statements to ensure all income and withholding matches the information reported on the return and what to do if there is a discrepancy. This will assist in hastening the receipt of their refunds.

TAS Recommendation	**[4-7] Instruct RIVO to send Letter 86C, Referring Taxpayer Inquiry/Forms to Another Office, informing taxpayers that it has referred their return to another IRS function, and providing them with the name of the specific function and contact information.**
IRS Response	IRS does not agree to implement TAS recommendation. The IRS agrees that keeping taxpayers informed of their case status is important; however, with our systemic Questionable Return Program (QRP) process, we are unable to provide specific contact information regarding the site/employee at this time. Although not issuing the Letter 86C, RIVO will collaborate with other functions to encourage a timely issuance of their initial contact letter after receipt of the referral. RIVO has also implemented an interim letter process for QRP referrals to the Automated Questionable Credit.
IRS Action	N/A
TAS Response	TAS will continue to work with RIVO to identify opportunities where the taxpayer can be better informed as to the status of his or her return, including its assignment to another IRS workstream for further review and analysis.

MSP #5: FREE FILE: Substantial Free File Program Changes Are Necessary to Meet the Needs of Eligible Taxpayers

PROBLEM

To increase electronic filing (e-filing), the IRS partners with Free File, Inc. (FFI), a group of private-sector tax return preparation software providers, to offer free federal tax preparation software products accessible through IRS.gov to approximately 105 million eligible taxpayers. While the rate of e-filing has approached 90 percent for tax year 2018 individual returns, less than two percent (or about 2.5 million returns) were filed using Free File program software products. In addition, data on repeat usage suggests that taxpayers who use Free File have generally been dissatisfied with it. Among taxpayers who used Free File software in 2017, nearly half (47 percent) did not use Free File software again in 2018. Based on issues raised by ProPublica, an assessment of the program by MITRE Corporation, and previous concerns raised by the Taxpayer Advocate Service, the National Taxpayer Advocate believes that the current program is not promoting the best interests of taxpayers. FFI member companies are steering eligible taxpayers away from their Free File program software products and toward their commercial products. In addition, cross-marketing of fee-based services on Free File program software can confuse taxpayers and gives the impression of IRS endorsement. Moreover, the low usage rate of the program proves that the program is not meeting the needs and preferences of eligible taxpayers. Finally, the IRS does not perform routine quality testing of the Free File program software.

ANALYSIS

The MITRE 2019 Free File report confirmed the ProPublica allegations that many members prevented taxpayers from finding their free software services by using a coding device to hide Free File services from internet search results or buying ads that directed taxpayers towards their fee-based software products. FFI members also continue to market paid services, such as paid state tax filing services, to taxpayers who use their free services. The National Taxpayer Advocate believes that these deceptive practices violate the intent of the agreement between FFI and the IRS and create the illusion of the IRS endorsing these products. The IRS should prohibit such practices, which allow FFI members to capitalize on taxpayers' confusion, impinging on taxpayers' *right to be informed* and *to quality service.*

The MITRE 2019 Free File Report argues that the reason for the low usage rate of the program is that many taxpayers prefer to use other return preparation methods. The National Taxpayer Advocate believes that poor usage is attributable to little guidance and software options available to taxpayers when using the Free File program, which results in taxpayers selecting Free File software that lacks capability to prepare their returns. Only four of the 11 FFI members offer services to taxpayers of all ages, and even these have restrictions based on the taxpayer's state of residence, income, or eligibility for the Earned Income Tax Credit. Four other FFI members have age limitations that start before the age of 60, and only one FFI member provided Free File software in another language (Spanish). The National Taxpayer Advocate believes that the IRS should ensure

that the agreement provides an easy, assessable Free File platform for taxpayers to protect their *right to be informed, to quality service,* and *to a fair and just tax system.*

Finally, the MITRE 2019 Free File Report found that the IRS provides adequate oversight, but the National Taxpayer Advocate believes that the IRS should do more to protect taxpayer rights. For example, the IRS does not take sufficient steps to evaluate the quality of the return preparation in the Free File program. The IRS should conduct more quality testing of the software and survey taxpayers on their experiences to protect taxpayers' *right to quality service.*

TAS RECOMMENDATIONS

[5-1] Explicitly prohibit the use of special coding by FFI members to exclude Free File program software from organic searches on search engines.

[5-2] Collaborate with the National Taxpayer Advocate and the FFI member companies to determine the best way to eliminate confusion between Free File program products and other non-program free software offered by FFI members.

[5-3] Collaborate with the National Taxpayer Advocate as it responds to the MITRE 2019 Free File Report recommendations.

[5-4] Conduct research to determine why taxpayers eligible to use the Free File program, particularly economically disadvantaged and underserved populations, chose their method of return preparation, including fee-based methods.

[5-5] Develop actionable goals for the Free File program before entering into a new agreement that, among other things, provide targeted use percentages aimed to substantially increase taxpayer usage and increase the percentage of taxpayers who continue to use the program from year to year.

[5-6] Work with the National Taxpayer Advocate to create measures evaluating taxpayer satisfaction with the Free File program and test each return preparation software's ability to complete various forms, schedules, and deductions.

[5-7] Conduct customer satisfaction surveys and routine quality testing of each Free File program software product to determine clarity of prompts, accuracy of preparation, ease of navigation, and coverage of forms and schedules.

[5-8] Redesign the Free File Software Lookup Tool to better direct taxpayers to software providers that best meet their circumstances.

[5-9] Provide more Free File program options for ESL taxpayers.

[5-10] Prepare an advertising and outreach plan to make taxpayers, particularly in underserved communities, aware of the Free File program.

[5-11] Mandate that the IRS, in consultation with the National Taxpayer Advocate, submit a report to Congress by June 30, 2020, summarizing the actions it has taken to address the recommendations made by the MITRE 2019 Free File report as well as recommendations made by the National Taxpayer Advocate herein to improve the Free File program by Filing Season 2021.

[5-12] Direct the IRS to set a goal of increasing the usage rate of the Free File program to a significantly higher yet attainable level (*e.g.*, ten percent of the 70 percent of taxpayers eligible to use the program) and a goal of increasing the retention rate to 75 percent of taxpayers who used Free File in the preceding year and, if those goals are not attained by 2025, to replace Free File with an alternative approach to make tax software available to taxpayers at no or low-cost, including through the use of sole-source or multi-source contracts with tax software companies.

IRS NARRATIVE RESPONSE

The IRS continues to look for opportunities to support the improvement and growth of the Free File program. For the 2019 filing season, more than 2.8 million taxpayers chose Free File to file their returns, a 5.6 percent increase over 2018 and an 8 percent increase over 2017. This public-private partnership represents an additional choice for eligible taxpayers to file their tax return for free. The IRS believes that taxpayers should have a choice in filing options and should be educated in those options. The IRS promotes options that result in an accurate tax return filing. We are committed to providing taxpayers with viable options and tools for tax return preparation and filing, including free services, that help them effectively meet their tax obligations — whether online, as currently supported by Free File, or in-person, as supported by the Volunteer Income Tax Assistance and Tax Counseling for the Elderly programs and by Free File Fillable Forms.

Free File objectives – We continue to identify opportunities and implement changes that increase awareness and understanding of the Free File program as well as available Free File offers. When Free File launched in 2003, it was one of the few free do-it-yourself options for low-income taxpayers and less than 50 percent of all individual tax returns were filed electronically. More than 55 million returns have been filed using Free File since its inception and there are now many free do-it-yourself choices for taxpayers. Most major software providers, in addition to participating in Free File, also offer some form of free tax preparation software and e-filing outside of this partnership. While Free File was originally envisioned as a free federal tax return method, the program has grown to include many free state options. This year, four participating Free File members offer free state returns in all states with an income tax.

Eligible taxpayers – We continue to work with Free File providers and have made improvements to meet taxpayer needs in underserved populations such as the elderly, low income, and English as a second language communities. Now 33 percent of Free File, Inc. (FFI) providers offer Free File software to taxpayers of any age, and there is at least one free federal and state return option for all taxpayers of any age who have an income of $69,000 or less. Using the Free File software look-up tool will easily generate results to determine if the taxpayer is eligible to file his or her tax return for free. Taxpayers whose income exceeds $69,000 may use Free File Fillable Forms, which are available

to anyone regardless of age, income, or any other criteria. In addition, for the 2020 filing season, two FFI members are offering Free File software in Spanish.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS Free File Program has made significant improvements since the 2019 annual report went to print. Most importantly, the December 26, 2019, addendum to the Memorandum of Understanding (MOU) prohibited FFI's previous questionable marketing practices that received widespread press coverage and congressional inquiries. The addendum also required naming conventions for Free File program products that will eliminate much confusion between Free File program products and non-program products. In addition, the IRS has agreed to collaborate with TAS on the following: (1) further eliminating taxpayer confusion on differentiating between program and nonprogram products, (2) improving the taxpayer experience, and (3) implementing MITRE's recommendations.

TAS understands that the IRS has the authority to test the Free File program products beyond the Assurance Testing System (ATS) for Modernized e-File (MeF) Individual Tax Returns that it currently performs on all private sector products. The Free File program is a contractual arrangement between the IRS and FFI, and the terms are periodically updated. In addition, taxpayers can access the Free File program products through the IRS website, and the products now use the naming convention "IRS Free File Program delivered by (company name or product name)." Therefore, it is reasonable for taxpayers to assume that the IRS endorses the products and that it has tested the products' content (in addition to technological compatibility).

Finally, the December 2019 addendum provides that FFI will conduct random surveys of successful Free File users. However, the IRS should take a more proactive role in the development and methodology of such surveys. Allowing the industry to develop and conduct the surveys and merely report the findings to the IRS on a quarterly and annual basis does not go far enough. The IRS should have the authority to approve the language of the survey questions as well as the survey methodology.

TAS Recommendation	**[5-1] Explicitly prohibit the use of special coding by FFI members to exclude Free File program software from organic searches on search engines.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS recognized there were inconsistencies in approaches by the member companies regarding web searches. As with other changes to the program, this specific change was made in an addendum to the Memorandum of Understanding (MOU) signed on December 26, 2019 stating "FFI Members are prohibited from engaging in any practice that would cause the Member's Free File Landing Page to be excluded from an organic internet search. Each FFI Member shall standardize the naming of its Free File offer listed on the IRS Free File Website and the Member Free File Landing Page so taxpayers can link to the Member's Free File Landing Page from organic searches."
TAS Response	The IRS has addressed the previous questionable marketing practices in the recent addendum to the MOU with FFI.

TAS Recommendation	**[5-2] Collaborate with the National Taxpayer Advocate and the FFI member companies to determine the best way to eliminate confusion between Free File program products and other non-program free software offered by FFI members.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS, in conjunction with FFI, implemented a revised naming convention to bring more clarity to the Free File software products. The recently signed MOU addendum requires all Free File members to name their Free File products "IRS Free File Program delivered by (company name or product name)". The same naming convention is in place on each member's Free File landing page, as well as the IRS.gov/FreeFile website. Taxpayers will readily see when they are using a Free File product because it uses this new naming convention. The IRS will collaborate with stakeholders, including the NTA, to better understand the taxpayer experience differentiating between the IRS and member websites and find a means to measure and track customer satisfaction within the limited IRS budget.
TAS Response	We agree that the new required naming convention will benefit taxpayers and prevent unnecessary confusion. We look forward to collaborating with the IRS to better understand the taxpayer experience and address any remaining taxpayer confusion.

TAS Recommendation	**[5-3] Collaborate with the National Taxpayer Advocate as it responds to the MITRE 2019 Free File Report recommendations.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	We continue to review recommendations from the MITRE 2019 Free File report. We will collaborate with stakeholders, including the NTA, to collect input for our consideration when implementing MITRE's recommendations.
TAS Response	We look forward to collaborating with the IRS on the implementation of MITRE's recommendations.

TAS Recommendation	**[5-4] Conduct research to determine why taxpayers eligible to use the Free File program, particularly economically disadvantaged and underserved populations, chose their method of return preparation, including fee-based methods.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS recognizes there is a need to better understand why taxpayers make the choices they do. A behavioral and awareness study will be undertaken to further explore decisions needed for the program.
TAS Response	The IRS has committed to conduct the recommended research on taxpayers, including the economically disadvantaged and underserved populations, on why they choose different methods of preparation.

TAS Recommendation	**[5-5] Develop actionable goals for the Free File program before entering into a new agreement that, among other things, provide targeted use percentages aimed to substantially increase taxpayer usage and increase the percentage of taxpayers who continue to use the program from year to year.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	We agree to study the issue and use data gathered this year, in addition to customer and stakeholder input, to determine the appropriate goals prior to negotiating a new agreement.
TAS Response	The IRS has committed to develop appropriate goals before renegotiating a new agreement with FFI. We recommend the IRS develop goals that include targeted use percentages aimed at substantially increasing both taxpayer usage and the percentage of taxpayers who continue to use the program from year to year.

TAS Recommendation	**[5-6] Work with the National Taxpayer Advocate to create measures evaluating taxpayer satisfaction with the Free File program and test each return preparation software's ability to complete various forms, schedules, and deductions.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	The IRS agrees to evaluate taxpayer satisfaction with the Free File program and use those results to improve Free File. To that end, in the MOU addendum from December 2019, FFI agreed to begin a survey process for successful Free File users. This is the first step of an iterative process to survey taxpayers regarding their customer experience and satisfaction. All commercial versions of software that electronically file returns go through the Assurance Testing System (ATS) for Modernized e-File (MeF) Individual Tax Returns to make sure the basic computations are correct. Free File products are identical to the basic product software partners offer in the commercial marketplace. The IRS disagrees with testing software products using taxpayer scenarios. The IRS does not perform, and has no authority to perform, testing on private-sector products, of which Free File is a subset. We established an online email address and are responding to taxpayer inquiries, as well as identifying common issues to consider as improvement opportunities for the Free File program.
TAS Response	The IRS has the authority to test the Free File program products beyond the Assurance Testing System (ATS) for Modernized e-File (MeF) Individual Tax Returns that it currently performs on all private sector products. The Free File program is a contractual arrangement between the IRS and FFI, and the terms are periodically updated. In addition, taxpayers can access the Free File program products through the IRS website, and the products now use the naming convention "IRS Free File Program delivered by (company name or product name)." Therefore, it is reasonable for taxpayers to assume that the IRS endorses the program products and performs testing of the products' content (in addition to technological compatibility).

TAS Recommendation	**[5-7] Conduct customer satisfaction surveys and routine quality testing of each Free File program software product to determine clarity of prompts, accuracy of preparation, ease of navigation, and coverage of forms and schedules.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	The recent MOU addendum states: "…FFI members shall use a statistically valid methodology to randomly select and uniformly survey taxpayers who successfully e-filed a tax return through the Free File program. This is the first step of an iterative process to survey taxpayers regarding their customer experience and satisfaction." The IRS will receive quarterly and annual findings from this process to help inform future decisions. While the IRS and FFI currently require a minimum listing of core Forms 1040 and schedules, most participating companies go beyond this requirement and offer nearly all available Forms 1040 and schedules. Participating companies guarantee the calculations performed by the federal Free File offering.
TAS Response	The December 2019 addendum provides that FFI will conduct random surveys of successful Free File users. However, the IRS should take a more proactive role in the development and methodology of such surveys. Allowing the industry to develop and conduct the surveys and merely report the findings to the IRS on a quarterly and annual basis does not go far enough. The IRS should have the authority to approve the language of the survey questions as well as the survey methodology.

TAS Recommendation	**[5-8] Redesign the Free File Software Lookup Tool to better direct taxpayers to software providers that best meet their circumstances.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The current Free File Software Lookup Tool allows taxpayers to enter criteria such as age, adjusted gross income, state of residence, and Earned Income Tax Credit or military pay received. The combinations of these criteria identify the specific companies that provide products to best fit the taxpayer's needs. We are in the process of improving this tool to better direct taxpayers to software providers. We expect these improvements to be made available in early summer 2020.
TAS Response	The IRS is taking the recommended action to improve the Free File Software Lookup Tool. Taxpayers have a *right to quality service* and the IRS's provision of a useful tool to assist taxpayers in choosing the appropriate program product will improve the overall taxpayer experience.

TAS Recommendation	**[5-9] Provide more Free File program options for ESL taxpayers.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	For the 2020 filing season, two FFI members are offering Free File software in Spanish. We appreciate the NTA's perspective that the program is helpful enough to expand the program to non-English speaking taxpayers.
TAS Response	Two program software products offered in Spanish are a good start. We encourage the IRS to work with FFI to offer program products in other common languages. For example, IRS.gov provides tax information in Spanish, Mandarin Chinese, Korean, Russian, and Vietnamese.

TAS Recommendation	**[5-10] Prepare an advertising and outreach plan to make taxpayers, particularly in underserved communities, aware of the Free File program.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	The IRS welcomes ideas from the NTA to increase awareness of the Free File program among underserved populations. The IRS does not have marketing funds to pursue an advertising campaign to increase Free File program awareness. However, we are building onto our communications plan to increase program awareness. The IRS issues a multitude of traditional news releases and social media promotions that include key messages about Free File on IRS.gov, as well as references in the Form 1040 instructions.
TAS Response	We understand that the IRS has no funds to pursue an advertising campaign, and we welcome the opportunity to collaborate with the IRS on additional ways to increase taxpayer awareness of the Free File program.

TAS Recommendation	[5-11] **Mandate that the IRS, in consultation with the National Taxpayer Advocate, submit a report to Congress by June 30, 2020, summarizing the actions it has taken to address the recommendations made by the MITRE 2019 Free File report as well as recommendations made by the National Taxpayer Advocate herein to improve the Free File program by Filing Season 2021.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

TAS Recommendation	[5-12] **Direct the IRS to set a goal of increasing the usage rate of the Free File program to a significantly higher yet attainable level (*e.g.*, ten percent of the 70 percent of taxpayers eligible to use the program) and a goal of increasing the retention rate to 75 percent of taxpayers who used Free File in the preceding year and, if those goals are not attained by 2025, to replace Free File with an alternative approach to make tax software available to taxpayers at no or low-cost, including through the use of sole-source or multi-source contracts with tax software companies.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

MSP #6: RETURN PREPARER STRATEGY: The IRS Lacks a Comprehensive Servicewide Return Preparer Strategy

PROBLEM

Considering that about 80 million tax year 2018 individual tax returns were prepared by return preparers, and preparers interact with most functions of the IRS, the development of a comprehensive return preparer strategy is long overdue. In 2019, the IRS developed a preparer misconduct study in response to a 2018 recommendation by the Treasury Inspector General for Tax Administration. However, preparer misconduct issues are only one component of a truly comprehensive Servicewide return preparer strategy. In addition to addressing misconduct issues, the National Taxpayer Advocate recommends that the IRS develop a comprehensive strategy with the following components:

- Emphasize the taxpayer's *right to retain representation*;
- Encourage return preparer competency within the bounds of its authority;
- Address the current lack of transparency in preparer fees;
- Incorporate a comprehensive taxpayer education campaign;
- Restrict access to confidential taxpayer information on online applications to only those preparers over whom the IRS has oversight authority; and
- Track preparer noncompliance data by type of preparer.

ANALYSIS

Millions of taxpayers choose to interact with the IRS through their representatives, making them a vehicle for taxpayer compliance. However, currently there are no competency or licensing requirements for federal unenrolled tax return preparers. While the IRS does not have the authority to impose minimum competency requirements, it still has tools to encourage preparers to improve the quality of their return preparation services. In addition, the lack of transparency in preparation and filing fees at the outset of the preparation engagement prevents taxpayers from comparison shopping or even from predicting the cost before entering into the transaction. Further, because the IRS does not have the resources to maintain widespread geographic presence to enforce preparer requirements, it must empower taxpayers to protect themselves through a comprehensive taxpayer education campaign.

TAS RECOMMENDATIONS

[6-1 through 6-8]

The National Taxpayer Advocate recommends that the IRS develop a comprehensive servicewide return preparer strategy that:

1. References the taxpayer's *right to retain representation* in the mission of the strategy.
2. Increases preparer competency through outreach and education to preparers before any detection of noncompliance.
3. Requires disclosure of fees charged in connection with the preparation and filing of tax returns and enforce such requirements.
4. Includes a comprehensive public education campaign, particularly to low-income and other taxpayer populations that are vulnerable to unskilled and unethical preparers. Such a campaign should provide information to taxpayers about preparer roles, responsibilities, requirements, and reporting misconduct.
5. Limits access to confidential taxpayer information through online applications to only those preparers over whom the IRS has oversight authority.
6. Routinely tracks preparer noncompliance data by type of designation.
7. Collaborates with TAS in the development of the comprehensive servicewide return preparer strategy.
8. Incorporates service to return preparers into the comprehensive taxpayer service strategy mandated by the Taxpayer First Act, because return preparers are customers of the IRS and important vehicles of taxpayer compliance.

[6-9] The National Taxpayer Advocate recommends that Congress amend Title 31, § 330 of the U.S. Code to authorize the Secretary to establish minimum standards for federal tax return preparers.

IRS NARRATIVE RESPONSE

Return preparers play a critical role in our tax system, preparing 60 percent of all tax returns filed. While the majority of these preparers make good faith efforts to comply with the law and help their clients to do the same, even one unscrupulous preparer can cause significant harm to both taxpayers and the tax system. Our goal at the IRS is to address preparer noncompliance as quickly and efficiently as possible. We employ a multi-faceted and multi-functional approach to support and monitor preparers to ensure the accuracy of the returns they prepare. This includes, but is not limited to, diverse efforts such as criminal investigations and injunctions; visits conducted before, during, and after filing season; correspondence outreach; and other actions. However, our efforts are limited by both our lack of legislative authority to regulate return preparers and our limited resources.

In July 2018, the Treasury Inspector General for Tax Administration (TIGTA) issued a report (Reference Number: 2018-30-042) for an audit conducted to determine whether IRS procedures, guidelines, and policies pertaining to paid preparer misconduct were being effectively administered. TIGTA recommended a more coordinated strategy among the different IRS functions with the

authority to address preparer misconduct. This would allow the IRS to use its available tools more effectively. IRS agreed the Small Business/Self-Employed (SB/SE) Division would lead a cross-functional effort to develop such a strategy. We noted internal collaboration would allow us to leverage our limited resources to make recommendations on a full range of educational, civil, and criminal enforcement actions.

As a result, the Servicewide Preparer Strategy (SWPS) team was formed in May 2018. This team is comprised of representatives from multiple Business Operating Divisions (BODs) and functions, including a participant from the Taxpayer Advocate Service (TAS). The goal of the team is to develop a strategy that:

- Implements a coordinated enterprise approach to resource utilization and the decision-making process;
- Leverages technology and systems;
- Focuses on preparer misconduct through both internal and external outreach and education with taxpayers and the preparer community; and
- Implements Servicewide measures for success.

The SWPS is a multi-prong approach that addresses preparer misconduct, education of preparers and taxpayers, Servicewide collaboration, and resource utilization to improve overall compliance. The draft strategy is currently being vetted with the senior leadership team, with implementation of approved recommendations scheduled to commence in Fiscal Year 2020.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's Servicewide Preparer Strategy (SWPS) should provide a consistent and coordinated strategy across the agency. While we were initially concerned that the strategy focuses solely on preparer misconduct, it is our understanding that the IRS Comprehensive Customer Service Strategy includes service to preparers, making coordination of the two strategies crucial.

We continue to recommend that the IRS prominently reference the taxpayer's *right to retain representation* in the SWPS. This reference, ideally in the mission statement, will serve as a reminder to all IRS employees who implement this strategy of the need to protect this fundamental taxpayer right even as they address potential preparer noncompliance.

To reduce taxpayer burden, the SWPS should address preparer incompetence and the lack of transparency in preparer fees. While the preparer and taxpayer outreach and education mentioned by the IRS is important, the IRS should explore other ways it can increase preparer competency within its authority. For example, the strategy could include a goal to increase participation in the Annual Filing Season Program. Further, the IRS should work with the Office of Chief Counsel to determine if it has the authority to impose and enforce fee disclosure requirements on preparers.

Finally, while tracking data on preparer noncompliance by designation would be imprecise due to the reasons cited by the IRS, maintaining and analyzing this data would still prove useful. The IRS

could use this information to identify trends and enable it to provide outreach and education as well as compliance treatments in a more targeted manner.

TAS Recommendation	**The National Taxpayer Advocate recommends that the IRS develop a comprehensive servicewide return preparer strategy that:** **[6-1] References the taxpayer's *right to retain representation* in the mission of the strategy.** **[6-2] Increases preparer competency through outreach and education to preparers before any detection of noncompliance.** **[6-3] Requires disclosure of fees charged in connection with the preparation and filing of tax returns and enforce such requirements.** **[6-4} Includes a comprehensive public education campaign, particularly to low-income and other taxpayer populations that are vulnerable to unskilled and unethical preparers. Such a campaign should provide information to taxpayers about preparer roles, responsibilities, requirements, and reporting misconduct.** **[6-5] Limits access to confidential taxpayer information through online applications to only those preparers over whom the IRS has oversight authority.** **[6-6} Routinely tracks preparer noncompliance data by type of designation.** **[6-7] Collaborates with TAS in the development of the comprehensive servicewide return preparer strategy.** **[6-8] Incorporates service to return preparers into the comprehensive taxpayer service strategy mandated by the Taxpayer First Act, because return preparers are customers of the IRS and important vehicles of taxpayer compliance.**
IRS Response	IRS agrees to implement TAS recommendation in part.

continued on next page

IRS Action

1. The taxpayer's right to retain representation is a fundamental right for all taxpayers under the Taxpayer Bill of Rights; therefore, it is not necessary to address as a separate item in the return preparer strategy.
2. The IRS will continue to address preparer competency. Outreach and education for preparers is ongoing and is provided through various avenues, such as the National Tax Forums, Stakeholder Liaison efforts, meetings with professional associations and various industry stakeholders, webinars, and a wealth of resources on IRS.gov, including a Tax Preparer Toolkit that provides resources and continuing education opportunities for preparers. The IRS also sends eNews articles, Quick Alerts, and social media messages to tax practitioners whenever new tax legislation is passed and implemented. The IRS continually engages with our tax professional partners through the Refundable Credit Summits and the Software Developers Working Group to share information and discuss challenges and lessons learned within the preparer community, with the goal of improving the quality of tax returns filed claiming refundable credits and other benefits. These activities will continue as part of the overall return preparer strategy.
3. The IRS does not have authority to impose or enforce a requirement to disclose fees charged in connection with the preparation and filing of tax returns.
4. Each year, the IRS hosts an annual "EITC Awareness Day," which is a nationwide effort to provide taxpayers more information about the Earned Income Tax Credit (EITC) through traditional and social media channels and to promote use of the EITC Assistant on IRS.gov. The 14th EITC Awareness Day was held on January 31, 2020. Using available communication resources to reach the broadest range of taxpayers, the annual EITC Awareness Day News Release informs the tax community where they can find information regarding the Free-File, Volunteer Income Tax Assistance (VITA), and Tax Counseling for the Elderly (TCE) programs. In addition, news releases inform the tax community how to choose a paid preparer and include instructions on how to report unscrupulous preparers. This information is also available on IRS.gov.
5. The Office of Professional Responsibility's (OPR's) standard operating procedures and electronic case management systems already limit access to confidential taxpayer information to only those preparers over whom the OPR has oversight authority through Circular 230. The future online account application for tax professionals is being evaluated by Online Services (OLS). Discussions regarding implementation and funding are ongoing.
6. The IRS does not track preparer noncompliance data by type of designation for several reasons. The designation in the Preparer Tax Identification Number (PTIN) system is self-reported and not always accurate regarding preparer type. In addition, preparer designations change and expire, and some preparers hold multiple designations. Finally, the IRS has seen no evidence that tracking noncompliance by type of designation will impact overall noncompliance. However, the IRS does analyze preparer data to identify non-compliance and to determine the appropriate enforcement approach.
7. TAS is currently represented on the return preparer strategy team.
8. The IRS is taking a holistic approach to developing the comprehensive taxpayer service strategy mandated by the Taxpayer First Act. This approach includes consideration of tax professionals in their dual roles as customers of IRS services and service providers to their clients (taxpayers). The Taxpayer First Act Office will continue to look for opportunities to grow and strengthen trusted partnerships with the tax professional community and their comprehensive taxpayer service strategy will be detailed in the written report to Congress required by section 1101 of the Taxpayer First Act.

continued on next page

TAS Response	1. We continue to recommend that the IRS prominently reference the taxpayer's *right to retain representation* in the SWPS. This reference, ideally in the mission statement, will serve as a reminder to all IRS employees who implement this strategy of the need to protect this fundamental taxpayer right even as they address potential preparer noncompliance. 2. While the preparer and taxpayer outreach and education mentioned by the IRS is important, the IRS should explore other ways it can increase preparer competency within its authority. For example, the strategy could include a goal to increase participation in the Annual Filing Season Program. 3. Considering the significant burden imposed on taxpayers by the lack of transparency in fees charged by many preparers, as discussed in the MSP, the IRS should work with the Office of Chief Counsel to determine if it has the authority to impose and enforce fee disclosure requirements on preparers. 4. Based on the IRS response, existing IRS communications, especially those associated with EITC Awareness Day, amount to the recommended comprehensive public education campaign. 5. We look forward to working with OLS as it continues to plan the implementation of the tax professional online application. 6. While data on noncompliance by preparer designation may be imprecise due to the reasons cited by the IRS, maintaining and analyzing this data would still prove useful. Tracking noncompliance by preparer type could identify trends and enable the IRS to provide outreach and education as well as compliance treatments in a more targeted manner. 7. TAS looks forward to continued participation on the SWPS team. 8. Considering the important role preparers play in the tax system, it is crucial that the IRS Comprehensive Customer Service Strategy addresses service to preparers. As a result, coordination of the SWPS with the service strategy is essential.

TAS Recommendation	**[6-9] The National Taxpayer Advocate recommends that Congress amend Title 31, § 330 of the U.S. Code to authorize the Secretary to establish minimum standards for federal tax return preparers.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

MSP #7: APPEALS: The Inclusion of Chief Counsel and Compliance Personnel in Taxpayer Conferences Undermines the Independence of the Office of Appeals

PROBLEM

The Office of Appeals' (Appeals) emphasis on including Counsel and Compliance in certain conferences fundamentally alters the role of Appeals and runs counter to the congressional priority of an independent Appeals process. Currently, Appeals is not gathering sufficient quantitative and qualitative data to adequately evaluate the success of a pilot program to study the effects of this inclusion. However, anecdotal reports of tax practitioners participating in the pilot validate the National Taxpayer Advocate's prior reservations about the involvement of Counsel and Compliance in conferences.

ANALYSIS

Appeals is currently in the final year of a pilot program relating to the participation of Counsel and Compliance in Appeals Team Case Leader (ATCL) cases. The involvement of Counsel and Compliance in these cases occurs whether or not taxpayers consent and jeopardizes the independence of Appeals. By definition, Appeals cases arise only when taxpayers and Compliance reach an impasse. Thus, to allow these parties to again make their case in what should be a separate and unbiased proceeding results in the impression, if not the reality, that taxpayers are facing the IRS as an institution. Moreover, Appeals Officers may have difficulty drawing their own independent conclusions at variance with positions advocated by Counsel or Compliance. Some practitioners included in the pilot report chaotic proceedings and a lessening of Appeals' effectiveness. Appeals has issued procedural guidance with respect to pilot cases, but the impact of this guidance remains uncertain. Appeals should gather and consider all available information when assessing the outcome and future of this initiative.

TAS RECOMMENDATIONS

[7-1] Compile quantitative data regarding the efficiency and outcomes of pilot proceedings and publish that data when the pilot is complete.

[7-2] Carefully consider and publish the reactions of taxpayers and tax practitioners who participate in the pilot.

[7-3] Regardless of the pilot's outcome, only include Counsel and Compliance in appeals conferences with taxpayers' consent. To the extent taxpayers do not agree to this participation, offer the parties the possibility of nonbinding mediation as a means of resolving or narrowing their differences through collaborative exploration of factual and legal disputes prior to an appeals conference.

[7-4] If the participation of Counsel and Compliance continues after the pilot, restrict this participation to ATCL cases, other than in exceptional circumstances.

IRS NARRATIVE RESPONSE

The role of the IRS Independent Office of Appeals is to resolve tax controversies, without litigation, on a basis that is fair and impartial to both taxpayers and the Government and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service. For many years, Appeals Officers have had the discretion to invite Compliance and Counsel to attend the non-settlement discussion portion of certain Appeals conferences. Under the current Appeals Team Case Leaders (ATCL) Conferencing Initiative, Compliance attendance has been made routine in conferences for some of the largest, most complex cases in Appeals. The objective is to help Appeals better understand the relevant facts and law from both the taxpayers' and the Government's perspectives. Importantly, settlement negotiations continue to occur only between the taxpayer and Appeals, without Compliance present (unless the parties agree to mediation). Including Compliance and Counsel in the non-settlement discussions of the largest, most complex cases in Appeals is intended to increase all parties' understanding of the factual and legal issues in dispute, thereby enhancing Appeals' independence in resolving those disputes.

It is important to note that Appeals does not routinely invite Compliance or Counsel to attend conferences. In most instances, an Appeals Officer is able to review the case and negotiate a settlement with the taxpayer without Compliance participation in the Appeals conference.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

Appeals' desire to include Counsel and Compliance in conferences for large cases is understandable given the complexity of such cases, but this practice compromises Appeals' independence and jeopardizes its overall mission. Such participation, regardless of taxpayers' objections, was the focus of a recently concluded three-year pilot study, and TAS applauds Appeals on its commitment to undertake and publish a survey of those involved. However, quantitative data such as cycle times and agreed case percentages would also provide an invaluable tool that all parties could utilize in assessing the fairness and viability of this potential program. TAS is sensitive to the challenges faced by Appeals and is supportive of its role as independent decisionmaker, but we have also received troubling reports from tax practitioners who have been included in the pilot. Appeals should proceed cautiously when considering next steps, including whether the policy should be continued and, if so, limiting it to LB&I cases. Accordingly, we ask that Appeals include TAS in its deliberations as Appeals evaluates the pilot and determines future policy regarding the inclusion of Counsel and Compliance in Appeals conferences.

TAS Recommendation	**[7-1] Compile quantitative data regarding the efficiency and outcomes of pilot proceedings and publish that data when the pilot is complete.**
IRS Response	IRS does not agree to implement TAS recommendation. Appeals considers qualitative data more informative than quantitative data in evaluating the success of this pilot. The cases involved in the pilot are Appeals' largest and most complex cases, involving unique, varied, and non-homogenous issues. Therefore, an analysis of quantitative data alone is unlikely to inform a conclusion about the success of the pilot. A better evaluation of the pilot is whether the parties to the dispute found the process helpful, and whether the Appeals Officer obtained a better understanding of the substance of the dispute that was useful in formulating a settlement basis with the taxpayer.
IRS Action	N/A
TAS Response	Although qualitative information is important, quantitative data also represents an indispensable resource for evaluating the impact of the pilot on taxpayers.

TAS Recommendation	**[7-2] Carefully consider and publish the reactions of taxpayers and tax practitioners who participate in the pilot.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	The IRS Independent Office of Appeals will carefully consider and publish the reactions of taxpayers and tax practitioners who participate in the pilot on the IRS website at www.irs.gov.
TAS Response	TAS applauds Appeals for its commitment to compile and publish the reactions of pilot participants.

TAS Recommendation	**[7-3] Regardless of the pilot's outcome, only include Counsel and Compliance in appeals conferences with taxpayers' consent. To the extent taxpayers do not agree to this participation, offer the parties the possibility of nonbinding mediation as a means of resolving or narrowing their differences through collaborative exploration of factual and legal disputes prior to an appeals conference.**
IRS Response	IRS does not agree to implement TAS recommendation. The IRS Independent Office of Appeals will make decisions about the participation of Compliance and Counsel at Appeals conferences after the conclusion of the pilot.
IRS Action	N/A
TAS Response	TAS continues to believe that including Counsel and Compliance in Appeals conferences against the wishes of taxpayers compromises Appeals' independence and jeopardizes its mission.

TAS Recommendation	**[7-4] If the participation of Counsel and Compliance continues after the pilot, restrict this participation to ATCL cases, other than in exceptional circumstances.**
IRS Response	IRS does not agree to implement TAS recommendation. The IRS Independent Office of Appeals will make decisions about the participation of Compliance and Counsel at Appeals conferences after the conclusion of the pilot.
IRS Action	N/A
TAS Response	At a minimum, if the participation of Counsel and Compliance is adopted in the future, it should be limited to large cases under the jurisdiction of LB&I.

MSP #8: MULTILINGUAL NOTICES: The IRS Undermines Taxpayer Rights When It Does Not Provide Notices in Foreign Languages

PROBLEM

Persons with limited English proficiency (LEP) do not speak English as their primary language and have a limited ability to read, speak, write, or understand English. Although Executive Order 13166 requires all federal agencies to develop and implement a system allowing LEP persons to meaningfully access services, LEP taxpayers frequently do not receive IRS notices in their preferred languages, impairing their *right to be informed*. Even when the IRS has a notice already translated into Spanish, taxpayers often have no simple way to request it or notate their accounts to reflect their preference. This resulted, for example, in the IRS sending in Spanish *only one out of almost a million* notices related to renewing Individual Taxpayer Identification Numbers (ITINs) during the most recent fiscal year, 2019. Additionally, the IRS website fails to include notices and information about those notices in languages other than English.

ANALYSIS

The IRS only translates some important statutory notices into Spanish and none into languages other than English or Spanish. Of the five most commonly issued versions of the statutory notice of deficiency, only two are available in Spanish and none in any languages other than English or Spanish. Currently, the IRS has programmed its Individual Master File so Spanish notices are only received if the taxpayer has filed a Form 1040PR, which is used by residents of Puerto Rico in certain limited situations. Using U.S. Census data, TAS Research estimated a benchmark for the percentage of LEP Spanish taxpayers who should receive a notice or letter from the IRS and found that the actual percentage of Spanish notices for four key statutory notices was substantially below this benchmark. While IRS employees can manually generate some notices in Spanish upon request, a taxpayer will only receive these notices if he or she knows to request one. The IRS's Spanish webpage for notices provides only general information about understanding any IRS notice or letter, and when one searches by notice number, the results are in English.

TAS RECOMMENDATIONS

[8-1] Place a checkbox on Form 1040 to allow taxpayers to choose to receive their notices in Spanish and, as more notices are translated, expand the 1040 checkbox to languages other than Spanish.

[8-2] Incorporate language information from the ITIN Real Time System in the IRS's account systems so that if a taxpayer files a Form W-7 in Spanish, an indicator is systemically placed on his or her accounts.

[8-3] Translate into the five most common non-English languages the IRS webpages that correspond to the four notices identified in the MSP (CP 11 – English Math Error on Return – Balance Due; Letter 105C – English Claim Disallowed; Letter 106C – English

Claim Partially Disallowed; Letter 854C – English Penalty Waiver or Abatement Disallowed/Appeals Procedure Explained), along with other IRS webpages that correspond to other statutory notices and taxpayer rights.

[8-4] Develop a plan to identify additional notices that provide statutory rights and webpages that specifically pertain to those notices to be translated into the top five LEP languages by using the LEP demographics. The plan should include options to create a hyperlink or scannable code on the notices that would direct an LEP taxpayer to a webpage providing alternate language templates of the notice.

[8-5] Create procedures similar to those used by the SSA to identify taxpayers who may have LEP, instruct employees to ask these taxpayers about language preference, and allow employees to mark a taxpayer's account to reflect this preference.

[8-6] Place a note on all correspondence providing taxpayers with instructions explaining how to receive their notices in languages other than English.

[8-7] Expand the LEP indicator and use the indicator to centrally coordinate and record the issuance of notices in languages other than English.

IRS NARRATIVE RESPONSE

The IRS understands the importance of preserving taxpayer rights by communicating with taxpayers who may be underserved or who may have Limited English Proficiency (LEP). The IRS has developed and implemented a system that provides persons with LEP meaningful access to our products and services, consistent with Executive Order 13166 (the Executive Order). The Executive Order requires federal agencies to assess the needs of customers with LEP to determine whether those needs are being met within resource limits. Pursuant to the Executive Order, Policy Statement 22-3 expresses the IRS commitment to serving taxpayers with LEP. The IRM 22.31.1, Multilingual Initiative, IRS Language Services, provides guidelines and procedures for implementing the requirements of the Executive Order.

To ensure compliance with the Executive Order, the IRS periodically develops a Limited-English Proficiency Customer Base Report (CBR). The CBR helps to ensure consistency and uniformity in the scope, quality, and accuracy of the assistance given to LEP taxpayers. The CBR includes data on the number and/or proportion of persons with LEP served or encountered in the eligible service population, the frequency with which persons with LEP come into contact with the program or service, the nature and importance of the program or service provided, and the resources available to provide language services.

The IRS communicates with taxpayers with LEP through multiple channels. We offer a Spanish toll-free telephone line and over-the-phone interpretation in over 350 languages, as well as telecommunications devices for taxpayers who are hearing impaired. Many of the webpages on IRS.gov are available in the five languages most commonly used by LEP taxpayers. In addition, we share various outreach materials in multiple languages, including videos and social media. The IRS

has designated Spanish as a frequently encountered language and approximately 67 tax products are available in Spanish. Approximately 192 notices and letters are available in Spanish.

To further expand our multilingual services to meet our mission of helping America's taxpayers to understand and meet their tax responsibilities, the IRS is working to develop and implement an Enterprise Multilingual Improvement Strategy. The strategy includes gathering data through various channels involving taxpayers, community organizations, and other stakeholders. As part of that process, we will specifically consider the notices provided in languages other than English in terms of types of notices, taxpayer preference, delivery of notices, and other potential functionality.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

Since the MSP was published, the IRS is moving forward with a number of new initiatives addressing TAS's concerns about multilingual notices. The IRS is implementing practices that meet the intent and goals of TAS's recommendations. TAS is currently serving on the IRS's Language Services Executive Advisory Council (LSEAC), which has highlighted several very positive developments. The IRS is moving towards developing a Schedule LEP for taxpayers to use for indicating a language preference when filing their returns and a multilingual insert that could be placed in the ten most issued notices. TAS welcomes the IRS's development of these and other initiatives to ensure notices that provide or fulfill key statutory rights are available in languages other than English and taxpayers have a simple way to request the alternative language notices.

TAS Recommendation	**[8-1] Place a checkbox on Form 1040 to allow taxpayers to choose to receive their notices in Spanish and, as more notices are translated, expand the 1040 checkbox to languages other than Spanish.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part of development of the IRS Enterprise Multilingual Strategy, the IRS is assessing the concept of gathering language preference information from taxpayers to help improve the experience for taxpayers with LEP. The manner in which taxpayers elect their preference is yet to be determined.
TAS Response	The development of a Schedule LEP, attached to the Form 1040, indicating language preference for notices, would aid in informing taxpayers and would be a useful tool toward compliance.

TAS Recommendation	**[8-2] Incorporate language information from the ITIN Real Time System in the IRS's account systems so that if a taxpayer files a Form W-7 in Spanish, an indicator is systemically placed on his or her accounts.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part the development of the IRS Enterprise Multilingual Strategy, the IRS is considering options for capturing taxpayers language preferences and indicating that preference on the taxpayer's account. Currently, if the taxpayer submits a Form W-7(SP), the account is noted and the ITIN assignment or renewal notice will generate in Spanish. Expansion to other forms is yet to be determined.
TAS Response	Currently, the language preference captured in the ITIN Real Time System is only applied to ITIN notices, despite other information from the ITIN Real Time System, such as address, being updated in other IRS systems. As the IRS's Enterprise Multilingual Strategy is rolled out, we recommend the language preference in the ITIN Real Time System be shared with other systems and applied to additional notices.

TAS Recommendation	**[8-3] Translate into the five most common non-English languages the IRS webpages that correspond to the four notices identified in the MSP (CP 11 – English Math Error on Return – Balance Due; Letter 105C – English Claim Disallowed; Letter 106C – English Claim Partially Disallowed; Letter 854C – English Penalty Waiver or Abatement Disallowed/ Appeals Procedure Explained), along with other IRS webpages that correspond to other statutory notices and taxpayer rights.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part of development of the IRS Enterprise Multilingual Strategy, the IRS is studying the translation of additional IRS webpages. The specific webpages to be translated, and the languages to be provided, are yet to be determined.
TAS Response	Translation of additional webpages would be beneficial to informing taxpayers of their rights. The IRS's commitment to providing multilingual information should include prioritizing the translation of the four webpages that TAS identified above in section 8.3, relating to key statutory notices.

TAS Recommendation	**[8-4] Develop a plan to identify additional notices that provide statutory rights and webpages that specifically pertain to those notices to be translated into the top five LEP languages by using the LEP demographics. The plan should include options to create a hyperlink or scannable code on the notices that would direct an LEP taxpayer to a webpage providing alternate language templates of the notice.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part of the development of the IRS Enterprise Multilingual Strategy, the IRS is developing a plan to identify additional notices to be translated. The specific notices and features to be added are yet to be determined.
TAS Response	As the development of the IRS Enterprise Multilingual Strategy is visualized, we are excited about working with the IRS to translate additional notices and provide features making it easier for taxpayers requesting notices in languages other than English.

TAS Recommendation	**[8-5] Create procedures similar to those used by the SSA to identify taxpayers who may have LEP, instruct employees to ask these taxpayers about language preference, and allow employees to mark a taxpayer's account to reflect this preference.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part the Enterprise Multilingual Strategy development activities, the IRS is considering options for capturing a taxpayer's language preferences and placing that information on the taxpayer's account. The specific methods for doing so are yet to be determined.
TAS Response	The IRS's plans to capture taxpayer language preference through employee contacts will benefit taxpayers. We recommend the IRS consider reviewing the practices of other agencies, such as the Social Security Administration.

TAS Recommendation	**[8-6] Place a note on all correspondence providing taxpayers with instructions explaining how to receive their notices in languages other than English.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part of developing the IRS Enterprise Multilingual Strategy, the IRS is assessing the concept of gathering language preference information from taxpayers to help improve the experience for LEP taxpayers. The way in which we communicate instructions to taxpayer is still to be determined.
TAS Response	Including a multilingual insert in the top ten notices is a positive step toward the recommendation. However, we request the IRS provide a website address on all taxpayer notices referencing instructions to solicit notices in other languages.

TAS Recommendation	**[8-7] Expand the LEP indicator and use the indicator to centrally coordinate and record the issuance of notices in languages other than English.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	As part of the Enterprise Multilingual Strategy development activities, the IRS is studying options to capture a taxpayer's language preferences and indicate those preferences on the taxpayer's account. The IRS will also explore how best to generate notices in the taxpayer's preferred language. The ways in which this information will be used to issue notices and the languages in which those notices will be provided are yet to be determined.
TAS Response	TAS will continue to work with the IRS on language preference options for taxpayers' accounts for the purpose of generating notices in their chosen language.

MSP #9: COMBINATION LETTERS: Combination Letters May Confuse Taxpayers and Undermine Taxpayer Rights

PROBLEM

The IRS uses the Combination Letter, which combines the Initial Contact Letter and the 30-Day Letter, in hundreds of thousands of correspondence audits. In fiscal years (FYs) 2015 to 2019, the IRS used the Combination Letter in approximately 16 percent, or about 500,000, audits. When the IRS combines two letters with very different functions, taxpayers may experience:

- Insufficient time to provide necessary documentation and resolve questionable items;
- Confusion because the inclusion of the audit report in the initial contact gives the appearance that the result of the audit is a foregone conclusion;
- Insufficient understanding of their right to appeal and the related timeframe; and
- A lower likelihood of responding to the letter as compared to taxpayers who received two separate letters.

Despite the problems Combination Letters create for taxpayers, the IRS Wage and Investment Division has plans to expand its use of the letters.

ANALYSIS

In the two-letter process, the IRS mails an Initial Contact Letter to taxpayers at the beginning of the examination to inform them that their return has been selected for examination, to specify the items under examination, and to request documentation to verify the items the IRS is examining. This letter allows taxpayers 30 days to provide support for the examined items. The 30-Day Letter is generally sent to taxpayers to communicate the audit adjustments after the IRS has considered any information that the taxpayers provided, and gives taxpayers 30 days to provide additional documentation, rebut the audit adjustments, or request an appeal of the audit adjustments prior to paying any additional tax due.

The IRS uses Combination Letters to save employee resources and reduce case cycle times (though the IRS does not have statistics to prove this) in cases where it believes the taxpayer is definitely in the wrong. The Combination Letter shortens the timeframe for taxpayers to resolve problems compared to the two-letter process, which can create several problems for taxpayers:

(1) Taxpayers may miss deadlines to provide documentation or request an appeals conference.

(2) Taxpayers may be confused and not respond to the IRS, because the audit report enclosed with the Combination Letter gives the appearance that the audit result is a foregone conclusion. Neither the audit report nor the Combination Letter indicate that the adjustments on the enclosed audit report are tentative. Our data found that the non-response rate for taxpayers who receive a Combination Letter was, on average, 29 percentage points higher than taxpayers who received the Initial Contact and 30-Day letters.

(3) Combination Letters simultaneously tell taxpayers that they are under audit and that they can request an administrative appeal of a determination that the IRS has not yet made. While providing documentation and requesting an appeal is not an either/or situation, the design of the Combination Letter gives the appearance that taxpayers must make a choice between these two options. Regardless, to retain their right to an appeal, taxpayers must request an appeal within 30 days of the letter date, even if they are simultaneously working with the IRS to resolve the underlying issues, meaning the appeal may be premature or moot, which wastes taxpayer and IRS employee time and resources.

TAS RECOMMENDATIONS

[9-1] Discontinue the use of Combination Letters and provide all taxpayers undergoing an examination with a separate Initial Contact Letter and 30-Day Letter, providing taxpayers with sufficient time to submit documentation and explanations before issuing the 30-Day Letter.

[9-2] If the IRS chooses not to discontinue use of Combination Letters, it should work with the Taxpayer Advocate Service (TAS) on a joint study to track and compare Combination Letter data with Initial Contact Letter data to identify the causes of significant discrepancies between the two populations, as well as analyze potential issues and areas for improvement.

[9-3] Refrain from expanding the use of Combination Letters until research is conducted on the impact to taxpayers and the IRS.

[9-4] If the IRS continues to use Combination Letters, work with TAS to redesign them to clearly communicate to taxpayers:

a. Their tax return is under examination;

b. The possible outcomes of the audit, including what happens if the taxpayer provides documentation the IRS deems inadequate;

c. The timeframe in which they have to request an appeal and the factors that impact this timeframe; and

d. The steps they must take to request an appeal.

[9-5] Revise IRS Publication 3498-A, The Examination Process (Audits by Mail), to include guidance specific to the Combination Letter.

IRS NARRATIVE RESPONSE

The Combination Letter combines the Initial Contact Letter and the 30-Day Letter into a single letter. While the IRS generally uses a two-letter process for most of its examinations, it began using Combination Letters in 1999 to shorten the timeframe for certain correspondence examinations and to maximize employee resources. Currently, the IRS sends Combination Letters for examinations where the taxpayer was previously contacted by the IRS and subsequently selected for examination. The IRS also uses Combination Letters when it can clearly determine the taxpayer is not entitled to credits claimed on a tax return, there is a clear mathematical computation error on the tax return, or if the return includes an item that is clearly unallowable. We regularly review our programs and analyze available data to make necessary improvements or operational efficiencies, as warranted.

The National Taxpayer Advocate (NTA) is concerned that in the Combination Letter process, the letter date not only starts the 30-day timeframe in which the taxpayer must respond and provide substantiation for examined items, but also starts the clock on the taxpayer's 30-day window to request an appeal. This is incorrect; the Combination Letter does not limit the taxpayer to a single 30-day period to provide documentation. The time the taxpayer has to respond depends on how responsive the taxpayer has been to the initial letter. Internal Revenue Manual (IRM) 4.19.13.10.1 provides the various scenarios for working taxpayers' responses. There is opportunity for the taxpayer to negotiate a mutually acceptable date by which the taxpayer will send the additional documentation which may extend beyond the initial 30 days provided in the original Combination Letter.

Enclosed with the Combination Letter is an audit report showing the items in question as disallowed. With respect to this MSP #9, the NTA's Annual Report to Congress states: "neither the audit report nor the Combination Letter indicate that the adjustments on the enclosed audit report are tentative." The letter indicates the report changes are proposed. In addition, the letter also indicates the taxpayer can submit information and exercise their appeal rights.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's commitment to refrain from expanding the use of Combination Letters pending further study as indicated in its response to TAS recommendations 9-2 and 9-3 below, is consistent with its desire to better understand the customer experience. We look forward to participating in and being a team member on the Combination Letters Study. The study's goal is to understand the impact these letters have on the taxpayers' experience and their understanding of their options and rights and to make any necessary changes to the text of the letters.

TAS Recommendation	**[9-1] Discontinue the use of Combination Letters and provide all taxpayers undergoing an examination with a separate Initial Contact Letter and 30-Day Letter, providing taxpayers with sufficient time to submit documentation and explanations before issuing the 30-Day Letter.**
IRS Response	IRS does not agree to implement TAS recommendation. The IRS has previously acted to reduce the use of the Combination Letters. We use Combination Letters on a small percentage of cases in correspondence examinations, and only when the IRS already has internal information that supports the issues or evidence of prior IRS contact on the same issue. The taxpayer has the opportunity to dispute the facts and provide supporting or correcting documentation.
IRS Action	N/A
TAS Response	TAS welcomes the IRS's upcoming Combination Letter study and our joint participation toward improving taxpayer communication.

TAS Recommendation	**[9-2] If the IRS chooses not to discontinue use of Combination Letters, it should work with the Taxpayer Advocate Service (TAS) on a joint study to track and compare Combination Letter data with Initial Contact Letter data to identify the causes of significant discrepancies between the two populations, as well as analyze potential issues and areas for improvement.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	The IRS agrees on the importance of better understanding the customer experience. We will work with the Wage & Investment (W&I) Division Lean Six Sigma staff to identify potential areas for improvement. The Taxpayer Advocate Service (TAS) will be included on the team conducting the study.
TAS Response	TAS looks forward to working with the W&I Division Lean Six Sigma staff to identify potential areas for improvement. A key element of the study should include data measuring the actual impact Combination Letters have on taxpayer rights, IRS resources, taxpayer responsiveness, and the exercise of appeal rights.

TAS Recommendation	**[9-3] Refrain from expanding the use of Combination Letters until research is conducted on the impact to taxpayers and the IRS.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	We will refrain from expanding the use of Combination Letters to any new workstreams until the completion of the Lean Six Sigma Study noted in the IRS Response to Recommendation #9-2 is complete.
TAS Response	TAS appreciates IRS's commitment to refrain from expanding the use of the Combination Letter to new workstreams until the Lean Six Sigma Study has been completed.

TAS Recommendation	**[9-4] If the IRS continues to use Combination Letters, work with TAS to redesign them to clearly communicate to taxpayers:** **a. Their tax return is under examination;** **b. The possible outcomes of the audit, including what happens if the taxpayer provides documentation the IRS deems inadequate;** **c. The timeframe in which they have to request an appeal and the factors that impact this timeframe; and** **d. The steps they must take to request an appeal.**
IRS Response	IRS agrees to implement TAS recommendation in part.
IRS Action	We continuously look for opportunities to simplify and improve the clarity of notices and other communications to taxpayers. We will use the information from the study noted above in response to Recommendation #9-2 to determine if changes are necessary to the Combination Letters. The specifics of those changes are yet to be determined.
TAS Response	TAS welcomes IRS's decision to utilize the Lean Six Sigma study findings as a basis for determining necessary Combination Letter revisions.

TAS Recommendation	**[9-5] Revise IRS Publication 3498-A, The Examination Process (Audits by Mail), to include guidance specific to the Combination Letter.**
IRS Response	IRS does not agree to implement TAS recommendation. Publication 3498-A generally guides taxpayers through the audit process and explains their responsibilities and rights during and after an audit. The Publication does not list or provide information on specific letters, as there are numerous letters that are issued by the various examination functions in the IRS. Rather, each letter speaks to what actions need to be taken regarding the letter sent. Repeating information specific to a single letter in a publication for all letters issued by examination functions may be more confusing to taxpayers. However, we will evaluate the results of the study noted above in the IRS Response to Recommendation #9-2 to determine ways to improve our communications with taxpayers.
IRS Action	N/A
TAS Response	We acknowledge that it may not be possible or necessary for Publication 3498-A to specifically address the numerous letters issued by the various examination functions in the IRS. We are optimistic that the IRS and TAS will come to an agreement on revised Combination Letter language.

MSP #10: OFFER IN COMPROMISE: The IRS's Administration of the Offer in Compromise Program Falls Short of Congress's Expectations

PROBLEM

When Congress granted the IRS broad authority to use offers in compromise (OICs) to accept less than the full amount due for some taxpayers, it urged the IRS to educate the public about OICs and adopt a liberal acceptance policy to provide an incentive for taxpayers to continue to file tax returns and pay their taxes. Both taxpayers and the IRS benefit when the IRS accepts an OIC; however, TAS research studies have shown that in 40 percent of returned and rejected OICs, the IRS never collects the amount offered by the taxpayer, much less the reasonable collection potential (RCP) it calculated. The National Taxpayer Advocate remains concerned that the IRS's administration of the OIC program falls short of Congress's expectations because the IRS oftentimes estimates a higher collection potential than the amount a taxpayer offers to compromise the liability, but then never collects that amount, rejecting viable OICs it could accept; the IRS generally fails to consider the effect of bankruptcy when considering an OIC; and the IRS is sending more accounts to its Automated Collection System (ACS) and private collection agencies (PCAs) resulting in less communication with taxpayers about OICs.

ANALYSIS

The IRS will generally accept an OIC if the amount offered reflects the taxpayer's RCP. In a 2017 study of OICs submitted by individuals, TAS concluded that: the IRS never collected the amount offered in 40 percent of the returned and rejected OICs; for rejected OICs, the IRS's calculation of an individual taxpayer's RCP was over 15 times the amount offered but over 40 times the amount actually collected; and taxpayers with accepted OICs have higher rates of future filing and payment compliance. This year, TAS reviewed 250 cases from the 2017 study and found that in 68 percent of the cases reviewed, rejection of the offer was based solely on future income. TAS also reviewed the status of the accounts after rejection and found that although the IRS assigned 82 percent of the accounts to ACS or field collection, as of the end of fiscal year (FY) 2019, the IRS was not able to collect even the amount offered in 65 percent of these cases. Furthermore, as of the end of FY 2019, 50 percent of the taxpayer accounts related to these 250 OICs either remained in the Queue, Currently Not Collectible (CNC) status, or the collection statute expired. TAS also reviewed the status of the 14,420 rejected OICs from the 2017 study where the amount offered exceeded the amount collected and determined that 13 percent of those taxpayers later declared bankruptcy.

Despite rejecting some potentially viable OICs, the IRS OIC program collects approximately 12.5 percent of the liability on accepted OICs. The IRS generally collects on delinquent accounts by assigning inventory to revenue officers and ACS. In FY 2019, 81 percent of collection inventory was assigned to ACS. When ACS cannot resolve the liability, it will either place taxpayers in CNC or shelved status. The delinquent tax dollars in the IRS's shelved inventory has increased 244 percent since 2015, and in FY 2019, 47 percent were later sent to PCAs, who do not have the ability to compromise the liability. In FY 2018, 51 percent of the IRS's aggregate collection revenues were obtained through its notice stream. Before shelving cases or assigning cases to PCAs, the

IRS could be contacting these taxpayers with targeted educational notices about the benefits of the OIC program. This would be consistent with Congressional intent and the IRS's policy to educate taxpayers about the OIC program.

TAS RECOMMENDATIONS

[10-1] Conduct a follow-up study evaluating a statistically-valid sample of rejected OICs to determine the accuracy of future income calculations and why the IRS is not collecting the RCP.

[10-2] Review rejected OICs where taxpayers later declared bankruptcy and determine whether the policy should be revised to consider the effect of a potential bankruptcy on the RCP on all OICs rather than only those where the taxpayer threatens bankruptcy.

[10-3] Work with the National Taxpayer Advocate to develop a pilot program where the IRS sends informative, educational letters about the OIC program to taxpayers in CNC or shelved status.

IRS NARRATIVE RESPONSE

In recent years, we have taken many steps to improve and promote the Offer in Compromise (OIC) program. In 2010, we piloted Fresh Start procedures and formalized them in 2012. The new procedures allowed for additional exemption amounts and reduced the future income multipliers used to calculate reasonable collection potential (RCP). Since these changes, the OIC acceptance rate has increased ten percentage points from 27 percent in Fiscal Year (FY) 2010 to 37 percent in FY 2019. In 2013, we introduced the Offer in Compromise Pre-Qualifier tool on IRS.gov which allows a taxpayer to determine if they are a candidate for an OIC and calculates a potential offer amount. We have found that taxpayers who use the tool generally have a higher acceptance rate than those who do not. These changes have broadened access to the program and have allowed taxpayers to determine if they are a candidate, before submitting paperwork and paying fees.

When an OIC is rejected, we recognize that we will not collect the RCP or the taxpayer's offered amount in every case. This is the nature of a settlement program. The RCP calculation we complete represents the taxpayer's collection "potential." Absent special circumstances, if a taxpayer can fully pay their liability, or does not offer the RCP, then they are not a candidate for an OIC. We believe the current policies and resulting acceptance rates are good not only for revenue but for taxpayer compliance overall.

The Taxpayer Advocate Service (TAS) study referenced in TAS's discussion of this Most Serious Problem included OICs processed from 2009 to 2013. Our FY 2019 OIC internal program reviews did not indicate an issue with the future income calculation or the application of the Allowable Living Expenses (ALEs). However, in response to the National Taxpayer Advocate's 2018 Annual Report to Congress, we issued a memorandum to OIC employees in September 2019 reminding them that there is flexibility when applying ALEs. In our FY 2020 OIC program reviews, we will continue to verify this is understood.

Over the past 15 years, we have conducted three studies and invested significant resources reaching out to taxpayers in a currently not collectible status to educate them as to the OIC process. Each study resulted in a low response rate from contacted taxpayers, and we do not believe another study is worthwhile. As an alternative, in 2016, we added an OIC reference to balance due notices (CP501, CP503, CP504, and C504B) to reach taxpayers and provide information about the OIC program early in the process.

We appreciate your continued support and insight as we strive to further strengthen our OIC program. Below is a detailed response to your recommendations.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

We look forward to our continued dialogue on the OIC program and the protection of taxpayers' rights.

TAS Recommendation	**[10-1] Conduct a follow-up study evaluating a statistically-valid sample of rejected OICs to determine the accuracy of future income calculations and why the IRS is not collecting the RCP.**
IRS Response	IRS does not agree to implement TAS recommendation. A 2018 IRS study found that revenue collection exceeded the amount originally offered in 71 percent of cash offers and 66 percent of deferred offers that were not accepted. Additionally, the FY 2019 offer acceptance rate climbed to 69 percent when removing those cases where the information the taxpayer provided did not allow us to make a collectability determination (acceptances/acceptances + rejections). When an OIC is rejected, we recognize that we will not collect the RCP or the taxpayer's offered amount in every case. This is the nature of a settlement program. We believe the current policies and resulting acceptance rates are good not only for revenue but for taxpayer compliance overall.
IRS Action	N/A
TAS Response	The 2018 IRS study shows that the IRS's RCP computation does not represent what the IRS will eventually collect in a little less than one-third of rejected OICs. This number is too large to be part of the "nature of a settlement program." Moreover, there is a financial cost to the IRS for keeping cases in CNC status or the Queue, and an unrealistic RCP formula erodes the taxpayer's *right to finality*.

TAS Recommendation	**[10-2] Review rejected OICs where taxpayers later declared bankruptcy and determine whether the policy should be revised to consider the effect of a potential bankruptcy on the RCP on all OICs rather than only those where the taxpayer threatens bankruptcy.**
IRS Response	IRS agrees to implement TAS recommendation in full.
IRS Action	We will review a sample of rejected OICs where taxpayers later declared bankruptcy and determine whether the existing policy should be revised to consider the effect of a potential bankruptcy on the RCP on OICs other than those where the taxpayer indicates he or she may file for bankruptcy.
TAS Response	We welcome the implementation of this recommendation and the ability to analyze the review's results for situations involving rejected OICs where the taxpayers subsequently declared bankruptcy.

TAS Recommendation	**[10-3] Work with the National Taxpayer Advocate to develop a pilot program where the IRS sends informative, educational letters about the OIC program to taxpayers in CNC or shelved status.**
IRS Response	IRS does not agree to implement TAS recommendation. As noted above, we have previously conducted three studies and invested significant resources reaching out to taxpayers to educate them on the OIC process, and all of them resulted in low response rates. It is possible there is little incentive for a taxpayer in a currently not collectible or shelved status to file an OIC, that many taxpayers with liabilities do not open letters from IRS, and that taxpayers may not have funds to make an offer or family or friends who are willing to lend them money for an offer. We include information about the OIC program in various billing notices to provide information on OICs early in the process, and we continue to promote the program through a variety of channels.
IRS Action	N/A
TAS Response	We continue to believe that targeted communication will help taxpayers use the OIC program more effectively. The IRS's increased OIC program communication on additional taxpayer notices is a benefit to informing taxpayers.

STATUS UPDATE #1: PRIVATE DEBT COLLECTION: Forthcoming Changes to the Private Debt Collection Program Will Better Protect Low-Income Taxpayers and Achieve a Program That More Appropriately Respects Taxpayer Rights

PROBLEM

The IRS began assigning accounts to private collection agencies (PCAs) in 2017 after the passage of the Fixing America's Surface Transportation Act in 2015. Although some positive changes to the program will take effect on January 1, 2021, concerns remain: taxpayers who are likely experiencing financial hardship and who had their accounts assigned to a PCA prior to that date will have their accounts remain in PCA inventory; recent assignment of Business Master File (BMF) cases to PCAs adds more complexity to their inventory; accounts that are assigned to PCAs are more likely to linger in inventory without any progress toward resolution; and a new direct debit payment option increases the risk that taxpayers will be subject to scammers mimicking the PCAs.

ANALYSIS

The Taxpayer First Act requires that, beginning on January 1, 2021, the IRS excludes from assignment to PCAs those accounts where (1) substantially all of a taxpayer's income is attributable to Social Security Disability Insurance (SSDI) benefits or Supplemental Security Income (SSI); and (2) a taxpayer's adjusted gross income is at or below 200 percent of the Federal Poverty Level. However, the accounts of taxpayers who fall into one of these categories but were assigned to a PCA prior to 2021 will remain in PCA inventory beyond that date. Further, beginning August 2019, the IRS began assigning BMF accounts to PCAs. BMF accounts are generally older than individual accounts assigned to PCAs, making them more difficult to collect on than individual accounts. Adding even more complex accounts to PCA inventory seems unwise considering about 80 percent of the individual accounts assigned to PCAs from the inception of the PDC program through September 12, 2019 have stayed in inventory three months or more without the PCAs receiving any payments or organizing any installment agreements. Finally, a new direct debit payment option makes it more difficult for taxpayers to distinguish between a legitimate PCA employee and an imposter attempting to secure financial information for nefarious purposes.

TAS RECOMMENDATIONS

[SU 1-1] Begin immediately excluding from PCA inventory, accounts of taxpayers who have adjusted gross income at or below 200 percent of the FPL, or receive SSI or SSDI, and recall from PCAs cases that currently reside in their inventory and fall into one of these two categories.

[SU 1-2] Not assign a BMF employment tax account to a PCA if a corresponding account with a trust fund recovery penalty resides with the IRS.

[SU 1-3] Reinstate the requirement from the IRS's first PDC program requiring PCAs to return accounts to the IRS when a satisfactory payment plan or full payment has not been established within 12 months from the date the account was assigned to the PCA.

[SU 1-4] Conduct a public outreach campaign informing taxpayers that PCAs will require a signed authorization form prior to accepting direct debit payments.

IRS NARRATIVE RESPONSE

From the beginning of the Private Debt Collection (PDC) program, the IRS's approach to implementation has been to closely follow the law as to which cases are assigned to the private collection agencies (PCAs), as well as which cases are excluded from the program. In July 2019, the Taxpayer First Act was signed into law, amending the criteria for cases eligible for collection by a PCA. This change specifically applies to tax receivables identified after December 31, 2020. The IRS is working to timely implement the new eligibility criteria to exclude taxpayers identified after December 31, 2020, whose adjusted gross income does not exceed 200 percent of the poverty level or who receive Supplemental Security Income. We have already implemented programming to systemically exclude and recall cases involving recipients of Social Security Disability Insurance.

The IRS is also exploring the development of a retention period to outline how long a PCA can retain an account where no resolution has been reached. We will review current program data and take the prior PDC program's account retention policy into consideration when determining whether a retention period is appropriate.

We will continue to partner with stakeholders and will revise processes when appropriate, to ensure the law is implemented as intended, taxpayer rights are protected, and taxpayers' sensitive information is safeguarded.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS looks forward to continuing to work with the IRS to ensure that the rights of all taxpayers whose accounts are assigned to PCAs are being appropriately observed. The IRS has begun implementing the provisions of the Taxpayer First Act that affect the PDC program, and on February 5, 2020, it began recalling from PCAs and excluding from future assignment to PCAs accounts of taxpayers who receive SSDI. When implementing the other TFA provisions, TAS will continue to advocate that the IRS consult third-party information such as W-2s and 1099s to determine if a taxpayer's AGI is at or below 200 percent Federal Poverty Level when a recent return is not available.[3] Further, in the event the IRS is unable to secure information from SSA to identify taxpayers who receive SSI benefits, TAS will work with the IRS to explore solutions, such as recommending that Congress require SSA, through legislation to share such information with the IRS.[4] In addition to working with the IRS to ensure the TFA provisions are properly implemented, TAS will continue to advocate that PCAs return taxpayer accounts after they have remained in

3 Systemic Advocacy Objective: *Putting Taxpayers First, Improving Taxpayer Service, and Supporting the Development of a Comprehensive Customer Service Strategy and Related Plans to Implement the Taxpayer First Act*, *supra*.

4 *Id*.

PCA inventory for a period of time without any resolution. Unfortunately, the IRS did not respond to recommendations 1-2 and 1-4. However, TAS will continue to advocate that the IRS retain and not refer to PCAs BMF accounts where there is an employment tax liability, if the IRS has a corresponding account with a trust fund recovery penalty, and that it develop and implement a comprehensive outreach plan that fully informs taxpayers as to the risks, benefits and processes when making direct debit payments on an outstanding liability when the account is in PCA inventory. Adoption of these recommendations would result in a program that more fully observes taxpayer rights, specifically the *right to quality service* and the *right to be informed*.

TAS Recommendation	**[SU 1-1] Begin immediately excluding from PCA inventory, accounts of taxpayers who have AGI at or below 200 percent of the FPL, or receive SSI or SSDI, and recall from PCAs cases that currently reside in their inventory and fall into one of these two categories.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	TAS will continue to advocate that the provisions of the Taxpayer First Act, excluding certain types of taxpayer accounts from PCA assignment, namely those taxpayers whose AGI is at or below 200 percent Federal Poverty Level or who receive SSI or SSDI benefits, be implemented as swiftly as possible. Specifically, TAS will continue to encourage the IRS to reach an agreement with SSA, allowing it to provide the IRS with data regarding SSI recipients, and to act quickly to adopt an approach for identifying taxpayers who have AGI at or below 200 percent Federal Poverty Level. TAS will continue to advocate for this approach to consider third-party information the IRS has in its possession, such as W-2s and 1099s, to determine if a taxpayer's AGI is at or below 200 percent Federal Poverty Level when no recent returns have been filed. These advocacy efforts will ensure that all taxpayers who are likely experiencing a financial hardship are excluded from PCA assignment and protected from PCA attempts to collect on outstanding liabilities, which taxpayers may feel obliged to comply with, despite their financial circumstances.

TAS Recommendation	**[SU 1-2] Not assign a BMF employment tax account to a PCA if a corresponding account with a trust fund recovery penalty resides with the IRS.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in recommendation 1-2.

TAS Recommendation	**[SU 1-3] Reinstate the requirement from the IRS's first PDC program requiring PCAs to return accounts to the IRS when a satisfactory payment plan or full payment has not been established within 12 months from the date the account was assigned to the PCA.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	TAS will continue to work with the IRS to define the retention period in which taxpayer accounts will be returned to the IRS when the PCAs have been unable to make any progress toward resolving the outstanding liability.

TAS Recommendation	**[SU 1-4] Conduct a public outreach campaign informing taxpayers that PCAs will require a signed authorization form prior to accepting direct debit payments.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in Recommendation 1-4.

STATUS UPDATE #2: AUTOMATED SUBSTITUTE FOR RETURN: The IRS Has Revised the Selection Criteria for Its Reinstated Automated Substitute for Return Program, But Some Concerns Remain Unaddressed

PROBLEM

The Automated Substitute for Return (ASFR) program assists the IRS in enforcing filing compliance for taxpayers who have not filed individual income tax returns but appear to owe a tax liability. In the National Taxpayer Advocate's 2015 Annual Report to Congress, we noted that the ASFR program yielded a poor return on investment, as the IRS collected less than one third of the amount assessed, and it abated 29 percent of all ASFR assessments. TAS found that the criteria used to select cases for the ASFR program and determine liabilities were deficient, imposing undue burden on taxpayers and creating rework for the IRS. Citing resource constraints, the IRS temporarily suspended the ASFR program in 2015, but resumed selecting cases for the ASFR program on May 21, 2019.

ANALYSIS

After suspending the ASFR program for nearly four years, the IRS has reinstated the ASFR program in 2019, with two significant changes in how it selects cases. It has adopted our recommendation to consider third-party documentation and the prior filing history of taxpayers when determining which cases to select for the ASFR program. By including this information in the selection algorithm, the IRS will minimize the number of abatements, reducing both IRS rework and taxpayer burden.

To date, however, the IRS has declined to refine the ASFR abatement reason codes, making it difficult to pinpoint which business rules are most responsible for the program's inaccurate results. Without more knowledge about the source of the inaccurate results, the ASFR program will continue to impose undue burden on taxpayers and require the IRS to expend its limited resources to correct errors and abate tax.

TAS RECOMMENDATIONS

[SU 2-1] Refine ASFR abatement reason codes, making them specific enough to identify which factors contributed to the abatement.

IRS NARRATIVE RESPONSE

The Automated Substitute for Return (ASFR) program is an important component of our collection strategy to promote filing compliance, and provides a good return on investment. In Fiscal Year 2019, the ASFR program collected $87.5 million (or $1.5 million per direct full time equivalent employee).

We are working to refine the selection algorithm we use to select cases for the program, and are testing the inclusion of certain third-party documentation and the taxpayer's prior filing history in that process. However, there are limits to what we can do in this area as the IRS is prohibited from including exemptions and itemized deductions when it prepares substitute for return assessments.

The Tax Cuts and Jobs Act eliminated the reporting of exemptions and is also expected to reduce the number of taxpayers who itemize deductions. This will allow ASFR assessments to more accurately reflect what taxpayers would file and claim. As a result, we expect that adjustments on future ASFR assessments will be smaller. It is worth noting, however, that it is neither unusual nor undesirable for ASFR cases to have a high adjustment rate. Adjustments indicate taxpayers have filed their delinquent returns and have become compliant with their filing requirement. Reason codes are used to create informative letter paragraphs for our taxpayers, explaining the actions the IRS performed on their accounts. We use reason codes to help taxpayers fully understand the adjustment, not to provide data points for research; therefore, we have no plans to make them more specific as TAS recommends.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS agrees that it is not worth creating reason codes unless they would result in tangible benefits. We also understand that the IRS's resources are limited. However, this recommendation could save resources in the long run and seems consistent with the IRS's commitment to taxpayer rights. By using more specific reason codes, the IRS could create more informative letters that would better help taxpayers understand the actions performed on their accounts, which is consistent with the *right to be informed*. More informative letters could also reduce calls, which would save IRS resources.

In addition, if the IRS better understood the reasons for abatements, it could use that information to make adjustments to the ASFR program that would improve the accuracy of its assessments. Improving the accuracy of assessments is consistent with the *right to pay no more than the correct amount of tax*, the *right to privacy* (*i.e.*, to expect that any IRS inquiry will be no more intrusive than necessary), and with the *right to a fair and just tax system*.

TAS Recommendation	**[SU 2-1] Refine ASFR abatement reason codes, making them specific enough to identify which factors contributed to the abatement.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	TAS understands that the IRS's resources are limited, and we agree that it is not judicious creating reason codes unless they result in tangible benefits. However, this recommendation would save resources in the long run and is consistent with the IRS's commitment to taxpayer rights. Using more specific reason codes, the IRS could create simplified and salient informative letters to help taxpayers understand the actions performed on their accounts, which is consistent with the *right to be informed*. Simplified and salient letters would improve the taxpayer's experience and could reduce calls, which would save IRS resources.

MLI #3: Accuracy-Related Penalty Under IRC § 6662(b)(1) and (2)

PROBLEM

Internal Revenue Code (IRC) § 6662(b)(1) and (2) authorizes the IRS to impose a penalty if a taxpayer's negligence or disregard of rules or regulations causes an underpayment of tax required to be shown on a return, or if an underpayment exceeds a computational threshold called a substantial understatement, respectively. IRC § 6662(b) also authorizes the IRS to impose the accuracy-related penalty on an underpayment of tax in six other circumstances. We identified 79 opinions issued between June 1, 2018, and May 31, 2019, where taxpayers litigated the negligence or substantial understatement components of the accuracy-related penalty, which is a notable decrease over recent years.

TAS RECOMMENDATIONS

[MLI 3-1] Amend IRC § 6751(b)(2)(B) to clarify that written managerial approval is required prior to the assessment of the accuracy-related penalty imposed on the portion of an underpayment attributable to negligence or disregard of rules or regulations under IRC § 6662(b)(1) and consider clarifying which penalties or facts-and-circumstances result in penalties "automatically calculated through electronic means" that are exempt from the managerial-approval requirement.

[MLI 3-2] Issue regulations clarifying that written supervisory approval required under IRC § 6751(b) must occur prior to the first time the IRS formally communicates the proposed penalties to the taxpayer in writing.

[MLI 3-3] Update the IRM to require written supervisory approval not just "prior to the issuance of the Statutory Notice of Deficiency (SNOD)" but instead "prior to the first time the penalties are communicated to the taxpayer formally as part of a written communication that advises the taxpayer the penalties will be proposed."

COUNSEL NARRATIVE RESPONSE

We agree that regulations should be issued that clarify when written supervisory approval required under IRC § 6751(b) must occur. We also agree that language about written supervisory approval being required "prior to the issuance of the Statutory Notice of Deficiency (SNOD)" should be removed from the IRM. The difficulty is finding a standard that can meet the vague and shifting standards under the Tax Court's holdings pending a final regulation, that is readily administrable, and that allows the Service to inform a taxpayer about the possibility of penalties and allows a supervisor to know what defenses a taxpayer has raised with respect to possible penalties before the supervisor is required to approve the penalty.

TAS COMMENTS ON COUNSEL RESPONSE

Regulations will benefit taxpayers by clarifying the timing for the supervisory approval. Additionally, removing the misleading guidance from the IRMs will prevent employees from securing supervisory approval for penalties at a time that is too late. The standard chosen for the timing of the approval should provide the taxpayer an opportunity to raise defenses to the possible penalties before the IRS communicates them in writing to the taxpayer and offers appeal rights.

TAS Recommendation	**[MLI 3-1] Amend IRC § 6751(b)(2)(B) to clarify that written managerial approval is required prior to the assessment of the accuracy-related penalty imposed on the portion of an underpayment attributable to negligence or disregard of rules or regulations under IRC § 6662(b)(1) and consider clarifying which penalties or facts-and-circumstances result in penalties "automatically calculated through electronic means" that are exempt from the managerial-approval requirement.**
Counsel Response	N/A – Congressional Recommendation
Counsel Action	N/A
TAS Response	N/A

TAS Recommendation	**[MLI 3-2] Issue regulations clarifying that written supervisory approval required under IRC § 6751(b) must occur prior to the first time the IRS formally communicates the proposed penalties to the taxpayer in writing.**
Counsel Response	See above for the Counsel narrative responding to this recommendation.
Counsel Action	See above for the Counsel narrative responding to this recommendation.
TAS Response	Regulations will benefit taxpayers by clarifying the timing for the supervisory approval.

TAS Recommendation	[MLI 3-3] **Update the IRM to require written supervisory approval not just "prior to the issuance of the Statutory Notice of Deficiency (SNOD)" but instead "prior to the first time the penalties are communicated to the taxpayer formally as part of a written communication that advises the taxpayer the penalties will be proposed."**
Counsel Response	See above for the Counsel narrative responding to this recommendation.
Counsel Action	See above for the Counsel narrative responding to this recommendation.
TAS Response	Removing the misleading guidance from the IRMs will prevent employees from securing supervisory approval for penalties at a time that is too late.

MLI #5: Summons Enforcement Under IRC §§ 7602, 7604, and 7609

PROBLEM

Pursuant to Internal Revenue Code (IRC) § 7602, the IRS may examine any books, records, or other data relevant to an investigation of a civil or criminal tax liability. To obtain this information, the IRS may serve a summons directly on the subject of the investigation or any third party who may possess relevant information. If a person summoned under IRC § 7602 neglects or refuses to obey the summons; to produce books, papers, records, or other data; or to give testimony as required by the summons, the IRS may seek enforcement of the summons in a U.S. District Court.

TAS identified 60 federal cases decided between June 1, 2018, and May 31, 2019, involving IRS summons enforcement issues. The government was the initiating party in 35 cases, while the taxpayer was the initiating party in 25 cases. Overall, taxpayers fully prevailed in two cases, while two cases were split. The IRS prevailed in the remaining 56 cases.

TAS RECOMMENDATIONS

[MLI 5-1] Amend IRC § 7602(c)(1) to clarify that the IRS must tell the taxpayer what information it needs (or needs to verify) and to give the taxpayer a reasonable opportunity to provide the information (or verification of it) before contacting a third party, unless doing so could be pointless or an exception applies.

[MLI 5-2] Revise its letters and internal guidance to inform the taxpayer of what information it needs (or needs to verify) and to give the taxpayer a reasonable opportunity to provide the information (or verification of it) before contacting the third parties.

[MLI 5-3] Educate industries involved in the sale of controlled substances about the prohibition on claiming any deduction or credit under IRC § 280E.

IRS NARRATIVE RESPONSE

The IRS requests information from taxpayers prior to contacting third parties for the information. When requesting information from taxpayers, functional areas are required to document their contact with the taxpayer and outline the specific actions needed. To request information from the taxpayer needed in connection with the determination or collection of a tax liability, Field Collection uses Form 9297, Summary of Taxpayer Contact, and Field Examination uses Form 4564, Information Document Request.

The Taxpayer First Act (TFA) added specific requirements for IRS prior to making contact with a third party regarding the determination or collection of a tax liability, which we are taking timely action to implement. In July 2019, we issued guidance to employees to ensure compliance with the new TFA procedures. Letter 3164, Third Party Contacts, was revised to include the time period, not to exceed one year, within which the IRS plans to make the third-party contact(s). Employees must not initiate any third-party contacts unless the employee provided the appropriate third-party

notification and 45 days have passed. Taxpayers can request a report of third-party contacts at any time, either verbally or in writing. Employees must ensure taxpayers understand their right to receive this report and may assist with such requests.

The Small Business/Self Employed (SB/SE) Examination Division is currently developing educational materials for the marijuana industry, in light of recent summons enforcement litigation in which the IRS prevailed. We will consider adding information on IRS.gov (such as in the form of a Frequently Asked Question) to convey to taxpayers that when the IRS requests information of these taxpayers, it is only done to properly determine the taxpayer's liability within the parameters of Internal Revenue Code (IRC) § 280E.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

Under the *right to be informed*, taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. Furthermore, under the *right to privacy*, taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will be no more intrusive than necessary. Allowing a reasonable opportunity for taxpayers to provide the information (or verification of it) before contacting the third parties protects this right.

The IRS's efforts to ensure compliance with the new Taxpayer First Act procedures regarding contacting third parties are consistent with protecting taxpayer rights. TAS will continue to work with the IRS to ensure IRS employees solicit the relevant information directly from taxpayers before contacting third parties, thereby putting the third party on notice of the taxpayer's examination and potentially damaging the taxpayer's reputation.

In addition, the IRS's efforts to provide guidance and educational materials about IRC § 280E help protect the taxpayer's *right to be informed*. TAS will continue to work with IRS on efforts to educate taxpayers about IRC § 280E to help promote voluntary compliance.

TAS Recommendation	**[MLI 5-1] Amend IRC § 7602(c)(1) to clarify that the IRS must tell the taxpayer what information it needs (or needs to verify) and to give the taxpayer a reasonable opportunity to provide the information (or verification of it) before contacting a third party, unless doing so could be pointless or an exception applies.**
IRS Response	N/A – Congressional Recommendation
IRS Action	N/A
TAS Response	N/A

TAS Recommendation	**[MLI 5-2] Revise its letters and internal guidance to inform the taxpayer of what information it needs (or needs to verify) and to give the taxpayer a reasonable opportunity to provide the information (or verification of it) before contacting the third parties.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	Under the *right to be informed*, taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. Furthermore, under the *right to privacy*, taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will be no more intrusive than necessary. Allowing a reasonable opportunity for taxpayers to provide the information (or verification of it) before contacting the third parties protects this right. The IRS updated Letter 3164, but it still does not include a list of the requested information that the IRS requires (or needs to verify). Including the detailed information request on the third-party contact letter provides clarity and provides the taxpayer the ability to produce the information avoiding unnecessary calls or discussions inquiring what specific information the IRS is requesting. Therefore, TAS will continue to recommend that the IRS include specific requested information on its third-party contact letters. The IRS's efforts to provide guidance to employees is consistent with protecting the *rights to be informed* and *to privacy*. TAS will continue to work with the IRS in helping educate its employees.

TAS Recommendation	**[MLI 5-3] Educate industries involved in the sale of controlled substances about the prohibition on claiming any deduction or credit under IRC § 280E.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's efforts to provide guidance and educational materials for industries involved in the sale of controlled substances about the prohibition on claiming any deduction or credit under IRC § 280E help protect the taxpayers' *right to be informed*, and TAS will continue to work with the IRS to protect that right.

MLI #8: Itemized Deductions Reported on Schedule A (Form 1040)

PROBLEM

For the past two years, itemized deductions reported on Schedule A of IRS Form 1040 have been among the ten Most Litigated Issues. We identified 32 cases involving itemized deductions that were litigated in federal courts between June 1, 2018, and May 31, 2019. The courts affirmed the IRS position in 29 of these cases, or about 91 percent, while taxpayers fully prevailed in one case, or about three percent of the cases. The remaining two cases, or about six percent, resulted in split decisions.

TAS RECOMMENDATION

[MLI 8-1] Develop a Tax Forum presentation and communication strategy to better educate return preparers and practitioners about itemized deductions, including recordkeeping requirements.

IRS NARRATIVE RESPONSE

With the enactment of the Tax Cuts and Jobs Act (TCJA) in December 2017, some of the rules for what qualifies as an itemized deduction changed, and the standard deduction for individual taxpayers was significantly increased. As a result, considerably fewer taxpayers now itemize deductions, and the concern that Schedule A items will continue to be among the most litigated issues is potentially outdated. The IRS has released many communications on the TCJA changes, and those changes have been incorporated into annual tax products and communications as appropriate.

Recordkeeping and documentation of itemized deductions will be covered in the 2020 annual federal tax refresher course that is a part of the Return Preparer Office's Annual Filing Season Program (AFSP). Approximately 33,000 return preparers take the federal tax refresher course each year.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The TCJA should reduce the number of taxpayers who claim itemized deductions. However, many taxpayers are still eligible to claim itemized deductions. Educating them about the documentation requirements is consistent with the taxpayers' *right to be informed*. Although the IRS's commitment to educate practitioners as part of the AFSP is not exactly what TAS recommended, it should help to address the concern. TAS will continue to work with the IRS to better educate return preparers and practitioners.

TAS Recommendation	**[MLI 8-1] Develop a Tax Forum presentation and communication strategy to better educate return preparers and practitioners about itemized deductions, including recordkeeping requirements.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	Taxpayers have the right to know what they need to do to comply with the tax laws, as part of the *right to be informed*. Although the IRS's commitment to educate practitioners as part of the AFSP is not exactly what TAS recommended, it should help to address the concern. Outreach with the practitioner community is vital to a successful tax administration system. TAS will continue to work with the IRS to better educate return preparers and practitioners.

MLI #9: Charitable Contribution Deductions Under IRC § 170

PROBLEM

Subject to certain limitations, taxpayers can take deductions from their adjusted gross incomes for contributions of cash or other property to or for the use of charitable organizations. To take a charitable deduction, taxpayers must contribute to a qualifying organization. Taxpayers must also comply with certain substantiation requirements when making a contribution of $250 or more. Litigation generally occurred in this reporting cycle in the following three areas:

- Substantiation of the charitable contribution;
- Valuation of the charitable contribution; and
- Requirements for a qualified conservation contribution.

We identified and reviewed 17 cases decided between June 1, 2018, and May 31, 2019, with charitable deductions as a contested issue. The IRS prevailed in 13 cases, and four cases resulted in split decisions. Taxpayers represented themselves (appearing *pro se*) in seven of the 17 cases (41 percent). The IRS prevailed in all seven *pro se* cases. The deduction of conservation easement contributions is an emerging issue during this reporting period as the IRS is focused on curtailing abuse in this area by designating syndicated conservation easements as a listed transaction. We expect to see continued litigation on this issue in the future. Taxpayers must pay close attention to the elements of donating a qualified conservation easement in the absence of safe harbors or other guidance from the IRS on how they may construct a conservation easement deed that satisfies the strict statutory requirements.

TAS RECOMMENDATION

[MLI 9-1] Develop and publish guidance to provide safe harbors and/or sample easement provisions to provide taxpayers with examples of how they may construct a conservation easement deed that satisfies the statutory requirements and prevent unnecessary litigation.

COUNSEL NARRATIVE RESPONSE

We share the goal of preventing unnecessary litigation by making it easier for taxpayers to draft deeds that are fully compliant with the requirements set forth in section 170(h) and the regulations. In fact, we released Chief Counsel Advice (202002011) in January that provides sample language for a constructive denial clause, and the office is in the process of drafting other sample clauses for taxpayers to use when they donate conservation easements.

However, published guidance on conservation easements is not likely to be issued in 2020 due to other workload priorities, including guidance implementing the Tax Cuts and Jobs Act. See the Department of the Treasury 2019-2020 Priority Guidance Plan. We will reevaluate the matter for the 2020-2021 Priority Guidance Plan. In the meantime, Chief Counsel attorneys will continue

assisting the public by participating in public outreach events relating to qualified appraisals and conservation easements.

TAS COMMENTS ON COUNSEL NARRATIVE RESPONSE

Chief Counsel Advice 202002011 should help taxpayers understand how to draft a "constructive denial clause." Counsel's intention to provide more sample clauses and published guidance on conservative easements is also consistent with taxpayer rights, including the *rights to be informed* and *to pay no more than the correct amount of tax*. Such guidance should also help taxpayers and the IRS avoid unnecessary litigation.

TAS Recommendation	**[MLI 9-1] Develop and publish guidance to provide safe harbors and/or sample easement provisions to provide taxpayers with examples of how they may construct a conservation easement deed that satisfies the statutory requirements and prevent unnecessary litigation.**
Counsel Response	See above for the Counsel narrative responding to this recommendation.
Counsel Action	See above for the Counsel narrative responding to this recommendation.
TAS Response	Providing sample language for a constructive denial clause in a Chief Counsel Advice and for planning to provide more sample clauses and published guidance on conservation easements is a great start, consistent with taxpayer rights, including the *rights to be informed* and *to pay no more than the correct amount of tax*. These are encouraging developments that should help taxpayers navigate these complex issues and help prevent unnecessary litigation.

RESEARCH STUDY #1: Study of Subsequent Compliance of Taxpayers Who Received Educational Letters From the National Taxpayer Advocate

PROBLEM

This study expands upon two studies, described in the National Taxpayer Advocate's 2016 and 2017 Annual Reports to Congress, of taxpayers who received educational letters from the National Taxpayer Advocate in January 2016 or January 2017. The National Taxpayer Advocate sent the letters to taxpayers who appeared to have claimed the Earned Income Tax Credit (EITC) in error because they did not meet the relationship or residency requirements, or another taxpayer claimed EITC with respect to the same child. The letters explained the requirements for claiming EITC with respect to a qualifying child and advised which requirement the taxpayer did not appear to meet.

In 2017, a separate group of taxpayers who appeared to have claimed EITC without meeting the residency test received a letter that included an extra help phone number the taxpayer could call to speak with a Taxpayer Advocate Service (TAS) employee about his or her eligibility for EITC. This study considers the effect of the TAS letters on taxpayers' compliance in claiming EITC in the years following the year in which they received TAS's letter.

Among this year's study findings:

- Where the error consisted of not meeting the relationship test, the TAS letter enhanced compliance for all three years following the year the taxpayer received the letter; and
- Where the error consisted of not meeting the residency test, the TAS letter that included an extra help phone number enhanced compliance for both years following the year the taxpayer received the letter.

TAS RECOMMENDATIONS

[RS 1-1] Send tailored, educational letters, similar to the TAS letters, to EITC claimants the IRS does not have current plans to audit:

1. Where the claimant does not appear to meet the relationship requirement for claiming EITC, because such a letter appears to prevent taxpayers from erroneously claiming EITC for at least three years; and
2. Where the claimant does not appear to meet the residency requirement for claiming EITC, but only if the letter includes an additional help telephone number the taxpayer can call for assistance in determining for EITC, because such a letter appears to prevent taxpayers from erroneously claiming EITC for at least two years.

IRS NARRATIVE RESPONSE

In administering the Earned Income Tax Credit (EITC), our goal is two-fold: to ensure taxpayers that are eligible for the credit are aware of it and that only eligible taxpayers claim the credit.

We understand that informed taxpayers are more likely to be compliant; therefore, we use contacts with taxpayers and tax preparers as an educational opportunity. Despite significant budget reductions, we continue to offer taxpayers multiple options for obtaining assistance for inquiries related to the EITC. Options include calling the IRS toll-free telephone line, visiting a Volunteer Income Tax Assistance or Tax Counseling for the Elderly site, or scheduling an appointment to visit a local Taxpayer Assistance Center. We also employ several EITC education tools, including the interactive EITC Assistant on IRS.gov that helps taxpayers determine if they meet the eligibility requirements for the EITC. We leverage community organizations, tax preparer groups, and government leaders to reach taxpayers eligible for the EITC and tax preparers who prepare returns that claim the EITC to increase awareness, education, and participation. We continue to conduct stakeholder summits, tax forums, webinars, and satisfaction surveys on the effectiveness of tools and products to reach specific audiences to increase awareness and to improve the quality of claims. Our annual EITC Awareness Day promotes increased participation, decreased erroneous payments, and improved accuracy of filed returns.

In addition, we partner with the tax software and tax preparation industry through our Software Developers Working Group (SDWG). Taxpayers use software to file about 97 percent of the returns that claim the EITC and tax preparers prepare more than 50 percent of the returns that claim the EITC. Goals of the SDWG include identifying best practices and software enhancements that could improve the quality of these returns, increase EITC participation for eligible taxpayers, and help paid preparers meet due diligence requirements.

In 2016, the IRS conducted a study, similar to TAS's 2016 and 2017 research, to determine the effectiveness of Dependent Database (DDB) soft notices by assessing the number of taxpayers that filed an amended return for Tax Year (TY) 2014 or changed their behavior in subsequent years. The notices were issued for the TY 2014 returns and informed the taxpayer of the requirements to claim EITC. The study results indicated that receiving a soft notice had minimal impact on taxpayers' TY 2014, 2015, and 2016 filing behavior, showing only slight improvement in taxpayer behavior compared to the control group (as with TAS's study). Consequently, the issuance of the soft notices was discontinued.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's efforts to reach taxpayers who may be eligible to claim the EITC and its educational initiatives to help taxpayers comply with the rules for claiming the credit are consistent with taxpayers' *right to be informed*. However, IRS initiatives to date do not include sending taxpayers *tailored* messages — letters that identify the error the taxpayer appears to have made in claiming the EITC — which TAS research studies show can avert millions of dollars of erroneous claims.

The soft letters the IRS references above that were used as part of its 2016 study differed from the TAS letters in important respects.[5] The IRS letters did not explain to the taxpayer *why specifically* it appeared that the qualifying child rules had not been met, *e.g.*, because the relationship or residency tests were apparently not met, or another taxpayer had claimed the EITC with respect to the same child. The IRS letters did not significantly affect taxpayer behavior, but the TAS letters did. TAS's tailored educational letters improved compliance for years when the apparent error was that the relationship test was not met, and when the letter included an additional phone number, also when the residency test was not met.

TAS Recommendation	**[RS 1-1] Send tailored, educational letters, similar to the TAS letters, to EITC claimants the IRS does not have current plans to audit:** **1. Where the claimant does not appear to meet the relationship requirement for claiming EITC, because such a letter appears to prevent taxpayers from erroneously claiming EITC for at least three years; and** **2. Where the claimant does not appear to meet the residency requirement for claiming EITC, but only if the letter includes an additional help telephone number the taxpayer can call for assistance in determining for EITC, because such a letter appears to prevent taxpayers from erroneously claiming EITC for at least two years.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in RS 1-1. In other notices, the IRS has determined that proven behavioral elements such as simplification, salience, and cognitive load reduction minimize confusion and help taxpayers understand the actions they may take are the most effective and least burdensome to taxpayers. We recommend the IRS reconsider using a similar approach to the EITC soft letters. TAS studies demonstrate that the cost of sending letters to taxpayers that incorporate that information is outweighed by the amount of erroneous EITC claims the letters avert.

5 National Taxpayer Advocate 2018 Annual Report to Congress 91-104, at 102 (Most Serious Problem: *Improper Earned Income Tax Credit Payments: Measures the IRS Takes to Reduce Improper Earned Income Tax Credit Payments Are Not Sufficiently Proactive and May Unnecessarily Burden Taxpayers*).

RESEARCH STUDY #2:
Study of Two-Year Bans on the Earned Income Tax Credit, Child Tax Credit, and American Opportunity Credit

PROBLEM

The Internal Revenue Code (IRC) authorizes the IRS to ban taxpayers from claiming certain refundable credits (the Earned Income Tax Credit (EITC), the Child Tax Credit (CTC), or the American Opportunity Tax Credit (AOTC)) for two years if it determines that the taxpayer claimed the credit recklessly or with intentional disregard of rules and regulations. A review of a representative sample of cases in which the bans were imposed as a result of audits of tax year 2016 returns shows the IRS often did not follow its own procedures:

- In 53 percent of the cases, required managerial approval for imposing the ban was not secured;
- In 82 percent of the cases, the IRS did not adequately explain to the taxpayer why the ban was imposed as required;
- In 61 percent of the cases in which the auditor was required to speak to the taxpayer before imposing the ban, no such conversation took place; and
- In 54 percent of the cases in which taxpayers submitted documents, it appeared from the documents submitted that the taxpayer believed he or she qualified for the credit.

These improper bans deprived taxpayers, if they were otherwise eligible for a credit in the ensuing two years, of significant tax benefits. For example, taxpayers who were banned from claiming EITC lost almost $5,000 on average.

Moreover, the IRS may exercise its summary assessment authority to disallow credits that taxpayers claim while a ban on that credit is in effect. Thus, affected taxpayers may not receive a notice of deficiency that would permit them to file a petition with the Tax Court for review of the disallowance. In other situations, taxpayers may be required to petition the Tax Court multiple times to remove the effect of an erroneously imposed ban.

TAS RECOMMENDATIONS

[RS 2-1] Revise procedures for imposing two-year bans to require IRS employees to speak with the taxpayer in every case before imposing a ban.

[RS 2-2] Suspend the practice of automatically imposing two-year bans.

[RS 2-3] Conduct quality reviews for at least three years in every case in which the IRS proposes to impose the two-year ban.

IRS NARRATIVE RESPONSE

The IRS continually strives to balance service and compliance initiatives to ensure fairness for all taxpayers, including by ensuring appropriate application of the statutory two-year ban on certain taxpayers who made improper prior claims of these credits.

We have taken significant steps in educating our employees and the public regarding the two-year ban imposed by the Internal Revenue Code. We provide written guidance on the ban assertion in the Internal Revenue Manual and yearly Continuing Professional Education training for our employees. In addition, we revised the CP79, We Denied the Credits you Claimed, and CP79A, We Denied the Credits you Claimed and Applied a Two-Year Ban, notices issued to inform taxpayers of the requirement to recertify. We also revised Form 8862, Information to Claim Certain Credits After Disallowance, and Publication 596, Earned Income Credit, to educate taxpayers about the Earned Income Tax Credit (EITC) requirements and the two-year ban.

We continue to ensure Correspondence Examination Technicians (CETs) understand the proper application of the two-year ban. CETs are encouraged to use sound professional judgment to make decisions on the adequacy of documentation when considering the proposal of the two-year ban during the audit process.

Disallowance of the EITC, the Child Tax Credit/Additional Child Tax Credit (CTC/ACTC), or the American Opportunity Tax Credit (AOTC) for multiple years is not considered on its own to be enough reason to impose the two-year ban. The ban is asserted based on the facts and circumstances of each case, the taxpayer's response, and a prior audit history that indicates whether the taxpayer has recklessly or intentionally disregarded the rules and regulations when claiming the credits. The majority of EITC two-year ban cases are generated from the systemic proposal of the bans on taxpayers who are being audited for the third or fourth time, and who therefore are aware that they are ineligible to claim the credit and have established a pattern of reckless or intentional disregard of the rules and regulations in continuing to improperly claim it. There is no systemic process for the assertion of the two-year ban for the CTC/ACTC or the AOTC.

Managerial approval is required for every case in which the CET proposes to assert the two-year ban. We will conduct a sample review of two-year ban cases to evaluate if managerial approval was secured and if imposing the two-year ban was the right action. We will also review the existing guidance for conducting managerial reviews of the two-year ban, and determine if revisions are warranted to ensure the reviews consider prior-year audits.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's agreement to review a sample of cases to determine whether the required managerial review was secured and whether the ban was properly imposed should help identify problems that could lead to inappropriate bans.

The IRS's response contains a statement that raises concern. It references "taxpayers who are being audited for the third or fourth time, *and who therefore are aware* that they are ineligible to claim the credit and have established a pattern of reckless or intentional disregard." (Emphasis added.)

The fact that a taxpayer has been audited, even more than once, does not mean that the taxpayer understands the complex rules for claiming a credit and knows that he or she is ineligible for it. For example, a taxpayer may claim the EITC with respect to a different qualifying child than in the year that was previously audited, or the current audit may show the taxpayer erred in claiming the credit but for a different reason than in a previous audit. Even if the taxpayer understood the rules as a result of a previous audit, those rules may have changed. Moreover, as the TAS study shows, the IRS imposed the two-year ban on taxpayers who were previously audited only once, sometimes many years ago.

In any event, the applicable statutes do not authorize the IRS to impose a ban simply because the IRS perceives a "pattern" of noncompliance. The IRC authorizes the IRS to impose two-year bans following a final determination that the taxpayer's claim of credit was due to *reckless or intentional disregard of rules and regulations*.[6] The requisite state of mind must be ascertained and not merely presumed to exist.

TAS Recommendation	**[RS 2-1] Revise procedures for imposing two-year bans to require IRS employees to speak with the taxpayer in every case before imposing a ban.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in RS 2-1. TAS contends that talking with the taxpayer would reduce the rate at which bans are erroneously imposed and would allow the IRS to determine the taxpayer's state of mind.

6 IRC §§ 32(k)(1)(B)(i); 24(g)(1)(B)(i); and 25(A)(b)(4)(a)(ii)(I).

TAS Recommendation	**[RS 2-2] Suspend the practice of automatically imposing two-year bans.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in RS 2-2. The IRS response acknowledges that it automatically imposes two-year bans on claiming EITC (and not on CTC/ACTC or AOTC).

TAS Recommendation	**[RS 2-3] Conduct quality reviews for at least three years of every case in which the IRS proposes to impose the two-year ban.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	It is unclear why the IRS proposes to replicate the 2013 and 2019 TAS studies by reviewing a sample of two-year ban cases rather than adopting this recommendation. Perhaps the results of the IRS's study will lead it to conclude, as TAS did, that *every* two-year ban case should be reviewed. The IRS's proposed review of its existing guidance to "determine if revisions are warranted to ensure the reviews consider prior-year audits" will not reduce the types of inappropriate bans identified by this study. The IRS is already considering prior-year audits and imposing EITC bans solely because the taxpayer was previously audited. In such cases, the ban may be inappropriate, and this automated process seems inconsistent with the statutory requirements. TAS looks forward to the study's results.

RESEARCH STUDY #4:
Study of the Extent to Which the IRS Continues to Erroneously Approve Form 1023-EZ Applications

PROBLEM

Organizations recognized by the IRS as exempt under Internal Revenue Code (IRC) § 501(c)(3) may be exempt from federal tax, and contributions to them may be tax deductible. For decades, Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, was the IRS form organizations used to request recognition of IRC § 501(c)(3) status. Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, was introduced in 2014. It is a truncated version of Form 1023, consisting mainly of checkboxes, and requires applicants to attest, rather than demonstrate, that they meet the requirements for IRC § 501(c)(3) status.

One of the requirements for IRC § 501(c)(3) status is that the organization satisfy an "organizational test," which generally means its organizing document (articles of incorporation, for a corporation) must contain adequate purpose and dissolution clauses. Form 1023-EZ applicants are not required to submit their organizing documents to the IRS; they merely attest that the organizational test has been met. Although some states make articles of incorporation available online at no charge, the IRS does not retrieve and review these publicly-available articles of incorporation when it evaluates a Form 1023-EZ application (unless the application is one that is randomly selected for pre-determination review).

In 2015, 2016, and 2017, TAS studied representative samples of articles of incorporation for corporations from 20 states that make articles of incorporation viewable online at no cost and whose Form 1023-EZ had been approved by the IRS during the preceding year. The studies found that between 26 percent and 42 percent of the time, the approved organizations did not meet the organizational test and thus did not qualify for the exempt status the IRS had conferred. In 2019, TAS repeated the study and found that 46 percent of the approved organizations did not qualify for IRC § 501(c)(3) status.

The 2019 study also found that some states provide form, or template, articles of incorporation. Depending on the template, corporations that use the template are virtually guaranteed to meet, or fail to meet, the organizational test. A review of other information that applicants provide on Form 1023-EZ, such as their websites, may provide useful insight about whether the organization qualifies for exempt status.

Form 1023-EZ was revised in 2018 to require applicants to provide a description (in 255 characters or less) of their mission or most significant activities. However, according to IRS procedures, the described mission or activities need only be "within the scope of IRC § 501(c)(3)" to be deemed sufficient. According to the 2019 study results, the IRS made erroneous determinations more frequently after it added the description field.

TAS RECOMMENDATIONS

[RS 4-1] Require Form 1023-EZ applicants to submit their organization documents as part of the application and make a determination only after reviewing the organizing documents.

[RS 4-2] Review Form 1023-EZ applicants' websites, if any, before making a determination.

[RS 4-3] Ascertain the frequency with which applicants' descriptions of their mission and activities on Form 1023-EZ result in referrals of the application for further review, and if such further review is infrequent, conduct additional training on procedures for evaluating Form 1023-EZ applications.

[RS 4-4] Revise IRS procedures to require reviewers to determine whether applicants' descriptions of their mission and activities on Form 1023-EZ clearly identify an exempt purpose, rather than requiring a determination of whether the mission or activity is "within the scope" of IRC § 501(c)(3).

IRS NARRATIVE RESPONSE

Legal and factual inaccuracies bias the implications of the statistically unrepresentative study, leading to recommendations that transgress taxpayer rights while increasing burden.

For example, the study asserts that a "common defect in organizations' purpose clauses was a lack of specificity." Yet Treas. Reg. § 1.501(c)(3)-1(b)(1)(ii) provides that as few as two words "shall be sufficient for purposes of the organizational test" if "the articles state that the organization is formed for *charitable purposes*" (emphasis original). Moreover, the study highlights the organizational test, almost to the exclusion of all other requirements, even though imperfect organizing documents do not necessarily preclude the organization from actually operating within its exempt purpose. Consequently, the recommendation to submit organizing documents would increase taxpayer burden without a proportionate benefit to Federal tax compliance.

The study admits that the 2018 addition to Form 1023-EZ of a brief narrative description of "the organization's mission or most significant activities" was at "the National Taxpayer Advocate's insistence," before conceding that this additional information "Does Not Appear to Have Affected the Erroneous Approval Rate." On the contrary, the study contends that "erroneous determinations" then became "more frequent". However, some of the determinations TAS deems "erroneous" may actually encompass organizations engaged in permissible activities such as: "low-cost or long-term loans" to "businesses that will provide training and employment opportunities for the unemployed or underemployed residents" (Rev. Rul. 74-587); low-income housing "for resale at cost" (Rev. Rul. 67-138); "educational programs" and "making mortgage loans" to needy borrowers that encourage "purchasing homes" to "combat community deterioration" (Rev. Rul. 68-655); and "awarding scholarships based on scholastic ability" even "without regard to financial need" (Rev. Rul. 69-257).

Accordingly, TAS's recommendation to "clearly identify an exempt purpose" in the narrative description runs counter to taxpayer positions that a court could accept. Likewise, the

recommendation to review applicants' websites risks converting the determination "based solely upon the facts, attestations, and representations contained in the administrative record" (Rev. Proc. 2020-5 § 3.05) into an examination of external evidence, which could compromise the applicant's right to judicial review, which is also "on the basis of the administrative record" (T.C. Rule 217). The IRS has procedures for reviewing the applicant's website if warranted (IRM 7.20.9.4.5.1(6)).

Finally, the IRS retained a research firm to assess the EZ process including the referrals for further review prior to final determination. The research firm did not recommend more review, finding no evidence that requiring current Form 1023-EZ filers to file the long Form 1023 would lower the approval rate or increase the denial rate. Empirically, the premise that the EZ form skews the outcome or grants exempt status to unqualified applicants is unsubstantiated.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

All four of the TAS studies on the frequency with which the IRS erroneously approves Form 1023-EZ applications are of representative samples from the population of states that make articles of incorporation available to the public online, based on information contained in IRS databases. The studies each set out in detail the methodology that was used to analyze the data, and the methodology has remained essentially unchanged since the first study in 2015. To make the study results comparable over the years, we adapted the methodology to accommodate changes in available data, such as the increase in the number of states that make articles of incorporation available online at no cost.

As all the research studies make plain, TAS analyzed representative samples to determine whether organizations whose Form 1023-EZ application was approved met the organizational test required by IRC § 501(c)(3). It is indeed possible that some organizations are *operated* for an exempt purpose, but if they did not also satisfy the organizational test, then they should not have been recognized as exempt. (See Treasury Regulation § 1.501(c)(3)–1(a)(1), which provides that "[i]f an organization fails to meet either the organizational test or the operational test, it is not exempt.") As the IRS notes, a charitable purpose can be shown in few words, which is consistent with our treatment of California organizations that merely filed a form on which they checked a box captioned "charitable." We treated these organizations as having adequate purpose clauses.

TAS Recommendation	**[RS 4-1] Require Form 1023-EZ applicants to submit their organization documents as part of the application and make a determination only after reviewing the organizing documents.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The 2019 study shows that failing to review organizing documents caused the IRS to erroneously approve applications for exempt status 46 percent of the time (*i.e.*, of 347 organizations in the 20-state sample, 159 did not meet the organizational test). For example, the IRS approved the Form 1023-EZ submitted by an organization whose entire purpose, according to its articles of incorporation, was "to provide financial assistance to family members with mental health illness." This organization's articles of incorporation do not identify any exempt purpose. Moreover, the articles may actually prevent the organization from operating to further public rather than private interests – they effectively prevent it from meeting the *operational* test. This organization, like other organizations whose Form 1023-EZ is erroneously approved, may not report and pay tax on income that should be subject to tax, and donors may claim deductions for contributions to it that should not be deductible. In comparison to the potential negative impact on tax administration caused by erroneous approvals, requiring Form 1023-EZ applicants to provide their organizing documents does not present an unreasonable burden.

TAS Recommendation	**[RS 4-2] Review Form 1023-EZ applicants' websites, if any, before making a determination.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS routinely reviews the websites of applicants that are selected for predetermination review (see IRM 7.20.9.2.6), so we continue to recommend that the IRS require review of all applicants' websites as part of the determination process.

TAS Recommendation	**[RS 4-3] Ascertain the frequency with which applicants' descriptions of their mission and activities on Form 1023-EZ result in referrals of the application for further review, and if such further review is infrequent, conduct additional training on procedures for evaluating Form 1023-EZ applications.**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	The IRS's narrative does not address the recommendation set forth in RS 4-3. TAS has never recommended that Form 1023-EZ applicants be required to submit Form 1023, so the outside research firm's recommendation (or lack of recommendation) on that point seems irrelevant.

TAS Recommendation	**[RS 4-4] Revise IRS procedures to require reviewers to determine whether applicants' descriptions of their mission and activities on Form 1023-EZ clearly identify an exempt purpose, rather than requiring a determination of whether the mission or activity is "within the scope" of IRC § 501(c)(3).**
IRS Response	See above for the IRS narrative responding to this recommendation.
IRS Action	See above for the IRS narrative responding to this recommendation.
TAS Response	Form 1023-EZ now requires applicants to provide a short description of their mission or most significant activity. This requirement has been in place since 2018. TAS expected that the short descriptions may have lowered the erroneous approval rate, but TAS's 2019 study did not show lower erroneous approval rates compared to previous TAS studies of representative samples from the same 20 states — the erroneous approval rate was actually higher in the most recent study (46 percent in the 2019 study, compared to 37 percent in the 2015 study, 26 percent in the 2016 study, and 42 percent in the 2017 study). We believe further research would be helpful to determine the effect of the short descriptions on the rate of erroneous approvals. We noted some of the short descriptions the applicants provided, such as "Promoting cultural relationships thru food and activities" or "Build new homes to be sold to low income families," warranted further review, such as reading the applicant's articles of incorporation. TAS is not recommending that a determination as to exempt status be made solely on the basis of the short description, or that the IRS make determinations that are inconsistent with judicial precedent, but rather that the IRS review the descriptions more rigorously to determine whether additional information is needed before making a determination.

Evolution of the Office of the Taxpayer Advocate

The Office of the Taxpayer Ombudsman was created by the IRS in 1979 to serve as the primary advocate, within the IRS, for taxpayers. This position was codified in the Taxpayer Bill of Rights (TBOR 1), included in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA).[1]

In TBOR 1, Congress added IRC § 7811, granting the Ombudsman (now the National Taxpayer Advocate (NTA)) the statutory authority to issue Taxpayer Assistance Orders (TAOs) if, in the determination of the Ombudsman, a taxpayer is suffering or is about to suffer significant hardship because of the way the Internal Revenue laws are being administered by the Secretary.[2] Further, TBOR 1 directed the Ombudsman and the Assistant Commissioner (Taxpayer Services) to jointly provide an Annual Report to Congress (ARC) about the quality of taxpayer services provided by the IRS. This report was delivered directly to the Senate Committee on Finance and the House Committee on Ways and Means.[3]

In 1996, the Taxpayer Bill of Rights 2 (TBOR 2) amended IRC § 7802 (the predecessor to IRC § 7803), replacing the Office of the Taxpayer Ombudsman with the Office of the Taxpayer Advocate.[4] The Joint Committee on Taxation set forth the following reasons for change:

> To date, the Taxpayer Ombudsman has been a career civil servant selected by and serving at the pleasure of the IRS Commissioner. Some may perceive that the Taxpayer Ombudsman is not an independent advocate for taxpayers. In order to ensure that the Taxpayer Ombudsman has the necessary stature within the IRS to represent fully the interests of taxpayers, Congress believed it appropriate to elevate the position to a position comparable to that of the Chief Counsel. In addition, in order to ensure that the Congress is systematically made aware of recurring and unresolved problems and difficulties taxpayers encounter in dealing with the IRS, the Taxpayer Ombudsman should have the authority and responsibility to make independent reports to the Congress in order to advise the tax-writing committees of those areas.[5]

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

- To assist taxpayers in resolving problems with the IRS;
- To identify areas in which taxpayers have problems in dealings with the IRS;
- To the extent possible, propose changes in the administrative practices of the IRS to mitigate those identified problems; and
- To identify potential legislative changes which may be appropriate to mitigate such problems.[6]

1 Pub. L. No. 100-647, Title VI, § 6230, 102 Stat. 3342, 3733 (Nov. 10, 1988).
2 *Id*.
3 Pub. L. No. 100-647, Title VI, § 6230, 102 Stat. 3373 (Nov. 10, 1988).
4 Pub. L. No. 104-168, § 101, 110 Stat. 1452, 1453-56 (July 30, 1996).
5 J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 20 (Dec. 18, 1996).
6 Pub. L. No. 104-168, § 101(a), 110 Stat. 1452, 1453–54 (July 30, 1996).

Congress did not provide the Taxpayer Advocate with direct line authority over the existing regional and local Problem Resolution Officers (PROs) who handled cases under the Problem Resolution Program, the predecessor to the Office of the Taxpayer Advocate. At the time of the enactment of TBOR 2, Congress believed it sufficient to require that "all PROs should take direction from the Taxpayer Advocate and that they should operate with sufficient independence to assure that taxpayer rights are not being subordinated to pressure from local revenue officers, district directors, etc."[7]

TBOR 2 also replaced the joint Assistant Commissioner/Taxpayer Advocate Report to Congress with two ARCs issued directly and independently by the Taxpayer Advocate.[8] The first report, the Objectives Report to Congress, is to contain the objectives of the Taxpayer Advocate for the fiscal year beginning in that calendar year. This report is to provide full and substantive analysis in addition to statistical information and is due no later than June 30 of each calendar year.

The second report, the ARC, is on the activities of the Taxpayer Advocate during the fiscal year ending during that calendar year. Section 7803(c)(2)(B)(ii) of the IRC, as amended by the Taxpayer First Act (TFA), requires the National Taxpayer Advocate to submit this report each year and to include in it, among other things, a description of the ten most serious problems encountered by taxpayers as well as administrative and legislative recommendations to mitigate those problems. Previously, the report was required to contain a description of at least 20 of the most serious problems facing taxpayers. The report must now:

- Identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness;
- Contain recommendations received from individuals who have the authority to issue a TAO;
- Contain a summary of the ten Most Serious Problems (MSPs),[9] taxpayers have in dealing with the IRS;
- Contain an inventory of initiatives and recommendations for which action has been taken and the resulting action;
- Contain an inventory of initiatives and recommendations for which action has yet to be taken and the period of time these items have been in the inventory;
- Contain an inventory of initiatives and recommendations for which there has been no action, an explanation for the lack of action, and the responsible official;
- Identify any TAO or Taxpayer Advocate Directive (TAD)[10] which was not honored by the IRS in a timely manner;

7 J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 21 (Dec. 18, 1996).

8 Pub. L. No. 104-168, § 101(a), 110 Stat. 1452, 1453–54 (July 30, 1996).

9 As originally enacted, TBOR 2 required a summary of at least 20 MSPs. In July 2019, the TFA reduced the number of MSPs to ten. *See* Pub. L. No. 116-25, § 1301(b)(1), 133 Stat. 981, 992 (July 1, 2019).

10 A TAD mandates that functional areas make certain administrative or procedural changes to improve a process or grant relief to groups of taxpayers (or all taxpayers). TADs are used to protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers. Internal Revenue Manual 13.2.1.6, Taxpayer Advocate Directives (July 16, 2009).

- Contain recommendations for legislative or administrative action that will resolve taxpayer problems;
- Identify areas of the tax law that impose significant compliance burdens on taxpayers, including specific recommendations for remedy;
- Identify the ten most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes;
- With respect to any statistical information included in such report, include a statement of whether such statistical information was reviewed or provided by the Secretary under IRC § 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology; and
- Include other such information as the Taxpayer Advocate may deem advisable.

The stated objective of these two reports is "for Congress to receive an unfiltered and candid report of the problems taxpayers are experiencing and what can be done to address them. While both reports are to include statistical information, the TFA created a requirement whereby the National Taxpayer Advocate must coordinate research with the office of the Treasury Inspector General for Tax Administration (TIGTA). The National Taxpayer Advocate is now precluded from reporting statistical information that is included in a TIGTA report.[11] The reports by the Taxpayer Advocate are not official legislative recommendations of the Administration; providing official legislative recommendations remains the responsibility of the Department of Treasury."[12]

Finally, TBOR 2 amended IRC § 7811, extending the scope of a TAO, by providing the Taxpayer Advocate "with broader authority to affirmatively take any action as permitted by law with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws."[13] For the first time, the TAO could specify a time period within which the IRS must act on the order. The statute also provided that only the Taxpayer Advocate, the IRS Commissioner, or the Deputy Commissioner could modify or rescind a TAO, and that any official who so modifies or rescinds a TAO must respond in writing to the Taxpayer Advocate with his or her reasons for such action.[14]

11 IRC § 7803(c)(2)(B)(iv).

12 J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 21 (Dec. 18, 1996).

13 *Id.*

14 Pub. L. No. 104-168, § 102(b), 110 Stat. 1452, 1456 (July 30, 1996).

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

> Taxpayer Advocates play an important role and are essential for the protection of taxpayer rights and to promote taxpayer confidence in the integrity and accountability of the IRS. To succeed, the Advocate must be viewed, both in perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the [N]ational Taxpayer Advocate is not viewed as independent by many in Congress. This view is based in part on the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position.[15]

In response to these concerns, in the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress amended IRC § 7803(c), renaming the Taxpayer Advocate as the National Taxpayer Advocate and mandating that the National Taxpayer Advocate could not be an officer or an employee of the IRS for two years preceding or five years following his or her tenure as the National Taxpayer Advocate (service as an employee of the Office of the Taxpayer Advocate is not considered IRS employment under this provision).[16]

RRA 98 provided for Local Taxpayer Advocates (LTAs) to be located in each state and mandated a reporting structure for LTAs to report directly to the National Taxpayer Advocate.[17] As indicated in IRC § 7803(c)(4)(B), each LTA must have a phone, fax, electronic communication, and mailing address separate from those of the IRS. The LTA must advise taxpayers at their first meeting of the fact that "the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate."[18]

Congress also granted the LTAs discretion to not disclose to the IRS the fact that the taxpayer contacted the Office of the Taxpayer Advocate or any information provided by the taxpayer to that office.[19] RRA 98 also expanded the definition of "significant hardship" in IRC § 7811 to include four specific circumstances:

1. An immediate threat of adverse action;
2. A delay of more than 30 days in resolving taxpayer account problems;
3. The incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or
4. Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.[20]

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

16 Pub. L. No. 105-206, § 1102(a), 112 Stat. 685, 699 (July 22, 1998).

17 *Id*. at 701.

18 IRC § 7803(c)(4)(A)(iii).

19 IRC § 7803(c)(4)(A)(iv).

20 IRC § 7811(a)(2).

The Committee Reports make clear that this list is a non-exclusive list of what constitutes a significant hardship.[21]

Prior to 2011, Treasury Regulation § 301.7811-1 had not been updated since it was first published in 1992. Consequently, after Congress expanded the definition of "significant hardship" in the statute in 1998, the definition in the regulation was inconsistent. However, on April 1, 2011, the IRS published in the Federal Register final regulations under IRC § 7811 that contain a definition of significant hardship consistent with existing law and practice.[22]

The National Taxpayer Advocate has long since advocated that the IRS establish a TBOR. In June 2014, the IRS finally adopted the Taxpayer Bill of Rights — a set of ten fundamental rights that taxpayers should be aware of when dealing with the IRS.[23] One of those ten rights is the *right to a fair and just tax system*, which gives taxpayers the right to receive assistance from the Office of the Taxpayer Advocate if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels. In December 2015, Congress enacted IRC § 7803(a)(3), which requires the Commissioner to ensure that employees of the IRS are familiar with and act in accord with taxpayer rights, including the *right to a fair and just tax system*.[24]

The passing of the TFA in July 2019 also codified the timeframes surrounding issuance of TADs. Now, the IRS must respond to a TAD no later than 90 days after its issuance.[25] If the IRS decides to modify or rescind the TAD, the National Taxpayer Advocate may appeal that decision to the Commissioner of the IRS within 90 days. The Commissioner then has 90 days to either ensure compliance with the TAD or provide reasons to the National Taxpayer Advocate for the modification or rescission of the TAD. Additionally, the National Taxpayer Advocate must report on any TADs that were not honored in a timely manner in the ARC.[26]

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

22 Treas. Reg. § 301.7811-1(a)(4)(ii); 76 Fed. Reg. 18,059, 18,060-61 (Apr. 1, 2011).

23 *See* IR-2014-72 (June 10, 2014).

24 *See* Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401, 129 Stat. 2242, 3117 (Dec. 18, 2015).

25 IRC § 7803(c)(5)(A).

26 IRC § 7803(c)(2)(B)(viii).

TAS Case Acceptance Criteria

CASE ACCEPTANCE CRITERIA

TAXPAYER ADVOCATE SERVICE
YOUR VOICE AT THE IRS

As an independent organization within the IRS, the Taxpayer Advocate Service protects taxpayer rights under the Taxpayer Bill of Rights, helps taxpayers resolve problems with the IRS, and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.[1] TAS case acceptance criteria fall into four main categories.

ECONOMIC BURDEN

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

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

SYSTEMIC BURDEN

Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue.[2]

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

BEST INTEREST OF THE TAXPAYER

TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.[3]

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

PUBLIC POLICY

Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.[4]

CRITERIA 9	The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

1 IRC § 7803(c)(2)(A)(i).
2 TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See Internal Revenue Manual (IRM) 13.1.7.3(d), Exceptions to Taxpayer Advocate Service Criteria (Feb. 4, 2015). This IRM is temporarily amended until December 31, 2020. TAS, Interim Guidance Memo (IGM) TAS-13-0220-002, Interim Guidance on Exclusion From TAS Case Acceptance Criteria Taxpayers Impacted by Pre-Refund Wage Verification Hold and Amended Returns (Feb. 14, 2020).
3 See IRM 13.1.7.2.3, TAS Case Criteria 8, Best Interest of the Taxpayer (Feb. 4, 2015).
4 See TAS, IGM TAS-13-0620-0012, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (June 1, 2020).

List of Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. LITCs can represent taxpayers in Tax Court as well as with the IRS. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. LITCs provide services for free or a small fee. LITCs receive IRS grants but work independently to assist and advocate for taxpayers.

If you are a low-income taxpayer who needs help in resolving a tax dispute with the IRS and cannot afford representation, you may qualify for free or low-cost assistance from an LITC. Using poverty guidelines published annually by the Department of Health and Humans Services (HHS), each LITC decides if an individual meets the income eligibility guidelines and other criteria before it agrees to representation. Eligible taxpayers must generally have income that does not exceed 250 percent of the poverty guidelines. Income ceilings for 2020 are shown below:

LITC Income Guidelines (250 percent of Federal Poverty Guidelines)			
Size of Family Unit	48 Contiguous States, D.C., and Puerto Rico	Alaska	Hawaii
1	$31,900	$39,875	$36,700
2	$43,100	$53,875	$49,575
3	$54,300	$67,875	$62,450
4	$65,500	$81,875	$75,325
5	$76,700	$95,875	$88,200
6	$87,900	$109,875	$101,075
7	$99,100	$123,875	$113,950
8	$110,300	$137,875	$126,825
For each additional person, add	$11,200	$14,000	$12,875

LITCs receiving federal funding for the 2020 calendar year are listed below and are operated by nonprofit organizations or academic institutions. Although LITCs receive partial funding from the IRS, LITCs, their employees, and their volunteers are completely independent of the IRS.

Low income taxpayers may be able to receive assistance from a referral system operated by a state bar association, a state or local society of accountants or enrolled agents, or another nonprofit tax professional organization. Contact information for clinics may change, so please check for the most recent information at **http://www.taxpayeradvocate.irs.gov/about/litc**.

2020 LITCs and Contact Information

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
AK	Anchorage	Alaska Business Development Center LITC	800-478-3474 907-562-0335	All languages through interpreter services
AL	Montgomery	Legal Services Alabama LITC	866-456-4995 334-832-4570	All languages through interpreter services
AR	Little Rock	UA Little Rock Bowen School of Law LITC	501-916-5492	Spanish
	Springdale	Legal Aid of Arkansas LITC	479-442-0600	Spanish and Marshallese
AZ	Phoenix	Community Legal Services LITC	800-852-9075 602-258-3434	Spanish and other languages through interpreter services
	Tucson	Southern Arizona Tax Clinic	520-622-2801	Spanish and other languages through interpreter services
CA	Los Angeles	Bet Tzedek Legal Services Tax Clinic	323-939-0506	Spanish, Russian, and other languages through interpreter services
	Los Angeles	KYCC Low Income Taxpayer Clinic	213-232-2700	Spanish and Korean
	Los Angeles	Pepperdine LITC	213-673-4831	Spanish
	Los Angeles	Bookstein Low Income Taxpayer Clinic	818-677-3600	Spanish
	Orange	Chapman University Tax Law Clinic	714-628-2535	Spanish and Vietnamese
	Riverside	Inland Counties Legal Services LITC	888-245-4257 951-368-2555	Spanish, Mandarin, and other languages through interpreter services
	San Diego	Legal Aid Society of San Diego LITC	877-534-2524	Spanish, Vietnamese, Tagalog, Arabic, Farsi
	San Diego	University of San Diego LITC	619-260-7470	Spanish and other languages through interpreter services
	San Francisco	Chinese Newcomers Service Center	415-421-2111	Chinese, Cantonese, Mandarin, Vietnamese, Taishanese
	San Francisco	Justice and Diversity Center of the Bar Association of San Francisco	415-982-1600	Spanish
	San Francisco	UC Hastings Low-Income Taxpayer Clinic	415-703-8287	Spanish
	San Luis Obispo	Cal Poly Low Income Taxpayer Clinic	877-318-6772 805-756-2951	Spanish
	Santa Ana	Community Legal Aid So Cal LITC	800-834-5001 714-571-5200	Spanish, Vietnamese, Korean
CO	Denver	Colorado Legal Services LITC	844-440-4848 303-837-1313	Spanish and other languages through interpreter services
	Denver	Denver Asset Building Coalition LITC	303-388-7030	All languages through interpreter services
	Denver	University of Denver LITC	303-871-6331	Spanish and Mandarin
CT	Hamden	Quinnipiac University School of Law LITC	203-582-3238	Spanish and other languages through interpreter services
	Hartford	UConn Law School Tax Clinic	860-570-5165	Spanish and other languages through interpreter services

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
DC	Washington	The Catholic University of America LITC	202-319-6788	Spanish
	Washington	The Janet R. Spragens Federal Tax Clinic	202-885-3440	All languages through interpreter services
DE	Georgetown	Delaware Community Reinvestment Action Council LITC	877-825-0750 302-690-5000	Spanish, Hindi, Italian
FL	Ft. Myers	Florida Rural Legal Services Low Income Taxpayer Clinic	888-582-3410	Spanish and Creole
	Gainesville	Three Rivers Legal Services, Inc.	866-256-8091 352-372-0519	Spanish and other languages through interpreter services
	Miami	Legal Services of Greater Miami Community Tax Clinic	305-576-0080	Spanish, Haitian, Creole
	Plant City	Bay Area Legal Services Inc. LITC	813-752-1335	All languages through interpreter services
	Plantation	Legal Aid Services of Broward and Collier Counties	954-736-2477	Spanish and Creole
	St. Petersburg	Gulfcoast Legal Services LITC	727-821-0726	Spanish and other languages through interpreter services
	Tallahassee	Legal Services of North Florida	850-385-9007	Spanish
	West Palm Beach	Legal Aid Society of Palm Beach County LITC	800-403-9353 561-655-8944	Spanish
GA	Hinesville	JCVision and Associates, Inc.	866-396-4243 912-877-4243	Spanish
	Lawrenceville	North Georgia Low Income Taxpayer Clinic	678-646-5661	Spanish
IA	Des Moines	Iowa Legal Aid LITC	800-532-1275 515-243-2151	Spanish and other languages through interpreter services
ID	Twin Falls	La Posada Tax Clinic	208-735-1189	Spanish
IL	Chicago	Ladder Up Tax Clinic	312-630-0274	Spanish
	Chicago	Loyola Federal Income Tax Clinic	312-915-7176	All languages through interpreter services
	Elgin	Administer Justice	847-844-1100	Spanish and other languages through interpreter services
	Wheaton	Prairie State Legal Services LITC	855-829-7757	All languages through interpreter services
IN	Bloomington	Indiana Legal Services LITC	800-822-4774 812-339-7668	All languages through interpreter services
	Indianapolis	Neighborhood Christian Legal Clinic	317-429-4131	Spanish, French, Arabic, Burmese, Hakha Chin, Kinyarwanda, Maya, Swahili, Chinese, Zophei, Falam, and other languages through interpreter services
	South Bend	Notre Dame Tax Clinic	574-631-3272	Spanish and other languages through interpreter services
KS	Kansas City	Kansas Legal Services, Inc. LITC	800-723-6953 913-621-0200	Spanish, French, German, Russian, and other languages through interpreter services

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
KY	Covington	The Center for Great Neighborhoods LITC	859-547-5542	Spanish
	Louisville	Legal Aid Society Low Income Taxpayer Clinic	800-292-1862 502-584-1254	All languages through interpreter services
	Richmond	AppalRed Low Income Taxpayer Clinic	800-477-1394 859-624-1394	Spanish and other languages through interpreter services
LA	New Orleans	Southeast Louisiana Legal Services LITC	877-521-6242 504-529-1000	Spanish, Vietnamese, and other languages through interpreter services
MA	Boston	Greater Boston Legal Services LITC	800-323-3205 617-603-1569	All languages through interpreter services
	Jamaica Plain	Legal Services Center of Harvard Law School LITC	866-738-8081 617-522-3003	All languages through interpreter services
	Springfield	Springfield Partners for Community Action LITC	844-877-7422 413-263-6500	Spanish, Vietnamese, Cantonese, Russian, Korean
MD	Baltimore	Maryland Volunteer Lawyers Service LITC	800-510-0050 410-539-6800	All languages through interpreter services
	Baltimore	University of Baltimore LITC	410-837-5706	All languages through interpreter services
	Baltimore	University of Maryland Carey School of Law LITC	410-706-3295	All languages through interpreter services
ME	Bangor	Pine Tree Legal Assistance Inc. LITC	207-942-8241	All languages through interpreter services
MI	Ann Arbor	University of Michigan LITC	734-936-3535	All languages through interpreter services
	Detroit	Accounting Aid Society	866-673-0873 313-556-1920	Spanish and Arabic
	East Lansing	Alvin L. Storrs Low Income Taxpayer Clinic	517-432-6880	All languages through interpreter services
	Grand Rapids	West Michigan Low Income Taxpayer Clinic	800-442-2777 616-774-0672	Spanish and other languages through interpreter services
MN	Minneapolis	Mid-Minnesota Legal Aid Tax Law Project	612-334-5970	Spanish, Somali, Hmong, Arabic, Oromo, Amharic, and other languages through interpreter services
	Minneapolis	University of Minnesota LITC	612-625-5515	Somali, Spanish, Hmong, Karen, and other languages through interpreter services
MO	Kansas City	Legal Aid of Western Missouri LITC	800-990-2907 816-474-6750	Spanish and other languages through interpreter services
	Kansas City	Kansas City Tax Clinic	816-235-6201	All languages through interpreter services
	St. Louis	Washington University School of Law LITC	314-935-7238	Spanish
MS	Oxford	Mississippi Taxpayer Assistance Project	888-808-8049	All languages through interpreter services
MT	Helena	Montana Legal Services Association LITC	800-666-6899 406-442-9830	Spanish and other languages through interpreter services

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
NC	Charlotte	North Carolina Low Income Taxpayer Clinic	800-438-1254 800-247-1931 (SP) 704-376-1600	Spanish and other languages through interpreter services
	Durham	NC Central University School of Law LITC	919-530-7166	Spanish
NE	Lincoln	Legal Aid of Nebraska LITC	877-250-2016 402-348-1060	Spanish and Chinese
NH	Concord	NH Pro Bono Low-Income Taxpayer Project	603-228-6028	All languages through interpreter services
NJ	Camden	South Jersey Legal Services, Inc. LITC	800-496-4570 856-964-2010	All languages through interpreter services
	Edison	Legal Services of New Jersey Tax Legal Assistance Project	888-576-5529 732-572-9100	Spanish, Haitian-Creole, Portuguese, Hindi, Arabic
	Jersey City	Northeast New Jersey Legal Services LITC	201-792-6363	Spanish, Korean, Hindi, Urdu, Hebrew, Arabic, Portuguese, Tagalog, and other languages through interpreter services
	Newark	Rutgers Federal Tax Law Clinic	973-353-1685	Spanish
NM	Albuquerque	NMLA Low Income Taxpayer Clinic	866-416-1922 833-545-4357	All languages through interpreter services
	Farmington	Four Corners Low Income Taxpayer Clinic	505-566-3747	Spanish and Navajo
NY	Albany	Legal Aid Society of Northeastern New York LITC	800-462-2922 518-462-6765	All languages through interpreter services
	Bronx	Bronx Legal Services	917-661-4500	Spanish and other languages through interpreter services
	Brooklyn	Brooklyn Legal Services Corporation A LITC	718-487-2300	Spanish and other languages through interpreter services
	Brooklyn	Brooklyn Low-Income Taxpayer Clinic	917-661-4500	Spanish, Russian, American Sign Language, and other languages through interpreter services
	Buffalo	Erie County Bar Association Volunteer Lawyers Project LITC	800-229-6198 716-847-0662	All languages through interpreter services
	Hempstead	Hofstra Law School Federal Tax Clinic	516-463-5934	Spanish and other languages through interpreter services
	Jamaica	Queens Legal Services LITC	917-661-4500	All languages through interpreter services
	New York	Fordham Law School	212-633-7353	Spanish, Russian, Ukrainian, and other languages through interpreter services
	New York	Mobilization for Justice	212-417-3839	Spanish, Mandarin, Korean, and other languages through interpreter services
	New York	The Legal Aid Society LITC	212-426-3013	Spanish, Chinese, and other languages through interpreter services
	Staten Island	Migration Resources Center LITC	646-827-2959	Spanish, Albanian, Russian, and other languages through interpreter services
	Syracuse	Syracuse University College of Law LITC	888-797-5291 315-443-4582	All languages through interpreter services

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
OH	Akron	Community Legal Aid Services LITC	800-998-9454	Spanish and other languages through interpreter services
	Cincinnati	Legal Aid of Greater Cincinnati LITC	800-582-2682 513-241-9400	All languages through interpreter services
	Cleveland	The Legal Aid Society of Cleveland LITC	888-817-3777 216-861-5500	Spanish and other languages through interpreter services
	Columbus	The Legal Aid Society of Columbus LITC	877-224-8374 614-224-8374	Spanish and other languages through interpreter services
	Columbus	Southeastern Ohio Legal Services LITC	800-837-2508 740-354-7563	All languages through interpreter services
	Toledo	Legal Aid of Western Ohio LITC	888-534-1432 877-894-4599	All languages through interpreter services
	Toledo	Toledo Tax Controversy Clinic LITC	419-530-4236	Arabic
OK	Tulsa	Legal Aid Services of Oklahoma LITC	918-236-9572	Spanish and other languages through interpreter services
OR	Gresham	El Programa Hispano Catolico's LITC	503-489-6845	Spanish and French
	Portland	Legal Aid Services of Oregon LITC	503-224-4086	Spanish, Mandarin, Japanese, and other languages through interpreter services
	Portland	Lewis & Clark Low Income Taxpayer Clinic	503-768-6500	Spanish and other languages through interpreter services
PA	Philadelphia	Philadelphia Legal Assistance LITC	215-981-3800	Spanish, Farsi, and other languages through interpreter services
	Pittsburgh	University of Pittsburgh School of Law LITC	412-648-1300	Spanish and French
	Villanova	Villanova Federal Tax Clinic	888-829-2546 610-519-4123	Spanish and other languages through interpreter services
	Washington	Southwestern Pennsylvania Legal Services LITC	724-225-6170	Spanish, Russian, Chinese, and other languages through interpreter services
	York	MidPenn Legal Services Low Income Taxpayer Clinic	844-675-7829	Spanish and other languages through interpreter services
RI	Providence	Rhode Island Legal Services LITC	401-274-2652	Spanish and other languages through interpreter services
SC	Greenville	South Carolina Legal Services LITC	888-346-5592	Spanish and other languages through interpreter services
SD	Vermillion	University of South Dakota School of Law Federal Tax Clinic	844-366-8866 605-658-3531	All languages through interpreter services
TN	Memphis	Memphis Area Legal Services	901-523-8822	Spanish and other languages through interpreter services
	Nashville	Tennessee Taxpayer Project	866-481-3669 865-483-8454	Spanish and other languages through interpreter services

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
TX	Fort Worth	Legal Aid of Northwest Texas LITC	800-955-3959 817-336-3943	Spanish and other languages through interpreter services
	Fort Worth	Texas A&M University School of Law Tax Clinic	817-212-4123	Spanish and other languages through interpreter services
	Houston	Houston Volunteer Lawyers LITC	713-228-0732	Spanish, Chinese, and other languages through interpreter services
	Houston	Lone Star Legal Aid LITC	800-733-8394 713-652-0077	Spanish, Vietnamese, and other languages through interpreter services
	Houston	South Texas College of Law LITC	800-646-1253 713-646-2922	All languages through interpreter services
	Lubbock	Texas Tech School of Law LITC	800-420-8037 806-742-4312	Spanish
	San Antonio	Texas Taxpayer Assistance Project	888-988-9996 210-212-3747	Spanish
UT	Provo	Centro Hispano LITC	801-655-0258 801-691-5259	Spanish, Portuguese, and other languages through interpreter services
VA	Fairfax	Legal Services of Northern Virginia LITC	866-534-5233 703-778-6800	Spanish and other languages through interpreter services
	Lexington	Washington and Lee University School of Law Tax Clinic	540-458-8918	All languages through interpreter services
	Richmond	The Community Tax Law Project	800-295-0110 804-358-5855	Spanish
VT	Burlington	Vermont Low Income Taxpayer Clinic	800-889-2047	All languages through interpreter services
WA	Seattle	University of Washington Federal Tax Clinic	866-866-0158 206-685-6805	Spanish, Russian, Chinese, Swahili, Portuguese, French, Punjabi, Vietnamese, and Hindi
	Spokane	Gonzaga University Federal Tax Clinic	800-793-1722 509-313-5791	All languages through interpreter services
WI	Milwaukee	Legal Action of Wisconsin LITC	855-502-2468 414-274-3400	All languages through interpreter services
	Milwaukee	The Legal Aid Society of Milwaukee, Inc.	888-562-8135 414-727-5326	Spanish and other languages through interpreter services
	Wausau	Northwoods Tax Project	800-472-1638 715-842-1681	Spanish and Hmong

TAS Performance Measures and Indicators

Resolve Taxpayer Problems Accurately and Timely

Measure	Description	FY 2020 Target	FY 2020 March Cumulative[1]
Overall Quality of Closed Cases	Percentage of sampled closed cases meeting the prescribed attributes of advocacy, customer, and procedural focus.	93.7%	84.4%
Advocacy Focus	Percentage of sampled closed cases where TAS advocated effectively in resolving taxpayers' issue, protecting taxpayers' rights, taking substantive actions, issuing Operations Assistance Requests (OARs) and Taxpayer Assistance Orders (TAOs), and keeping taxpayers informed.	94.7%	90.3%
Procedural Focus	Percentage of sampled closed cases where TAS took actions in accordance with the tax code, Internal Revenue Manual (IRM), and technical and procedural requirements.	90.0%	86.0%
Customer Focus	Percentage of sampled closed cases where TAS took timely actions and adhered to disclosure requirements.	94.8%	76.4%
Customers Satisfied[2]	Percentage of taxpayers who indicate they are very satisfied or somewhat satisfied with the service provided by TAS.	88%	
Customers Dissatisfied	Percentage of taxpayers who indicate they are somewhat dissatisfied or very dissatisfied with the service provided by TAS.	9%	
Solved Taxpayer Problem[3]	Percentage of taxpayers from the customer satisfaction survey who indicate the TAS employee did their best to solve the taxpayer's problems.	88%	
Systemic Burden Receipts	Percentage of systemic burden receipts, Criteria 5 through 7, compared to all receipts excluding reopened case receipts.	38.3%	44.2%
OAR Reject Rate[4]	Percentage of TAS's rejected OAR requests for IRS operating division or function's actions.	Indicator	3.9%
Expired OAR Rate[5]	Percentage of OARs that were open at the end of a period where the Requested Completion Date or (if present) Negotiated Completion Date is more than five workdays overdue.	Indicator	9.1%

(continued on next page)

1 Results for the following categories are unweighted, cumulative October Fiscal Year (FY) 2020 pre-dialogue and exclude Return Prepared Misconduct cases: Overall Quality of Closed Cases; Advocacy Focus; Customer Focus; and Procedural Focus. Results for the following categories are baseline and unavailable due to revision to attributes: Accuracy of Closed Advocacy Projects; Timeliness of Actions on Advocacy Projects; and Quality of Communication on Advocacy Projects. The new attribute categories will be Advocacy, Customer, and Procedural.

2 Due to neutral responses by customers, the total percentage of Customers Satisfied (82 percent for FY 2019) and Dissatisfied (13 percent for FY 2019) will not add up to 100 percent. TAS administers an internally developed customer satisfaction survey annually. FY 2020 results are not available at the time of this report.

3 TAS administers an internally-developed customer satisfaction survey (CSS) annually. For FY 2019, TAS revised the CSS questionnaire replacing Question 1f, *How satisfied are you that your Advocate did his or her best to solve your problem* with Question 4, *To what extent did the Taxpayer Advocate Service solve your problem* to be more inclusive of all advocates (intake and case advocates) working a taxpayer case. FY 2019 was the baseline year and therefore no results will be reported until FY 2020 survey results are available in March 2021.

4 OAR Reject Rate excludes the reject reason "business operating division (BOD)/Function disagrees."

5 This metric is a point estimate as of the date the report is run and is not cumulative. Results will vary depending on report run date. March FY 2020 BOE-BPMS Report (run date Apr. 1, 2020).

Measure	Description	FY 2020 Target	FY 2020 March Cumulative[1]
Relief Granted[6]	Percentage of closed cases where TAS provided full or partial relief.	Indicator	76.4%
Number of TAOs Issued[7]	Count of TAOs issued by TAS.	Indicator	84
Median – Closed Case Cycle Time	Median number of days taken to close TAS cases. This indicator does not include reopened cases.	Indicator	65
Mean – Closed Case Cycle Time	Mean number of days taken to close TAS cases. This indicator includes reopened cases.	Indicator	94.3
Closed Cases per Case Advocacy full-time equivalents (FTE)	Number of closed cases divided by total Case Advocacy FTEs realized. (This includes all labor hours reported to the Executive Director of Case Advocacy).	Indicator	170.2
Closed Cases per Direct FTE	Number of closed cases divided by direct Case Advocate FTEs realized.	Indicator	557.7
Percentage of NTA Toll-Free Calls Answered by Centralized Case Intake (CCI)	Percentage of NTA Toll-Free calls answered compared to the total number of NTA Toll-Free calls transferred to CCI.	Indicator	32.3%
CCI Created Cases	Number of cases created that met the TAS case acceptance criteria.	Indicator	13,065
Quick Closures	Number of quick closures by all Intake Advocates.	Indicator	767
CCI Assistance Provided and No Case Created[8]	Number of calls CCI provided assistance without creating a case or quick closure.	Indicator	14,572

6 TAS tracks resolution of taxpayer issues through codes entered on the Taxpayer Advocate Management Information System at the time of closing. IRM 13.1.21.1.2.1.2, TAO/Relief Codes (Dec. 3, 2015). Internal guidance requires case advocates to indicate the type of relief or assistance they provided to the taxpayer. The codes reflect full relief, partial relief, or assistance provided. IRM 13.1.21.1.2.1.3, TAO/Relief Assistance Codes (Feb. 1, 2011).

7 IRC § 7811 authorizes the National Taxpayer Advocate to issue a TAO when a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the tax laws are being administered.

8 Data only reflects activity of intake advocates in CCI sites using the Aspect phone system and does not include activity of intake advocates in local offices that do not have the Aspect system.

Protect Taxpayer Rights and Reduce Burden

Measure	Description	FY 2020 Target	FY 2020 March Cumulative
Overall Quality of Immediate Interventions[9]	Percentage of the immediate interventions meeting the timeliness, technical, and communication quality attributes' measures.	80%	Baseline
Accuracy of Closed Advocacy Projects	Percentage of advocacy projects where Systemic Advocacy (SA) took correct actions in accordance with statute and IRM guidance. This includes accurate identification of the systemic issue and proposed remedy.	90%	Baseline
Quality of Communication on Advocacy Projects	Percentage of advocacy projects where SA provided substantive updates to the submitter during the initial and subsequent contacts, contacted internal and external stakeholders, wrote correspondence following established guidelines, and took outreach and education actions when appropriate.	90%	Baseline
Timeliness of Actions on Advocacy Projects	Percentage of advocacy projects where SA took timely actions in accordance with IRM guidance, including contacting the submitter, developing an action plan, and working the project without unnecessary delays or periods of inactivity.	90%	Baseline
Satisfaction of Taxpayer Advocacy Panel (TAP) members[10]	Percentage of satisfaction of TAP members who indicate they agree or strongly agree to the member survey question, "I have been satisfied as a member of the TAP."	90%	
Satisfaction of Systemic Advocacy Management System (SAMS) Users	Percentage of SAMS users who indicate they agree or strongly agree to the survey question, "I would recommend SAMS to others as a way to elevate systemic issues."	80%	68%
SAMS Review Process Median Days	Median count of days it takes SA to complete the three-level review process from the issue submission date to the date issue is closed on SAMS.	Indicator	40
Projects Validated as Involving a Systemic Issue	Percentage of overall advocacy projects closed that the Director (Processing Technical Advocacy, Exam Technical Advocacy, or Collection Technical Advocacy) validates as a systemic issue.	Indicator	90%
Internal Management Document (IMD) Recommendations Made to IRS	Count of TAS IMD recommendations made to the IRS.	Indicator	314
IMD Recommendations Accepted by the IRS	Percentage of TAS's IMD recommendations accepted by the IRS.	Indicator	59%
Advocacy Effort Recommendations Made to the IRS	Count of advocacy effort recommendations. Advocacy efforts include projects, task forces, collaborative teams, Advocacy Issue Teams and rapid response teams (excludes IMD/SPOC and Annual Report to Congress (ARC)).	Indicator	17
Advocacy Effort Recommendations Accepted by the IRS	Count of TAS advocacy effort recommendations accepted by the IRS.	Indicator	17

(continued on next page)

9 The FY 2019 March cumulative results are not available because Systemic Advocacy does not have an immediate intervention closure.

10 The TAP survey is administered to all Panel members. Results are not available at the time of this report.

Measure	Description	FY 2020 Target	FY 2020 March Cumulative
TAP recommendations Fully or Partially Accepted[11]	Percentage of fully or partially accepted TAP recommendations accepted by the IRS.	Indicator	
Number of Taxpayer Advocate Directives (TADs) Issued	TADs mandate that functional areas make certain administrative or procedural changes to improve a process or grant relief to groups of taxpayers.	Indicator	0

Sustain and Support a Fully-Engaged and Diverse Workforce

Measure	Description	FY 2020 Target	FY 2020 March Cumulative
Employee Satisfaction[12]	Percentage of satisfaction of employees who respond satisfied or very satisfied to the employee satisfaction survey question, "Considering everything, how satisfied are you with your job?"	75%	
Employee Participation	Percentage of employees who take the employee satisfaction survey.	58%	

ARC Results

Measure	Description	CY 2020 Target	CY 2019 Cumulative
Annual Report to Congress (ARC) Administrative Recommendations Made to IRS	Count of administrative recommendations made by TAS to the IRS through the ARC.	Indicator	78
Number of ARC Administrative Recommendations Accepted by IRS[13]	Count of administrative recommendations in ARC accepted by IRS.	Indicator	50[14]
ARC Administrative Recommendations Accepted by IRS	Percentage of total administrative recommendations accepted by IRS in the ARC compared to the total number of recommendations made.	Indicator	64%
ARC Administrative Recommendations Implemented by IRS	Count of the recommendations accepted by IRS and implemented.	Indicator	TBD

11 FY 2020 results are not available at the time of this report.

12 Employee satisfaction (62 percent for FY 2019) and employee participation (53 percent for FY 2019) are from the annual Federal Employee Viewpoint Survey. FY 2020 results are not available at the time of this report.

13 IRS Responses to Recommendations for calendar year 2019 are included in Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress*, *supra*.

14 The Administrative Recommendations Acceptance counts include both full and partial acceptance by the IRS.

Glossary of Acronyms

Acronym	Definition
A	
AARP	American Association of Retired People
ABA	American Bar Association
ACIS	AIMS Computer Information System
ACS	Automated Collection System
ACTC	Advanced Child Tax Credit
ACUS	Administrative Conference of the United States
AFSP	Annual Filing Season Program
AGI	Adjusted Gross Income
AICPA	American Institute of Certified Public Accountants
AIMS	Audit Information Management System
ALE	Allowable Living Expenses
AM	Accounts Management
AMT	Alternative Minimum Tax
AOTC	American Opportunity Tax Credit
ARC	Annual Report to Congress
ASFR	Automated Substitute for Return
ATCL	Appeals Team Case Leader
ATI	Adjusted Taxable Income
ATIN	Adoption Taxpayer Identification Number
ATS	Assurance Testing System
B	
BEAT	Base Erosion and Anti-Abuse Tax
BFS	Bureau of the Fiscal Service
BMF	Business Master File
BOD	Business Operating Division
BOE	Business Objects Enterprise
BPMS	Business Performance Management System
BPR	Business Performance Review
BSM	Business Systems Modernization
C	
CADE	Customer Account Data Engine
CAF	Centralized Authorization File
CAR	Collection Activity Report
CARE	Customer Assistance, Relationships and Education
CARES	Coronavirus Aid, Relief, and Economic Security
CAS	Customer Account Services
CBPP	Center on Budget and Policy Priorities
CBR	Customer Base Report
CCEO	Chief Customer Experience Officer
CCI	Centralized Case Intake
CDC	Center for Disease Control and Prevention
CDP	Collection Due Process
CDW	Compliance Data Warehouse
CETS	Correspondence Examination Technicians
CEWS	Customer Early Warning System
CIO	Chief Information Officer
CNC	Currently Not Collectible
COFO	Coalition of Federal Ombudsman
COVID-19	Coronavirus Disease of 2019
CP	Computer Paragraph
CPS	Correspondence Production Services
CRX	Correspondex
CSED	Collection Statute Expiration Date
CSR	Customer Service Representative
CSS	Customer Satisfaction Survey
CTC	Child Tax Credit
CY	Calendar Year
D	
DDB	Dependent Database
DDIA	Direct Debit Installment Agreement
DHS	Department of Homeland Security
DOJ	Justice Department
E	
ECM	Enterprise Case Management
EIP	Economic Impact Payment
EITC	Earned Income Tax Credit
EPSS	Electronic Products and Services Support
ERC	Employee Retention Credit
ERTC	Employee Retention Tax Credit
ESL	English as Second Language
ESP	Economic Stimulus Payments

Acronym	Definition
F	
FAQ	Frequently Asked Question
FAST	Fixing America's Surface Transportation Act
FDII	Foreign Derived Intangible Income
FEMA	Federal Emergency Management Agency
FFCRA	Families First Coronavirus Response Act
FFI	Free File Inc.
FICA	Federal Insurance Contribution Act
FPR	False Positive Rate
FTC	Foreign Tax Credit
FTE	Full-Time Equivalent
FY	Fiscal Year
G	
GAO	Government Accountability Office
GILTI	Global Intangible Low-Taxed Income
H	
HCO	Human Capital Office
HHS	Department of Health and Human Services
I	
IA	Intake Advocate or Installment Agreement
IAT	Integrated Action Tool
IDEA	Integrated Digital Experience Act
IDT	Identity Theft
IDTVA	Identity Theft Victim Assistance
IGM	Interim Guidance Memoranda
IMD	Internal Management Document
IMF	Individual Master File
IRB	Internal Revenue Bulletin
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
IRTF	Individual Return Transaction File
IT	Information Technology
ITIN	Individual Taxpayer Identification Number
IVO	Integrity & Verification Operations
J	
JCT	Joint Committee on Taxation
JOC	Joint Operations Center

Acronym	Definition
L	
LB&I	Large Business & International
LEP	Limited English Proficiency
LITC	Low Income Taxpayer Clinic
LOS	Level of Service
LSEAC	Language Services Executive Advisory Council
LT	Letter
LTA	Local Taxpayer Advocate
M	
M&P	Media and Publications
MeF	Modernized e-File
MFJ	Married Filing Joint
MFS	Married Filing Separate
MLI	Most Litigated Issue
MOU	Memorandum of Understanding
MSP	Most Serious Problem
N	
NAICS	North American Industry Classification System
NDC	National Distribution Center
NFTL	Notice of Federal Tax Lien
NIST	National Institute of Standards and Technology
NOL	Net Operating Loss
NTA	National Taxpayer Advocate
NTATF	National Taxpayer Advocate Toll-Free
O	
OAR	Operations Assistance Request
OBR	Offset Bypass Refund
OIC	Offer in Compromise
OLS	Online Services
OPA	Online Payment Agreement
OPR	Office of Professional Responsibility
OVD	Offshore Voluntary Disclosure
P	
PCA	Private Collection Agency
PCIC	Primary Core Issue Code
PDC	Private Debt Collection
PMTA	Program Manager Technical Assistance
PPIA	Partial Pay Installment Agreement

Acronym	Definition
PPP	Paycheck Protection Program
PPS	Practitioner Priority Service
PRO	Problem Resolution Officers
PRWVH	Pre-Refund Wage Verification Hold Program
PSD	Problem-Solving Day
PTIN	Preparer Tax Identification Number
PY	Processing Year
Q	
QAR	Qualified Amended Return
QRP	Questionable Return Program
R	
RAAS	Research Applied Analytics and Statistics
RAC	Refund Anticipation Check
RAL	Refund Anticipation Loan
RCEO	Refundable Credit Examination Operations
RCP	Reasonable Collection Potential
RICS	Return Integrity and Correspondence Services or Return Integrity and Compliance Services
RIVO	Return Integrity Verification Operations
RO	Revenue Officer
RRA 98	IRS Restructuring and Reform Act of 1998
RRTA	Railroad Retirement Tax Act
S	
SA	Systemic Advocacy
SADI	Secure Access Digital Identity
SAMS	Systemic Advocacy Management System
SBA	Small Business Administration
SB/SE	Small Business/Self-Employed
SDWG	Software Developers Working Group
SERP	Servicewide Electronic Research Program
SLA	Service Level Agreement
SNOD	Statutory Notice of Deficiency
SPOC	Single Point of Contact
SRLY	Separate Return Limitation Year
SSA	Social Security Administration
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
SSN	Social Security Number
SWPS	Servicewide Preparer Strategy

Acronym	Definition
T	
TAC	Taxpayer Assistance Center
TAD	Taxpayer Advocate Directive
TAMIS	Taxpayer Advocate Management Information System
TAO	Taxpayer Assistance Order
TAP	Taxpayer Advocacy Panel
TAS	Taxpayer Advocate Service
TBD	To Be Determined
TBOR	Taxpayer Bill of Rights
TCE	Tax Counseling for the Elderly
TCJA	Tax Cuts and Jobs Act
TDA	Taxpayer Delinquency Account
TDS	Transcript Delivery System
TFA	Taxpayer First Act
TFAO	Taxpayer First Act Office
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TP	Taxpayer
TPP	Taxpayer Protection Program
TY	Tax Year
U	
USPS	United States Postal Service
V	
VA	Veterans Administration
VITA	Volunteer Income Tax Assistance
VSD	Virtual Service Delivery
W	
W&I	Wage & Investment
WebSD	Web Service Delivery
Y	
YTD	Year to Date

This page intentionally left blank.