

**WRITTEN STATEMENT OF**

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**BEFORE THE**

**SUBCOMMITTEES ON**

**OVERSIGHT AND SOCIAL SECURITY**

**COMMITTEE ON WAYS AND MEANS**

**U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON**

**THE STATUS OF ECONOMIC STIMULUS PAYMENTS**

**JUNE 19, 2008**

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Chairmen Lewis and McNulty, Ranking Members Ramstad and Johnson, and distinguished Members of the Subcommittees:

Thank you for inviting me to testify today regarding the status of economic stimulus payments authorized by the Economic Stimulus Act of 2008.<sup>1</sup>

In my testimony, I will make five main points:

1. While the IRS was a logical agency to administer the bulk of the stimulus program, the timing of the statutory directive in February to begin to develop and implement the program essentially required the IRS to run two filing seasons simultaneously. In light of its limited resources, I believe the IRS on balance has done an outstanding job of administering both the 2008 filing season and the Economic Stimulus Act.<sup>2</sup>
2. In light of its limited resources, the IRS was not able to staff its telephone lines adequately and had to make certain tradeoffs. IRS-wide, the level of service (LOS) on the toll-free telephone lines has dropped from 80.6 percent in 2007 to 62.8 percent year to date (YTD) and to 42.9 percent during the week ending June 7.<sup>3</sup> The LOS on the telephone line dedicated to answering questions about stimulus payments has been even lower – 47.7 percent YTD and 30.4 percent during the week ending June 7,<sup>4</sup> and only one out of every ten callers to the stimulus line has spoken with a customer service representative.<sup>5</sup> The IRS understandably transferred some employees from its Accounts Management and Automated Collection System functions to help in answering the onslaught of telephone calls.

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

<sup>2</sup> Economic Stimulus Act, Pub. L. No. 110-185 (2008).

<sup>3</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (week ending June 7, 2008).

<sup>4</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments) 866-234-2942* (week ending June 7, 2008).

<sup>5</sup> As of June 7, the IRS had received 27.7 million “dialed number attempts” on its toll-free telephone lines concerning economic stimulus payments. IRS Response to TAS Information Request (June 16, 2008). The number of “dialed number attempts” that resulted in a conversation with a live assister was 2.9 million. Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments) 866-234-2942* (week ending June 7, 2008). About 16.8 million additional callers were assisted through automation. In general, the IRS Joint Operations Center tracks the IRS’s performance on its toll-free lines based on “net [call] attempts” rather than “dialed number attempts.” While “net attempts” understates the number of calls placed to the IRS, this testimony elsewhere cites “net attempts” because that data point is more accessible and can be used to identify trends.

As a result, however, the inventory of individual taxpayer correspondence relating to account adjustments has more than doubled, creating potentially significant burdens for affected taxpayers. The need to assign IRS personnel to work on the stimulus program has caused core work to be placed on the back burner in other areas as well.

3. A few glitches and taxpayer frustrations have arisen in the course of the IRS's administration of the economic stimulus payment (ESP) program. One glitch was that the Social Security numbers of approximately 1,500 taxpayers were inadvertently disclosed when the IRS routed stimulus payments to the wrong bank accounts. Although not caused by IRS error, one source of frustration was that more than 20 million taxpayers who purchased refund anticipation loans (RALs) or refund anticipation checks (RACs) found that they were ineligible to receive their stimulus payments quickly via direct deposit and instead were required to wait up to 2-1/2 months longer to receive paper checks.
4. The IRS is conducting considerable outreach to senior citizens and other taxpayers without a tax filing requirement to encourage them to file Forms 1040A to claim their stimulus payments, but there are significant barriers that will result in substantially less than full participation by this target population.
5. There are several long-term lessons the IRS can learn from this undertaking that may improve its effectiveness in the future. In particular, the IRS should explore the development of a cadre of information technology and operations analysts dedicated to initiatives such as this, so that resources are not continually diverted from IRS core functions or improvement projects when special needs arise, as they often do.

I will address these issues from my perspective as the National Taxpayer Advocate, the statutory voice for taxpayers and taxpayer rights. I understand that the Treasury Inspector General for Tax Administration and the Government Accountability Office are conducting operational reviews of the ESP administration, and they will provide an assessment at a later date.

## **I. The IRS on Balance Has Done an Outstanding Job of Administering the Economic Stimulus Act.**

Congress passed the Economic Stimulus Act in February in light of deep concerns about the health of the U.S. economy. The goal of the legislation was to stimulate the economy by placing an estimated \$152 billion into the hands of consumers and businesses.<sup>6</sup> Technically, the legislation provides individual taxpayers with a credit against their 2008 tax liabilities, and taxpayers ordinarily would claim the credit when they file their 2008 tax returns during the 2009 filing season. Because Congress wanted to provide economic

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<sup>6</sup> See, e.g., The White House, *Fact Sheet: Bipartisan Growth Package Will Help Protect Our Nation's Economic Health* (Feb. 13, 2008).

stimulus more quickly, however, it directed the IRS to make payments as an advance against the credit “as rapidly as possible.”<sup>7</sup>

The IRS, which already was overextended trying to cope with an unusually challenging filing season, has managed both to deliver a successful filing season and to develop and implement plans to make stimulus payments to an estimated 130 million taxpayers in a remarkably short period of time. Because eligibility for a stimulus payment was dependent on a taxpayer’s 2007 income tax return filed during the 2008 filing season, the IRS could not reasonably process stimulus payments until after the regular April 15 filing deadline. On April 28 – less than two weeks after the regular filing deadline – the IRS began transmitting stimulus payments, and by May, the stimulus payments were widely credited with increasing consumer spending.<sup>8</sup>

The delivery of stimulus payments was a massive undertaking – in some ways akin to running a second filing season. Among other things:

- The IRS quickly developed programming code so that it could use the information reported on 2007 tax returns to determine which taxpayers were eligible for stimulus payments and how much they were entitled to receive.<sup>9</sup>
- The IRS developed a way to issue stimulus payments to taxpayers with no taxable income who filed their returns electronically. The Economic Stimulus Act provided that individuals with at least \$3,000 of “qualifying income,” notably Social Security benefits, would be eligible for stimulus payments even if they had no taxable income. However, the Act required all individuals to file tax returns to receive stimulus payments. Returns filed by individuals who have no tax-filing requirement and are seeking solely to claim their stimulus payments are referred to as “ESP-only” returns.

In planning to process ESP-only returns, the IRS discovered a significant systems limitation. Returns filed electronically must include at least \$1.00 of adjusted gross

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<sup>7</sup> IRC § 6428(g)(3).

<sup>8</sup> See Kelly Evans, *Stimulus Checks Aid Retail Sales*, Wall Street Journal, June 13, 2008, at A3 (noting that an unexpectedly sharp increase in retail sales during May suggests that “consumers spent a chunk of their government economic-stimulus checks” and quoting one economist as saying that the stimulus payments would act like a “shot of caffeine”); Michael M. Grynbaum, *Retail Sales Rise Above Forecasts*, N.Y. Times, June 13, 2008, at C1 (quoting an economist as saying: “The sharp improvement in May was clearly driven by receipt of the first wave of tax rebate payments. These payments will continue to be a positive factor for the consumer in the next couple of months.”); Martin Crutsinger, *Retail Sales Rise Unexpectedly in May*, Washington Post, June 13, 2008, at D4 (noting that the increase in retail sales “signaled that Americans are spending their rebate payments”).

<sup>9</sup> The programming challenges have been continuing. For example, the Economic Stimulus Act provides that no credit will be allowed if any person listed on a tax return (*i.e.*, the taxpayer, spouse, or any qualifying child) does not have a valid Social Security Number. IRC § 6428(h). The IRS had to do programming to implement that restriction. On June 17, however, the President signed into law H.R. 6081, the Heroes Earnings Assistance and Relief Tax (HEART) Act, which allows members of the military to receive stimulus payments even where the member’s spouse does not have an SSN. The IRS is having to do additional work to identify these taxpayers and ensure that they receive stimulus payments.

income (AGI) to be processed, but many Social Security recipients have no AGI. As a workaround, the IRS determined that it could process a return if a taxpayer lists \$1.00 of AGI, but if a taxpayer with no AGI were to list AGI of \$1.00, the taxpayer technically would be furnishing inaccurate information; taxpayers are required to sign a tax return under penalties of perjury and declare that, to the best of their knowledge and belief, all information on the return is “true, correct, and complete.” To resolve this conundrum, the Department of the Treasury and the IRS quickly issued guidance advising that taxpayers could list \$1.00 of AGI without violating the penalties of perjury statement for the purpose of claiming stimulus payments.<sup>10</sup>

- The IRS posted extensive information on its website, including straightforward Frequently Asked Questions (FAQs) and sub-pages tailored for five populations – Social Security recipients, Veterans Affairs recipients, Railroad Retirement recipients, low-wage workers, and military combat personnel.<sup>11</sup> As of June 11, individuals had made 55.6 million visits to the ESP portion of the IRS website and viewed 91.0 million pages (excluding use of the stimulus calculator described below).<sup>12</sup>
- The IRS mailed notices to more than 130 million taxpayers who filed 2006 tax returns to remind them that they would have to file 2007 returns to claim their stimulus payments.<sup>13</sup>
- The IRS mailed information packages to 20.5 million recipients of Social Security or Veterans benefits who did not file 2006 tax returns to provide them with information on how to claim their stimulus payments.<sup>14</sup>
- The IRS developed a stimulus calculator for its website so that taxpayers could quickly determine whether they qualify for a stimulus payment and, if so, estimate the amount. As of June 11, individuals had made 23.8 million visits to the website and viewed 150.6 million pages.<sup>15</sup>
- The IRS worked with the Free File Alliance to ensure that taxpayers who did not have a tax filing requirement but wanted to file ESP-only returns through e-file could do so without charge.<sup>16</sup>

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<sup>10</sup> Rev. Proc. 2008-21, 2008-12 I.R.B. 657.

<sup>11</sup> See Economic Stimulus Payments Information Center at [www.irs.gov](http://www.irs.gov).

<sup>12</sup> IRS Economic Stimulus Activity Report (June 17, 2008).

<sup>13</sup> See IRS Notice 1377.

<sup>14</sup> See IRS Package 1040A-3.

<sup>15</sup> IRS Economic Stimulus Activity Report (June 17, 2008).

<sup>16</sup> Not all members of the Free File Alliance offered this service. To date, approximately 7.7 million ESP-only returns have been filed, and only 708,1698 have been e-filed. Thus, about nine out of ten taxpayers filing ESP-only returns filed on paper. IRS Economic Stimulus Activity Report (June 17, 2008).

- The IRS transferred personnel from other functions to help answer the barrage of telephone calls it received. As of June 7, the IRS had received 26.7 million “net call attempts” related to stimulus payments.<sup>17</sup> Many calls could be addressed by automated responses and many calls did not get through, but assisters spoke with about 2.9 million taxpayers directly to respond to stimulus questions.<sup>18</sup>
- The IRS developed outreach initiatives and is continuing to reach out to senior citizens and other taxpayers without a filing requirement to encourage them to file ESP-only returns. As of June 14, 7.7 million such returns had been received.<sup>19</sup>
- The IRS organized a major “Super Saturday” event on March 29 to assist taxpayers in preparing ESP-only returns. IRS employees and IRS partners staffed some 700 walk-in sites, and IRS employees staffed the toll-free telephone line.<sup>20</sup>

By the end of last week, the IRS had paid out about \$63.9 billion to 76.5 million households.<sup>21</sup> The IRS projects that it will have paid out a total of \$99 billion by the end of 2008 and somewhat more during the 2009 filing season.<sup>22</sup>

Overall, this is an extraordinary success story. While the administration of the program has not been free from tradeoffs and occasional hitches, some of which I will discuss below, it is a testament to the IRS’s leadership and its talented and dedicated employees that it has been able to deliver the filing season and the stimulus program so effectively with so little time to prepare.

## **II. The IRS Has Had to Make Certain Tradeoffs to Administer the Program.**

In passing the Economic Stimulus Act, Congress gave the IRS a supplemental appropriation of \$202.1 million to administer the issuance of stimulus payments.<sup>23</sup> While the funding is certainly helpful, the IRS’s principal challenge was the lack of time to plan. In addition to all the programming and outreach the IRS has had to do, the IRS also has

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<sup>17</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments)* 866-234-2942 (week ending June 7, 2008).

<sup>18</sup> *Id.*

<sup>19</sup> IRS Economic Stimulus Activity Report (June 6, 2008).

<sup>20</sup> IRS Wage & Investment Division, *IRS puts its best face forward on Super Saturday*, Insider (available at [http://win.web.irs.gov/articles/2008/Super\\_Saturday.htm](http://win.web.irs.gov/articles/2008/Super_Saturday.htm) (last visited June 8, 2008)).

<sup>21</sup> Department of the Treasury News Release, *Week 7 Wrap-Up: Treasury Sent 9.526 Million Stimulus Payments This Week* (June 13, 2008).

<sup>22</sup> IRS Response to TAS Information Request (June 12, 2008).

<sup>23</sup> Economic Stimulus Act, Pub. L. No. 110-185, § 101(e)(1)(A)(ii) & (iii) (2008). Through June 5, the IRS had obligated \$138.2 million (\$121.7 million in Operations Support and \$16.5 million in Taxpayer Services), but this total does not include labor charges from the preceding 2-4 weeks. IRS Response to TAS Information Request (June 12, 2008). The IRS anticipates it may require additional resources due to higher than expected call volumes. *Id.*

received more than 26 million telephone calls and 316,000 visits to its walk-in sites relating solely to stimulus payments.<sup>24</sup>

Even with supplemental funding, there was not enough time for the IRS to hire, train, and deploy additional employees to answer the phones or staff the walk-in sites. The IRS therefore faced some difficult decisions. On the one hand, if it did not reassign employees from other functions to assist in answering the large spike in telephone calls, the LOS on the toll-free telephone lines would have declined by even more than it has. On the other hand, if the IRS did reassign employees from other functions, the core work those employees ordinarily perform would suffer. Inevitably, there was both a decline in the level of taxpayer service the IRS provides, particularly on its toll-free telephone lines, and a modest reduction in its enforcement activities.

**A. The IRS Has Been Unable to Keep Up with the Large Volume of Telephone Calls and Correspondence It Has Received.**

The IRS has received 94.4 million enterprise-wide “net call attempts” YTD (through June 7, 2008) as compared with 51.6 million “net call attempts” for the same period in 2007.<sup>25</sup> That reflects an enormous 83 percent increase. In percentage terms, the largest increases have occurred since the regular April 15 filing deadline. In the week ending June 7, for example, the IRS received 6.2 million call attempts compared with 1.6 million call attempts during the comparable week in 2007 – an increase of 279 percent.<sup>26</sup>

Despite the reassignment of employees from other functions and despite the IRS’s decision to extend the employment of temporary staff hired for the filing season, the IRS has been unable to keep up with the volume of calls. The enterprise-wide level of service (LOS) in 2008 stands at 62.8 percent YTD (through June 7) as compared with 80.6 percent in 2007 for the comparable period.<sup>27</sup> In the week ending June 7, the LOS stood at 42.9

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<sup>24</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments) 866-234-2942* (week ending June 7, 2008); IRS Economic Stimulus Activity Report (June 17, 2008).

<sup>25</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (week ending June 7, 2008). As noted in a prior footnote, the term “net call attempts” reflects official data that the IRS posts on its Joint Operations Center website to track the activity on its toll-free lines, but it is a term of art that generally understates the number of calls that taxpayers place in an attempt to reach the IRS. The IRS separately tracks “dialed number attempts,” a measure that reflects the number of times taxpayers have dialed the toll-free number and provides a more accurate measurement of what taxpayers experience. The IRS reports that it has received 135 million dialed number attempts in 2008 YTD (through June 7). IRS Response to TAS Information Request (June 16, 2008). On May 9, the peak day so far this year, the IRS received 4.7 million dialed number attempts.

<sup>26</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (week ending June 7, 2008).

<sup>27</sup> *Id.* The customer service representative (CSR) LOS measures the relative success rate of taxpayers that call for toll-free services seeking assistance from CSRs. Generally speaking, the CSR LOS is calculated by dividing the number of calls answered by CSRs by the total call attempts of callers attempting to reach the CSR queue. (Essentially, CSR LOS measures the percentage of customers who want to reach a CSR and who are successful.) Total call attempts is the sum of calls answered, calls abandoned by the caller, and calls that receive a busy signal. For more detail, see CAS Data Dictionary - FY 2008, at



percent – down from 76.8 percent in the comparable week last year.<sup>28</sup> Focusing solely on the 3.0 million calls to the Economic Stimulus Hotline during this recent week, the LOS was 30.4 percent.<sup>29</sup>

During some weeks, the volume of calls has been overwhelming. In mid May, the IRS enterprise-wide received particularly high call volumes – 9.5 million calls during the week ending May 10 (LOS = 34.3 percent) and 11.2 million calls during the week ending May 17 (LOS = 34.8 percent).<sup>30</sup> During the week of May 17, 6.6 million of the calls the IRS received related to stimulus rebates, and the LOS on that line fell to 26.3 percent.<sup>31</sup>

As described in footnote 27, the LOS generally measures the treatment of taxpayers that seek to speak with a customer service representative (CSR). However, the following chart shows the disposition of all taxpayer calls, including total number of calls received, the number and percentage of calls answered by a CSR, the number and percentage of calls answered by automation, and the percentage of calls not answered:<sup>32</sup>

	<b>Dialed Number Attempts</b>	<b>Assister Answered</b>	<b>Assister Answered Percentage</b>	<b>Automation Assisted</b>	<b>Automation Assisted Percentage</b>	<b>Unassisted Percentage</b>
<b>Enterprise 2008 YTD</b>	134,656,185	28,829,133	21.4%	29,598,595	22.0%	56.6%
<b>Enterprise 2007 YTD</b>	62,479,800	24,677,171	39.5%	13,379,589	21.4%	39.1%
<b>ESP Hotline YTD</b>	27,731,306	2,866,113	10.3%	16,798,968	60.6%	29.1%
<b>Enterprise 2008 Weekly</b>	8,657,146	1,193,032	13.8 %	2,099,177	24.2%	62.0%
<b>Enterprise 2007 Weekly</b>	2,442,566	898,378	36.8%	187,597	7.7%	55.5%
<b>ESP Hotline Weekly</b>	3,304,474	205,572	6.2%	1,770,631	53.6%	40.2%

<http://joc.enterprise.irs.gov/new/josh/reports/wits/2008/FY%202008%20PAC%202C%20Data%20Dictionary.doc>.

<sup>28</sup> *Id.*

<sup>29</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments) 866-234-2942* (week ending June 7, 2008).

<sup>30</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (weeks ending May 10, 2008 and May 17, 2008).

<sup>31</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: Rebate Hotline (Economic Stimulus Payments) 866-234-2942* (week ending May 17, 2008).

<sup>32</sup> This chart is compiled from IRS Joint Operations Center data. Data for 2008 is YTD through June 7, 2008 or for the week ending June 7, 2008. Data for 2007 is YTD through June 9, 2007 or for the week ending June 9, 2007. Some unassisted calls result when taxpayers hang up for a variety of reasons. Therefore, it is not the case that the unassisted percentage is entirely attributable to IRS limitations.

As this chart indicates, the percentage of calls that the IRS successfully addressed has fallen from 60.9 percent in 2007 to 43.4 percent in 2008 and the percentage of taxpayers assisted by a CSR has declined from 39.5 percent to 21.4 percent. These reductions are significant.

To assist with these call volumes, the IRS is relying on some employees from its Account Management and Automated Collection System (ACS) functions.

In Accounts Management, customer service representatives (CSRs) who work on account adjustments (including taxpayer correspondence, amended returns, responses to math error notices, and injured spouse claims) often shift between paper correspondence and assisting with the phones as needed. As the IRS has been forced to shift employees to help in answering the phones, the productivity of Accounts Management in processing taxpayer correspondence relating to adjustments has declined. As of June 7, 2008, the inventory of adjustments correspondence involving individual taxpayers stood at 647,674, as compared with 320,239 on the corresponding date in 2007 – an increase of 102 percent.<sup>33</sup> Of greater concern, the number of “uncontrolled” items of such correspondence stood at 22,156, as compared with 10,483 last year – an increase of 111 percent.<sup>34</sup>

ACS is the IRS’s automated collection system, and taxpayers who receive collection notices often seek to call the IRS to resolve problems before enforced collection action is taken. For that reason, it is critical that these taxpayers have an opportunity to get through to an IRS collection employee.

The need to staff the stimulus lines has led to a decline in the LOS on the ACS telephone lines.<sup>35</sup> The declines have been relatively modest YTD but have become more pronounced recently as stimulus calls have remained at high levels. The LOS on the ACS lines maintained by the Wage & Investment Division stands at 75.3 percent YTD and 60.9 percent for the week ending June 7 (as compared with 78.7 percent and 88.5 percent for the same periods in 2007).<sup>36</sup> The LOS on the ACS lines maintained by the Small Business/Self-Employed Division stands at 75.6 percent YTD and 71.6 percent for the week ending June 7 (as compared with 81.8 percent and 86.1 percent for the same periods in 2007).<sup>37</sup>

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<sup>33</sup> Internal Revenue Service, Joint Operations Center, *Customer Account Services Accounts Management Paper Inventory Reports: Weekly Enterprise Adjustments Inventory* (weeks ending June 7, 2008 and June 9, 2007).

<sup>34</sup> *Id.*

<sup>35</sup> There are 2,872 full-time equivalent employees (FTE) in the ACS function (1,545 in the Wage & Investment Division and 1,327 in the Small Business/Self-Employed Division). Through May, the IRS had shifted 116 FTE to answer ESP telephone calls and projects that it will shift another 80.1 FTE in June and July. IRS Response to TAS Information Request (June 13, 2008).

<sup>36</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: W&I ACS 800-829-7650* (week ending June 7, 2008).

<sup>37</sup> Internal Revenue Service, Joint Operations Center, *Snapshot Reports: Product Line Detail: SB/SE ACS 800-829-3903* (week ending June 7, 2008).

The IRS projects that it will receive an additional 6.6 million stimulus-related calls from June through September.<sup>38</sup> Because the IRS received 3.0 million calls during the first week of June alone, that projection may need to be reevaluated.

**B. The Reduction in Level of Service on the Phones and Delays in Processing Correspondence Can Harm Taxpayers and Potentially Erode Compliance.**

While I understand that the overriding goal of the stimulus legislation was to put money into the hands of U.S. households as quickly as possible and the IRS was a logical agency to administer the program, I am concerned by the sharp reduction in the IRS's ability to answer calls from taxpayers and timely process taxpayer correspondence.

The declines in the level of service on both the Accounts Management and the ACS telephone lines and the increasing inventories of unaddressed correspondence and other submissions are not mere statistics. These declines have real, negative impact on taxpayers, increasing their compliance burden. For example, a taxpayer who cannot get through to the IRS to negotiate an installment agreement may instead find his paycheck levied – unnecessarily. A taxpayer who is under audit and submits documentation may receive a statutory notice of deficiency because the IRS did not process the correspondence or amended returns timely. Thus, the taxpayer will incur additional expense and burden by having to file a petition with the United States Tax Court or request an audit reconsideration.

From a broader policy perspective, maintaining a high level of taxpayer service is crucial to tax administration. First, it is a basic obligation of the government. If we are requiring taxpayers to pay a large percentage of their incomes to the government, the least we can do is make it as easy as possible for taxpayers to comply. When taxpayers cannot get through to the IRS, they get frustrated, and the experience leaves them with a negative impression of their government. Moreover, when a taxpayer is facing enforcement action and either believes the action is unwarranted or wishes to talk with an IRS employee to try to work out a payment arrangement, it is absolutely critical that the taxpayer be able to reach an employee.

Second, the inability of the IRS to respond adequately to taxpayers creates disillusionment and may, in the long term, reduce compliance by angry and frustrated taxpayers.

In this instance, the congressional objective of providing immediate economic stimulus likely outweighed the consequences I have described. But it is important to keep in mind that there have, in fact, been trade-offs, and some things will fall through the cracks if the IRS is simultaneously asked to run a filing season and administer a stimulus program of this magnitude on short notice.

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<sup>38</sup> IRS Response to TAS Information Request (June 13, 2008).

**C. The IRS Projects That Its Administration of the ESP Program Will Reduce Collections Slightly.**

Because the IRS has reassigned employees from ACS to assist in administering the stimulus payments, the IRS estimates that the loss in collection revenue will be approximately \$565 million.<sup>39</sup> In FY 2007, for comparison, IRS net collections totaled \$2.4 trillion,<sup>40</sup> and IRS enforcement revenue totaled \$59.2 billion.<sup>41</sup>

**III. There Have Been Glitches and Taxpayer Frustrations, but They Have Been Minor and Relatively Few.**

During the administration of the stimulus program, the IRS has encountered a few problems and taxpayers have experienced a few additional sources of frustration that are not attributable to IRS errors.

As discussed above, the largest source of taxpayer frustration has been the difficulty of reaching an IRS telephone assistor on the toll-free lines. I will discuss other issues below.

As an initial matter, I note that the IRS reports it has not detected significant problems involving identity theft (*e.g.*, the misuse of another person's Social Security number) with the stimulus program. Particularly because millions of individuals filing ESP-only returns have not filed tax returns for a number of years, there was concern that upon filing, some taxpayers would discover that someone else had been filing returns using their SSN, causing the IRS to freeze the stimulus payment. In response to these concerns, the IRS reports that it established a specialized unit to analyze ESP-only returns for the purpose of identifying potential identify theft-related problems. The IRS reports that it has identified only 25 instances of potential identity theft to date.<sup>42</sup> While this report is encouraging, I remain concerned that the IRS does not have a comprehensive means to identify and track all cases of identity theft. The Federal Trade Commission (FTC) has reportedly received approximately 150 complaints about identity theft problems relating to stimulus payments, and a quick survey of TAS's Local Taxpayer Advocates about stimulus-related problems turned up 13 cases. Neither the FTC nor TAS complaints have been validated, but they do suggest that the universe of ESP identity theft-related cases is likely to be somewhat larger than the current IRS data suggest. I will continue to monitor identity theft problems arising in the context of the stimulus program.

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<sup>39</sup> *Id.* According to IRS data, ACS collections are 35.0 percent lower in May 2008 as compared with May 2007. IRS Collection Activity Reports 5000-1 and 5000-2.

<sup>40</sup> IRS Data Book: 2007, Table 1.

<sup>41</sup> IRS Fiscal Year 2007 Enforcement and Services Results (accompanying chart) (available on the IRS website).

<sup>42</sup> IRS Response to TAS Information Request (June 13, 2008).

**A. In About 350,000 Cases, Taxpayers Have Not Received Additional Stimulus Payments of \$300 Per Child to Which They Are Entitled.**

Under the Economic Stimulus Act, a taxpayer is entitled to receive an additional payment of \$300 for each dependent who is a “qualifying child.”<sup>43</sup> Thus, for example, a couple that has four children and files a joint return may be entitled to a total stimulus payment of \$2,400 (*i.e.*, \$1,200 plus \$300 for each of four qualifying children).

On Forms 1040 and 1040A, IRS programming code looks to whether the Child Tax Credit checkbox on line 6c, column (4) is checked to determine whether to allow the additional \$300 credit. On approximately 350,000 returns, this box was not checked even though the taxpayer was entitled to an additional payment with respect to one or more children.

The IRS reports that there were two sources of this problem. First, some taxpayers who prepared their returns on paper did not check the box. Second, two tax software products used primarily by tax professionals were not properly programmed to check the box.

The IRS reports that it will be able to identify returns where a taxpayer had a qualifying child but did not check the box and that it will send paper checks to the affected taxpayers beginning immediately after the regularly scheduled payment of stimulus checks ends in July.<sup>44</sup>

**B. Approximately 1,500 Stimulus Payments Were Transmitted into Wrong Bank Accounts and Personally Identifiable Information Was Compromised.**

On May 15, *Newsday* reported that some stimulus payments were deposited electronically into the wrong taxpayers’ bank accounts. The article said that one taxpayer reported receiving a deposit of \$1,800 bearing another taxpayer’s SSN.<sup>45</sup>

The IRS has acknowledged that a programming error caused 1,500 stimulus direct deposits to be transmitted to incorrect bank accounts and that Social Security numbers were transmitted along with the payments.

The IRS reports that it quickly corrected the problem and that no additional erroneous deposits have been made.

According to the IRS, almost all taxpayers who should have received their payments electronically have since been sent checks. The remaining taxpayers will receive their checks within the next few weeks. The banks have returned approximately 250 of the erroneous deposits to date, and the IRS is seeking to recover the remaining erroneously transmitted funds.

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<sup>43</sup> IRC § 6428(b)(1)(B) (adopting the definition of a “qualifying child” in IRC § 24(c)).

<sup>44</sup> Statement issued by IRS Office of Media Relations (unpublished).

<sup>45</sup> Carol Polsky, *IRS: Some Stimulus Checks Misrouted*, *Newsday*, May 15, 2008 at A18.

The IRS reports that it is also determining whether to provide the taxpayers whose SSNs were exposed with a credit monitoring service.<sup>46</sup>

**C. Up to 22,000 Taxpayers May Have Received a Notice Containing Information About a Different Taxpayer's Stimulus Payment.**

The IRS is sending a notice, CP 1378, to all confirmed recipients of stimulus payments to explain how the amount of their stimulus payment has been calculated. The IRS reports that in up to about 22,000 cases, the first page of the notice contained information for one taxpayer while the second page carried information for a different taxpayer. These notices contained truncated SSNs on the first page, and no personally identifiable information on the second page.<sup>47</sup>

The IRS reports that it has received slightly more than 200 inquiries thus far, a relatively low number which could indicate that not all 22,000 notices were mailed in error. It reports that it cannot determine the exact number.

The IRS reports that the problem was attributable to an error by a print vendor and was limited to one printer at one site.<sup>48</sup> The vendor will issue corrected notices with the following explanation of the error:

*Due to an error by the print vendor, your original notice may have included information regarding another taxpayer's stimulus payment. To ensure you receive the originally intended information for you, we are resending this notice. We apologize for any inconvenience this may have caused.*

The IRS's Privacy, Information Protection, and Data Security Advisory Committee was notified of a data breach with respect to the taxpayers affected by the CP 1378 print problem. The committee agreed unanimously that the level of risk of identity theft posed by the erroneous mailing did not rise to the level requiring data loss notification and the invocation of credit monitoring and other services. The committee reached a consensus that the corrected notice with the apology statement quoted above is sufficient notice to these taxpayers about the incident.<sup>49</sup>

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<sup>46</sup> IRS Response to TAS Information Request (June 13, 2008).

<sup>47</sup> *Id.*; see also Diane Freda, *Tax Refunds: IRS Investigates Economic Stimulus Payments After Statements Mailed to Wrong People*, BNA Daily Tax Report (May 16, 2008).

<sup>48</sup> IRS Response to TAS Information Request (June 13, 2008). The IRS provided the following additional explanation:

The error was made during a 15-minute run in which the printer feeder was, at times, pulling two pages through. The quality control employee responsible for checking runs at certain intervals did not pull the six samples he should have at the beginning of the new run. The mistake was discovered when the machine went down for another reason and a sample was pulled at that point. The CEO took immediate and decisive action, and he also made changes to the quality review process. They are now using two quality reviewers instead of one, and quality review is taking place at 15-minute intervals instead of 30-minute intervals.

<sup>49</sup> *Id.*

**D. More Than 20 Million Taxpayers Who Purchased RALs or RACs Must Wait Up to 2-1/2 Months Longer Than Other Taxpayers to Receive Their Stimulus Payments.**

As of June 10, the IRS reports that 9.9 million taxpayers have purchased refund anticipation loans and 10.5 million taxpayers have purchased refund anticipation checks in 2008.<sup>50</sup> When a taxpayer purchases either of these products, a temporary bank account is created in the taxpayer's name and the taxpayer's refund is paid into that account, but the taxpayer does not control the account.

In general, the IRS is issuing stimulus payments electronically if bank account routing information appears on the taxpayer's 2007 tax return. Because RAL and RAC accounts are temporary and not controlled by the taxpayer, however, stimulus payments deposited into those accounts would not reach the taxpayer. Fortunately, the IRS receives an electronic indicator when a RAL or RAC is associated with a return, and the IRS was able to program its systems to send paper checks to all taxpayers whose 2007 returns were accompanied by one of the indicators.<sup>51</sup>

These taxpayers are receiving their stimulus payments according to the schedule established for the issuance of paper checks – with some coming as late as mid July – instead of receiving their stimulus payments electronically in May. Thus, more than 20 million taxpayers who purchased RALs and RACs must wait up to 2-1/2 months longer to receive their stimulus payments than taxpayers who did not purchase those products.

Some taxpayers who purchased RALs or RACs have complained that their preparer or software vendor did not inform them that their stimulus payments would be delayed. While these delays are not attributable to IRS error, I understand the frustration these taxpayers are experiencing, and I believe this is one reason among many why RALs and RACs are not a good choice for most taxpayers.<sup>52</sup>

**E. The IRS Has Deployed a “Where’s My Stimulus Payment?” Application on Its Website But Its Usefulness Is Limited and May Be Contributing to More Telephone Calls.**

For several years, the IRS website has provided an automated self-service application known as “Where’s My Refund?” that allows taxpayers to check on the status of their

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<sup>50</sup> IRS Response to TAS Information Request (June 12, 2008).

<sup>51</sup> In February, one tax-preparation company notified the IRS that it had failed to include RAL indicators on approximately 450,000 electronically filed returns. The company and the bank providing the RALs were able to provide the routing transit numbers (RTNs) used for the RALs. The company provided this information early enough so that the IRS was able to include in its programming a requirement to convert returns bearing those RTNs to paper checks. The IRS reports that the taxpayers whose returns were involved generally did not experience delay in receiving their stimulus payments. IRS Response to TAS Information Request (June 13, 2008).

<sup>52</sup> These problems also demonstrate why the IRS should develop plans to deliver tax refunds via Treasury-issued debit cards, as Treasury is doing currently for Social Security payments. See Lori Montgomery, *Treasury Dept. Rolling Out Social Security Debit Card*, Washington Post, June 10, 2008, at D3.

refunds within days of submitting their returns. In an effort to assist taxpayers and reduce the volume of telephone inquiries regarding stimulus payments, the IRS developed an application known as “Where’s My Stimulus Payment?” However, the IRS has told us that the data source that populates the application is updated at the time the stimulus payment is processed. As a consequence, the IRS acknowledges that “Where’s My Stimulus Payment?” may not reflect electronic payments until after the funds have been deposited into the taxpayer’s bank account.<sup>53</sup>

Because of the ease with which taxpayers may access “Where’s My Stimulus Payment?” and the uncertainty many taxpayers inevitably feel when they find no information, it is possible that this application may inadvertently be causing confusion and thereby increasing call volumes. The IRS is encouraging taxpayers to use its website to obtain information on stimulus payments, but when they try, they often cannot get the information they are looking for, and this uncertainty likely drives them to use the toll-free telephone lines. The IRS should review this application and identify improvements that can eliminate or minimize this downstream impact for future initiatives.

#### **F. Local Taxpayer Advocates Report That Taxpayers Are Encountering Some Difficulties in Obtaining Their Economic Stimulus Payments.**

A recent informal survey of Local Taxpayer Advocates has identified a number of issues that have resulted in incorrect, delayed, or unexpectedly reduced economic stimulus payments and may lead to increased IRS and Taxpayer Advocate Service (TAS) telephone volumes. The most common request for TAS assistance regarding ESPs is the taxpayer’s need for an expedited refund. Generally, taxpayers who are experiencing a hardship can request a “manual refund” or “offset bypass refund” (OBR).<sup>54</sup> A manual refund speeds up the process by which a taxpayer receives his or her refund. An OBR permits a taxpayer’s refund to bypass any outstanding tax liability.<sup>55</sup>

As both a policy and practical matter, the IRS decided not to allow manual refunds or offset bypasses for ESPs except in certain limited circumstances.<sup>56</sup> Thus, when taxpayers experiencing hardships call the IRS or TAS for an expedited stimulus payment or because they have not received their payment when or as expected, their hopes are dashed when they learn that their stimulus payment cannot be expedited or will offset a back tax debt. For some taxpayers who received manual (hardship) direct deposit refunds for their 2007 returns, the IRS systems may delay their ESP longer than projected because of holds on

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<sup>53</sup> IRS Response to TAS Information Request (June 13, 2008).

<sup>54</sup> IRM 21.4.6.5.12.1 (March 19, 2008).

<sup>55</sup> If a taxpayer claims a refund on his regular income tax return but the taxpayer also owes federal taxes for another tax period or tax type, the refund may be offset against the outstanding tax liability. IRC § 6402(a). However, when the taxpayer can demonstrate that failure to receive the refund will cause a hardship, the IRS can implement an “offset bypass” and issue a “manual refund” (*i.e.*, override the automated offset process). IRM 21.4.6.5.12.1 (March 19, 2008).

<sup>56</sup> The IRS will issue a manual refund or OBR on a stimulus payment when the IRS has placed a freeze on the taxpayer’s return, such as when the return is identified by the Questionable Refund Program, in identity theft situations, or when duplicate returns have been filed. IRM 21.6.3.6.6.3 (May 14, 2008).



their accounts following the manual refund. The IRS's failure to adequately publicize or explain the offset rule leads to taxpayer confusion and frustration as well as increased taxpayer calls. It is not clear whether, with additional lead time, the IRS could have identified a way to allow for ESP manual refunds or OBRs in hardship situations.

Local Taxpayer Advocates also reported that the processing of Injured Spouse claims has delayed ESPs.<sup>57</sup> They note that the disbursement of payments is inconsistent when one spouse on a Married Filing Joint return claims Injured Spouse status. In some instances, although IRS systems showed the "Injured Spouse" indicator for that return which should have resulted in a 50-50 split of the ESP (with one-half offset to the debtor spouse's IRS debt and one-half issued to the non-debtor spouse), the full amount of the ESP was offset and applied to the debtor spouse's IRS debt. In other instances, the full amount of the ESP was issued in two checks even though there was an existing IRS debt for the primary spouse.

TAS identified other instances in which taxpayers have encountered problems obtaining their stimulus payments because the law or systems prevent it:

- Taxpayers whose 2007 accounts are "frozen" will not receive their stimulus payments according to the published schedule.
- A taxpayer's stimulus payment will be delayed when the name and SSN of one spouse do not match Social Security records. This situation commonly occurs when a spouse has changed his or her name as a result of a change in marital status but has not notified the Social Security Administration of that change. In normal tax return processing, the IRS can correct its records by looking at its own data and process the return. Under the ESP initiative, however, these taxpayers have no recourse other than claiming a credit on a 2008 return with a valid name and SSN match.
- Taxpayers who receive supplemental security income (SSI) and have no adjusted gross income are not eligible to receive stimulus payments, yet due to confusion, some have filed ESP-only returns and are now wondering why they have not received their payments.

Many Local Taxpayer Advocates noted that the influx of calls to TAS offices was in part the result of IRS and other publicity focusing on the maximum amount of the stimulus payment and the schedule of payments, without highlighting the exceptions to the schedule or the different levels of payments. One exception in particular caused confusion – taxpayers who filed *on* April 15 would not have payments issued according to the published schedule. The IRS did not make sufficiently clear that returns had to be *processed by* April 15 for taxpayers to receive payments according to the schedule.

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<sup>57</sup> Injured Spouse is a process by which a non-debtor spouse informs the IRS, via Form 8379, *Injured Spouse Allocation*, that the portion of a tax refund attributable to the non-debtor spouse should not be offset against the debtor spouse's tax liability. See IRM 21.4.6.5.9 (Oct. 1, 2007).

#### **IV. ESP Outreach Poses Many Challenges to the IRS and Its Stakeholders.**

The Economic Stimulus Act payments are based on a simple premise – get money out to taxpayers and certain other individuals quickly to stimulate the economy. The details of the eligibility for payment, application for payment, and method of payment delivery, however, are anything but simple. These complexities make it extremely difficult for the IRS and its stakeholders to craft a clear, comprehensible, and succinct communications campaign. Indeed, when I taped a video message early in the filing season presenting information that I believed taxpayers needed to know about ESPs, the video (a “TAScast”) ran more than seven minutes long.<sup>58</sup>

An effective outreach and education strategy is especially critical for the estimated 20.5 million individuals who have no tax return filing requirement yet receive Social Security or Veterans Affairs benefits. These individuals must take an affirmative step to receive their stimulus payments – *i.e.*, they must file a tax return. Communicating with this population presents a significant challenge, given the complications of age and disability. While the IRS, TAS, and our stakeholders have taken some effective steps and certainly can do more in this regard, the ESP requirements are so complex that no amount of communication by the IRS will reach all 20.5 million individuals, and even when the message is delivered, it may not be accurately understood. For the reasons outlined in the following discussion, it may be that the IRS is not the appropriate agency to deliver payments to special populations who otherwise would have no contact with the IRS.

##### **A. The IRS’s General Communications Strategy Is a Good Starting Point for More Specific Outreach Initiatives.**

The IRS began developing an outreach and communications plan as soon as it learned of a potential economic stimulus package.<sup>59</sup> This plan set out IRS outreach in four phases:

1. 2008 Filing Season Efforts (through April 15): “Getting the Word Out Far and Wide”;
2. Post-April 15 Efforts (April 15 – June): “It’s Not Too Late to File for ESP”;
3. Community Focused Campaigns (June – August): “Enriching the Economy”; and
4. Pre-October 15 Efforts (September – October 15): “Don’t Let ESP Pass You By.”<sup>60</sup>

In implementing this strategy, the IRS developed press releases, an extensive website, FAQs, and sub-pages for targeted populations. It worked through its external partners, such as the National Governors Association, the National Council on Aging, the American Association of Retired Persons, and Catholic Charities. The IRS developed multi-staged

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<sup>58</sup> See [http://www.tax-toolkit.com/Video\\_Tax\\_Help.cfm](http://www.tax-toolkit.com/Video_Tax_Help.cfm).

<sup>59</sup> IRS Wage & Investment Division (Customer Assistance, Relationships and Education), *FY 2008 Economic Stimulus Payments (ESP) Outreach Campaign* (April 24, 2008).

<sup>60</sup> *Id.*

mailings to taxpayers who filed their 2006 returns and to taxpayers who received Social Security or Veterans Affairs benefits but did not have a 2006 filing requirement. The mailings to Social Security and Veterans Affairs beneficiaries described the steps individuals should take to receive stimulus payments and included a Form 1040A and instructions.

On March 29, 2008, IRS Taxpayer Assistance Centers (TACs) around the country hosted a “Super Saturday” where IRS employees, including TAS employees, helped taxpayers otherwise without a tax-filing requirement to complete their “ESP-only” returns on Forms 1040A. The IRS and its partners ran approximately 700 Super Saturday sites nationwide. In addition, IRS Accounts Management and ACS employees staffed toll-free phone lines to answer taxpayers’ ESP-related questions.<sup>61</sup>

During the filing season, TACs were open for extended hours on several Saturdays. For the post-April 15 phase, the IRS plans to keep the TACs fully operational, Monday through Friday from 8:30 AM to 4:30 PM, and to continue to assist customers with ESP applications as well as offer free return preparation assistance to individuals and families whose income is \$40,000 or less. The IRS states that no advance appointment is required for preparation of ESP-only returns.<sup>62</sup> Moreover, TAS was informed that 67 “partners” (mostly or all VITA sites) in 21 states have scheduled ESP tax preparation activities beyond June 16. While these partner activities are helpful, these sites do not have a national scope. For example, there are just two sites in the State of New York (Jamaica and Kingston), with none in Manhattan.<sup>63</sup>

In addition to these national scope activities, IRS Stakeholder Partnerships, Education and Communication (SPEC) and Government Liaison employees have organized many local outreach sessions with stakeholders and congressional offices. TAS employees also participated in these activities.

#### **B. The Taxpayer Advocate Service Has Partnered with Local IRS Personnel and Initiated Grassroots Outreach.**

The Taxpayer Advocate Service’s public information, education, and outreach efforts have also helped to improve public awareness. When President Bush signed the Economic Stimulus Act of 2008 into law in February, our Local Taxpayer Advocates (LTAs) were in Washington, DC, delivering the National Taxpayer Advocate’s 2007 Annual Report to Congress to their congressional offices. We immediately provided the LTAs with ESP talking points that enabled them to address questions from congressional staffs. The LTAs continued their outreach in the weeks that followed, supporting congressional offices and the IRS’s Governmental Liaison staff at ESP events and working with other IRS functions and local organizations to inform taxpayers about stimulus payments. Because all LTAs

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<sup>61</sup> IRS Wage & Investment Division, *IRS puts its best face forward on Super Saturday*, Insider (available at [http://win.web.irs.gov/articles/2008/Super\\_Saturday.htm](http://win.web.irs.gov/articles/2008/Super_Saturday.htm) (last visited June 8, 2008)).

<sup>62</sup> IRS Response to TAS Information Request (June 13, 2008).

<sup>63</sup> Email from SPEC Senior Communications Analyst to TAS Senior Program Analyst (June 11, 2008) (email on file with the Taxpayer Advocate Service).

are required to conduct 40 grassroots outreach events every year, the foundation for this initiative was already in place.<sup>64</sup>

TAS moved quickly to bring the Low Income Taxpayer Clinics (LITCs) into the ESP outreach process. On March 6, TAS hosted a nationwide conference call on ESP issues for LITCs, and IRS representatives from the Office of Chief Counsel, Communications and Liaison, and the Wage and Investment Division's Customer Assistance, Relationships, and Education (CARE) organization participated. This gave approximately 100 LITC participants an opportunity to bring specific questions the clinics had encountered in working with taxpayers to the attention of the IRS.

TAS also collected and provided the IRS with comments from both the LITCs and Taxpayer Advocacy Panel members on an early draft of the Form 1040A-3 information package for the ESP-only population. TAS created an Economic Stimulus page on its public website<sup>65</sup> and provided an e-mail address to the LITCs to pose questions. As part of this coordinated approach, with the goal of using all the tools at hand, I recorded a "TAScast" video message for the ESP-only population. TAS placed this video on its three external "toolkit" websites and marketed it through YouTube.<sup>66</sup> Additionally, we placed an IRS video (in English and Spanish) for Social Security and Veterans Affairs benefits' recipients and an American Sign Language video on our Tax Literacy Toolkit.

Local Taxpayer Advocates have participated in many of the IRS initiatives and conducted their own outreach through their grassroots contacts. In Philadelphia, TAS participated in several "Senior Expos" sponsored by local and state representatives, providing general and specific information about the ESP program. Detroit TAS participated in a webcast with a local television station. In Mississippi, TAS provided information to employees of the Jackson Senior Service Division regarding the stimulus payments. These employees in turn provided information to the senior-citizen homes and other senior-citizen groups throughout the city.

Low Income Taxpayer Clinics also are doing their share of ESP outreach and education. Clinics have conducted outreach presentations at elderly and disabled low income housing facilities in New Hampshire, given interviews on local Spanish language television stations in Central California, made presentations to local senior centers and English as a second language (ESL) classes in Arkansas, conducted outreach to a foster grandparents association and an independent living service organization in Richmond, Virginia, and participated in many other activities throughout the United States in partnership with VITA sites and other nonprofit organizations.

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<sup>64</sup> Taxpayer Advocate Service, *FY 2008 Operational Priorities*, TAS-13.1-1007-002, Attachment 1 (Nov. 2, 2007), at 20.

<sup>65</sup> Taxpayer Advocate Service, *Economic Stimulus Payments*, at <http://www.irs.gov/advocate/article/0,,id=179751,00.html>.

<sup>66</sup> The websites include the Tax Literacy Toolkit at <http://www.tax-toolkit.com/Welcome.cfm>, the Electronic Press Kit at <http://www.irs-tas.com>, and the Advocate Toolkit, which is primarily a resource for LTAs, at <http://advocatetoolkit.com>.

### **C. Barriers to Obtaining Participation of Social Security and Veterans Affairs Beneficiaries Present a Challenge to the IRS.**

As noted above, the IRS developed a special 1040A package that it sent to about 20.5 million Social Security and Veterans Affairs beneficiaries who did not file tax returns for 2006. To date, approximately 7.7 million of these individuals have filed 2007 returns.<sup>67</sup> The IRS is planning to send another notice to those taxpayers who have not yet filed. This second notice will be identical to the first, except that it will incorporate some visual improvements, including a larger font size for the notice itself and an easier-to-read font color. The accompanying Form 1040A return will not be in a larger font.

Notwithstanding the efforts of the IRS, TAS, and outside groups to reach this population, there are major challenges to achieving a significant participation rate. In addition to the fundamental complexity of the program, challenges include the following:

- Some senior citizens may view filing a return as requiring too much effort for \$300.
- This population may lack Internet access or may be uncomfortable obtaining tax information from the Internet.
- This population may lack the mobility necessary to obtain assistance in applying for the ESP.
- Members of this population may be incapacitated and under the care of guardians, conservators, or nursing homes and hospitals.
- The return preparation cost may be too great and they may not know how to obtain free return preparation.
- Individuals who have not had contact with the IRS for years may be unwilling to start filing with the IRS, for fear of losing government benefits or because of a more generalized fear about contact with a federal enforcement agency.
- Confusing messages, conflicting information, not enough information, or too much information can all discourage participation.

The following is an email I received from the Director of a Low Income Taxpayer Clinic in the Midwest, which illustrates some of the confusion relating to the ESP program:

Communications about the ESP was TERRIBLE. Taxpayers received too much information – much of it incorrect – from too many places. Taxpayers were just confused and overburdened with information – from local and national news programs to local and national TV commercials there was information (misinformation) on ESP. There is going to be a lot of duplicate filings of the 1040A (ESP) and it is not “fraud” it is just “misunderstanding” by the individuals

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<sup>67</sup> IRS Economic Activity Stimulus Report (June 17, 2008).

filing these returns. We have already been asked to participate in many regional news programs to answer taxpayers questions about why people have not received their ESP based upon the timeline on IRS.gov and why EVERYONE is NOT receiving \$600 for themselves and \$300 for all of their dependents.

We heard from many Social Security/Disability recipients who filed a tax return for 2007 in February, prior to the Social Security Administration mailing, thinking they also had to send in the 1040A to receive their ESP. Even though the mailing sent to them by the Social Security Administration said at the top that they did not have to file if they had already filed a 2007 tax return they either could not or did not read this message or they were just afraid they would not get the ESP unless they filed the form they received in the mail.

The individuals who are having to file for the ESP **only** are not the most “sophisticated” of taxpayers. Many have not filed a tax return in many years due to their age. They just do not understand the process. We had (and are still having) numerous calls from VITA/TCE clients in our area thinking the VITA/TCE preparer made a mistake because the VITA/TCE site filed their ESP online or on a “white form” while the color of the paper of the form they received in the mail was pink. Many of these VITA/TCE clients wanted to know if it was alright that they had copied the information from the “white” copy given to them by the VITA/TCE volunteer to the pink paper return. When asked if the “white” form had already been filed they answered either yes or I don’t know for sure. Even when we told them the “white” form that had been filed would work, many told us they were going to go ahead and mail the pink form because they wanted to be sure they received their money.

People still do not understand the \$ amount they are receiving and or why. There was too much media raising individuals expectation that everyone would receive \$600 and \$300 for their dependents. I have had a local “diamond” outlet’s commercial repeated to me many times as “proof” they were suppose to receive \$600 for themselves and \$300 for their dependents. The common comment is “It is you and the IRS who do not understand the amount I should have received, don’t you listen to TV, etc.”<sup>68</sup>

Given the message saturation and confusion described in the email above, coupled with the characteristics of the target population, is it any wonder that the IRS’s phone lines have been swamped and that millions of eligible individuals have not yet filed?

## **V. Some Modest Suggestions for Future Initiatives**

One lesson to be learned from this year’s ESP initiative is that message saturation creates taxpayer confusion and causes unnecessary work for the IRS. Although a saturation campaign certainly gets the word out about a program, the owners of the campaign quickly

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<sup>68</sup> Email from the Director of a Low Income Taxpayer Clinic (email on file with the Taxpayer Advocate Service).

lose control of the message. Thus, advertising by diamond merchants, department stores, auto dealers, and electronics stores enticing taxpayers to spend stimulus payments on their products reinforce an inaccurate message. Taxpayers come to expect the maximum stimulus payment amount and don't understand the exceptions. This uncertainty and its consequences can even defeat the underlying purpose of the stimulus payments. Although taxpayers may spend more – either on credit or with savings – in anticipation of their stimulus payments, they may end up financially harmed if they do not receive all or part of the payment they are expecting and go into debt. The problems with a saturation message campaign are compounded if the design of the program itself is so complex that it takes twenty pages of Frequently Asked Questions and a seven minute podcast to explain it. If Congress decides to enact another ESP, it should consider how to simplify the eligibility rules so that they lend themselves to easy communication. Such simplification may mean that some individuals receive more or less than they might under the current ESP, but this trade-off for clarity would be well worth it.

A second lesson is that when an initiative targets a population that does not otherwise have contact with the IRS, it may be better to utilize another federal agency for payment delivery. The 20.5 million Social Security and Veterans Affairs beneficiaries all receive payments from those agencies, and many of those payments are directly deposited into bank accounts. Why not find a way to let those agencies make stimulus payments to individuals without a tax filing requirement instead of requiring them to file ESP-only returns and having the IRS then send them paper checks? The Social Security Administration and the Treasury Department recently announced the availability of a no-fee debit card on which unbanked Social Security recipients may receive their benefits.<sup>69</sup> Why not download the value of the stimulus payments onto such cards?

Third, where there are no better alternatives than for the IRS to deliver such payments, the IRS and other federal agencies could cooperate to determine the exact payments to these special populations and the best method for delivering them. The ESP could be designed so that the IRS, the Social Security Administration, and the Department of Veterans Affairs work together to identify which beneficiaries do not have a filing requirement but have at least \$3,000 in benefits. Why force these individuals to file a tax return? Why not authorize the agencies to determine eligibility based on available information?<sup>70</sup> Moreover, once the IRS determines eligibility and the amount of payment, the IRS itself should develop the ability to utilize no-fee debit cards to deliver stimulus payments (and all tax refunds).

Fourth, I note that one of the circumstances that made the ESP initiative so challenging was the short timeframe the IRS had from the time the bill was enacted until the time the first ESP was scheduled to go out to taxpayers. The IRS found itself scrambling to work

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<sup>69</sup> The Department of the Treasury estimates that by converting the 10.5 million people who still receive paper Social Security checks once a month to electronic payments, the federal government could save up to \$42 million a year. Lori Montgomery, *Treasury Dept. Rolling Out Social Security Debit Card*, Washington Post, June 10, 2008, at D3.

<sup>70</sup> It is our understanding that this approach was adopted with the current ESP program in Puerto Rico and Guam.

out the logistics, such as developing an outreach strategy and materials, anticipating taxpayer questions, and strategizing about the best way to get answers to these questions to the public. Although the ESP program may seem like a one-time occurrence, the IRS often faces unanticipated events, including natural disasters, that affect taxpayers and their ability to comply with their tax obligations, thereby requiring special rules, procedures, and outreach. Instead of scrambling to address the unexpected, the IRS should be able to plan for it.

There are several concrete steps the IRS can take to prepare for the next unanticipated event, whether it is a congressionally mandated program or a Presidentially declared disaster. Although the IRS has an internal Disaster Readiness Group, I recommend that its mission be expanded and that the IRS create a larger and more diverse emergency readiness group of external partners from which it can solicit feedback on its outreach efforts. The emergency readiness group should be active and available all year, ready to provide guidance on the most effective way to communicate with taxpayers, especially groups such as the Limited English Proficiency population, the elderly, and people with disabilities. The group should include representatives from tax professionals associations, state governments, LITCs, the Taxpayer Advocacy Panel, the National Disability Institute and other SPEC stakeholders.

Fifth, for the IRS to implement emergency programs, it must maintain a workforce at sufficient levels to accommodate these demands without compromising its service levels or throwing its modernization efforts off course. Therefore, Congress should provide the IRS with funding to maintain a cadre of employees – whether they be seasonal or permanent – to address these situations and programmers who can work on these projects so that the IRS does not fall behind on its core business systems improvements. The internal cadre should conduct reviews after each unanticipated event to incorporate lessons learned and improvements into its standard operating procedures. Moreover, where glitches such as those with manual or offset bypass refunds or injured spouse are identified, the cadre can work on solutions in the downtime between events.

Finally, the communications challenges posed by the ESP initiative have made the need for a cognitive learning lab even more compelling.<sup>71</sup> In-depth research on how taxpayers learn and respond to communications would provide the IRS with important tools to enable it to educate taxpayers and increase responsiveness more effectively. The IRS could use the information gained from the cognitive lab to better tailor outreach strategies for unexpected events to meet the diverse needs of the tax population. We do not need to wait for a disaster or an unexpected initiative to learn about our diverse taxpayer base, nor should we. The IRS needs to go beyond mere demographics and begin to develop a more comprehensive understanding of its taxpayers now.

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<sup>71</sup> See National Taxpayer Advocate 2007 Annual Report to Congress 156-161 (Most Serious Problem: Taxpayer Service and Behavioral Research) and vol. 2, at 158-167 (Research Report: Normative and Cognitive Aspects of Tax Compliance: Literature Review and Recommendations for the IRS Regarding Individual Taxpayers).