

The National Taxpayer Advocate's Report to Congress

Fiscal Year 2009 Objectives

June 30, 2008



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I. INTRODUCTION

The Internal Revenue Code requires the National Taxpayer Advocate to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance.¹ The National Taxpayer Advocate is required to submit these reports directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, or any other officer or employee of the Department of the Treasury or the Office of Management and Budget. The first report, due by June 30 of each year, must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year.

A. Reflections on the 10-Year Anniversary of RRA 98

On July 22, 2008, ten years will have passed since the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98).² To date, RRA 98 remains a controversial yet landmark piece of legislation. Some perceive RRA 98 as a punitive effort on Congress' part to micromanage the IRS, reflective of a dismissive view of the IRS. Others view the legislation as enacting taxpayer protections against an IRS that had run amok.

The truth probably lies somewhere between these two perspectives. As one who testified before both the House Ways and Means Subcommittee on Oversight and the Senate Finance Committee in the hearings leading up to RRA 98, I can at least speak to my own motives for participating.³ By 1998, I had been involved in the tax system for 23 years. I started out preparing tax returns, moved on to representing taxpayers in tax controversies, and in 1993 founded The Community Tax Law Project, a low income taxpayer clinic. It was the latter credential that caught the attention of the tax-writing committees. I was invited to testify about the challenges low and moderate income taxpayers faced in their attempts to resolve problems with the IRS, particularly their difficulty understanding and navigating the tax system.

I welcomed the extraordinary opportunity to share my perspective with the committees and to create a record on these issues. Mine was strictly an “in the trenches” view developed in the course of trying to obtain relief for my

¹ IRC § 7803(c)(2)(B).

² IRS Restructuring and Reform Act of 1998, Public Law 105-206, (1998).

³ *IRS Restructuring: Hearing Before the S. Comm. On Finance*, 105th Cong. (Feb. 5, 1998) (statement of Nina E. Olson, Director of the Community Tax Law Project); *Taxpayer Rights Proposals: Hearing Before the H. Comm. On Ways and Means*, 105th Cong. (Sept. 26, 1997) (statement of Nina E. Olson, Director of the Community Tax Law Project).

clients. By 1997, I had logged more time on telephone holds with the IRS, listening to a constantly repeating Nutcracker Suite, than have most IRS employees. I routinely represented taxpayers before the IRS examination, appeals, and collection functions and in the United States Tax Court. I had filed offers in compromise, requested installment agreements, argued about allowable living expenses, and obtained levy releases, lien withdrawals and subordinations, challenged asset seizures, trust fund recovery penalties, and requested innocent spouse relief.

What I brought to the hearings was almost a quarter of a century of experience in dealing with the IRS, along with good friendships with and respect for IRS employees built up over my years of practice. Friendships and respect, however, did not cloud my vision that the IRS at the time of the hearings was a rather sick organization. From my client-based perspective, it was clear that IRS employees and management felt enormous pressure to produce tangible enforcement results – assessments, collections, and penalties. IRS employees were unwilling or unable to take the time to talk with taxpayers or representatives. Instead, they moved cases along to the next level rather than working them completely at the point of first contact. Most importantly, IRS employees generally failed to consider the taxpayer's perspective – what it was like to be a taxpayer in the crosshairs of the IRS. I viewed this situation primarily as a management failure, exacerbated by congressional vacillation on funding. That is, IRS management failed to provide the necessary oversight, guidance, training, and other tools vital for striking the correct all-important balance between collecting tax and assisting taxpayers. And Congress, by withdrawing funding even as it placed greater expectations on the IRS for revenue collections, created further pressures on the IRS to produce.

It is easy to focus on the part of the hearings where taxpayers and IRS employees testified about now-discredited claims of outrageous IRS treatment, and use that as a reason to dismiss the entire RRA 98 and its legislative history. But, to be so dismissive ignores the significant hearing record in which several former IRS Commissioners testified about the problems facing the IRS, in which systemic failures to balance revenue collection with fair treatment of taxpayers were well documented, and in which experienced and thoughtful tax professionals made concrete suggestions for improving tax administration. Anyone who reads the House and Senate hearing records cannot help but be struck by the sincerity, good faith, knowledge, and experience that each witness brought to this effort. And I can personally attest to the skill, determination, and integrity of the congressional and administration staff whom I met and with whom I worked.

Ten years later, can we say that RRA 98 has made a difference in tax administration? Undoubtedly, the answer is yes. Is that difference a positive one? From my perspective as the National Taxpayer Advocate, I see daily

how much taxpayers benefit from RRA 98. Here are just a few of the provisions that make tax administration more fair and just:

- ♦ The requirement that the IRS include an explanation of its entire examination and collection process (including information about the Taxpayer Advocate Service) in the first communication that provides the taxpayer with an opportunity to request an administrative Appeals review;⁴
- ♦ The right to a Collection Due Process hearing prior to the first levy or within five days after filing of the first lien with respect to a tax liability;⁵
- ♦ Expansion of relief from joint and several liability on a married-filing-jointly income tax return;⁶
- ♦ Additional taxpayer protections with respect to IRS seizures of residences and businesses, including the requirement that the IRS receive the written approval of a U.S. District Court judge or magistrate prior to seizure of a principal residence;⁷
- ♦ The provision of guaranteed installment agreements in certain circumstances;⁸
- ♦ Additional safeguards with respect to the Offer in Compromise process, including the requirement of an administrative review and appeal of any rejected offer in compromise (or installment agreement);⁹
- ♦ The establishment of a new basis for accepting offers in compromise on grounds of hardship, equity, and public policy;¹⁰
- ♦ Suspension of the statutory period of limitations during any period the taxpayer is financially disabled;¹¹
- ♦ Extension of the common-law confidentiality privilege to federally authorized tax practitioners (*e.g.*, certified public accountants and enrolled agents) in federal civil tax proceedings;¹² and
- ♦ Creation of a matching grant program for Low Income Taxpayer Clinics that provide free or nominal fee representation to low income taxpayers in tax disputes with the IRS or conduct outreach and education to taxpayers who speak English as a second language.¹³

An additional significant taxpayer protection was the restructuring of the Office of the Taxpayer Advocate. Prior to RRA 98, IRS caseworkers

⁴ RRA 98 § 3504.

⁵ RRA 98 § 3401(a) adding IRC § 6320; RRA 98 § 3401(b) adding IRC § 6330.

⁶ RRA 98 § 3201(a) adding IRC § 6015; RRA 98 § 3201(b) amending IRC § 66(c).

⁷ RRA 98 § 3445(a) amending IRC § 6334(a)(13); RRA 98 § 3445(b) amending IRC § 6334(e).

⁸ RRA 98 § 3467(a) enacting new IRC § 6159(c).

⁹ RRA 98 § 3462(c)(1) and (c)(2) adding IRC §§ 7122(d) and 6159(e) respectively.

¹⁰ H.R. Conf. Rep. No. 105-599 at 287.

¹¹ RRA 98 § 3202(a) enacting new IRC § 6511(h).

¹² RRA 98 § 3411(a) enacting new IRC § 7525.

¹³ RRA 98 § 3601(a) enacting new IRC § 7526.

reported to district directors, who were also responsible for tax examinations and revenue collection. By moving IRS case workers under the supervision of the National Taxpayer Advocate and designating them as case “advocates,” Congress ensured that they would have greater independence to advocate on behalf of taxpayers who are experiencing financial hardships, systemic IRS failures, or violations of taxpayer rights. We anticipate assisting just over 250,000 taxpayers in FY 2008. Combined with the National Taxpayer Advocate’s authority to advocate for systemic change both inside the IRS and in reports to Congress, the Office of the Taxpayer Advocate serves as a firewall that protects taxpayers in individual cases and ensures that Congress will be alerted on occasions when the zeal to collect revenue or stop abusive transactions overrides the fair treatment of taxpayers.

The taxpayer protections listed above are profound ones – and it took RRA 98 to put them in place. In fact, if these protections were proposed one at a time, they likely would never have been enacted. Witness how few tax administration protections have been enacted since RRA 98, notwithstanding the numerous efforts to pass further taxpayer rights legislation.¹⁴

Where do we go from here? A quick review of the issues discussed in the following Areas of Emphasis section of this report show that the IRS, while so very successful in delivering core programs on a large scale, is still struggling with looking at tax administration from the taxpayer perspective. There are certainly major successes on the taxpayer service side, chief among them the Taxpayer Assistance Blueprint and the studies underwritten by the Earned Income Tax Credit Program Office. And while the ongoing systems modernization initiatives will go a long way toward improving the taxpayer experience with the IRS, systems are not a substitute for the personal effort by IRS employees to consider taxpayer needs in every interaction, whether in collection, exam, phone, or face-to-face assistance. In fact, most of the issues that I and my office will focus on in fiscal year 2009, described in this report, can be addressed by consistent and clear messages, guidance, and oversight from IRS management and leadership, emphasizing that the taxpayer experience matters and is as important – and perhaps more important – than case closures and cycle time measures.

¹⁴ In the 108th Congress, the House passed H.R. 1528, the Taxpayer Protection and IRS Accountability Act of 2003, and the Senate passed S. 882, the Tax Administration Good Government Act of 2004, but no conference committee was appointed and the bills were not reconciled. In the 109th Congress, the Senate Finance Committee approved S. 1321, the Telephone Excise Tax Repeal and Taxpayer Protection and Assistance Act of 2006, but the bill was not considered by the full Senate. In the current Congress, S. 1219, the Taxpayer Protection and Assistance Act of 2007, and H.R. 5716, the Taxpayer Bill of Rights Act of 2008, are pending in committee but have not been considered.

The IRS does not need another piece of landmark legislation to accomplish this shift in perspective. It does not necessarily need more tools or even more funding to do this. It simply needs the will to act upon its mission statement, the creation of which was mandated by RRA 98 to make clear that the IRS must maintain a taxpayer focus while administering and enforcing the tax laws.¹⁵ The IRS mission statement now reads as follows:

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

As noted, Congress also ensured in RRA 98 that there would be a strong voice for taxpayers *inside* the IRS, who would urge the IRS to fulfill its mission. As the National Taxpayer Advocate, every day I am grateful to Congress for creating the Taxpayer Advocate Service, and for providing us with the tools to advocate on behalf of taxpayers who might otherwise get lost in the system.¹⁶ So in my mind, there is no doubt: RRA 98 has substantially improved tax administration and fairness for taxpayers.

Respectfully submitted,



Nina E. Olson
National Taxpayer Advocate
30 June 2008

¹⁵ RRA 98 § 1002 provides that the IRS “[s]hall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers’ needs.” The Senate Finance Committee report stated that “[t]he Committee believes that taxpayer service is of such importance that the Committee should ... mandate that a key part of the IRS mission must be taxpayer service.” S. Rep. No. 105-174.

¹⁶ See IRC §§ 7803(c) and 7811; see also S. Rep. No. 105-174 and H.R. Conf. Rep. No. 105-599.

II. AREAS OF EMPHASIS

A. Improving IRS Identity Theft Procedures

In her 2007 Annual Report to Congress and at House and Senate hearings this year, the National Taxpayer Advocate described identity theft as a serious and growing problem in tax administration.¹⁷ While the IRS is reforming some aspects of its approach to identity theft, its procedures for dealing with victims have been a significant part of the problem.

1. Overview of Identity Theft

Identity theft impacts tax administration when an individual intentionally uses the Social Security number (SSN) of another person to file a false tax return or to fraudulently obtain employment. Misuse of another person's SSN or identity generally occurs in tax administration in two contexts: (1) the filing of a false return to obtain a fraudulent refund (refund fraud) or (2) the theft and use of another person's SSN to obtain employment (employment-related fraud).¹⁸ According to Federal Trade Commission (FTC) data, identity theft related to refund fraud increased 396 percent from 2002 to 2006, while employment-related identity theft incidents rose 129 percent over the same period.¹⁹

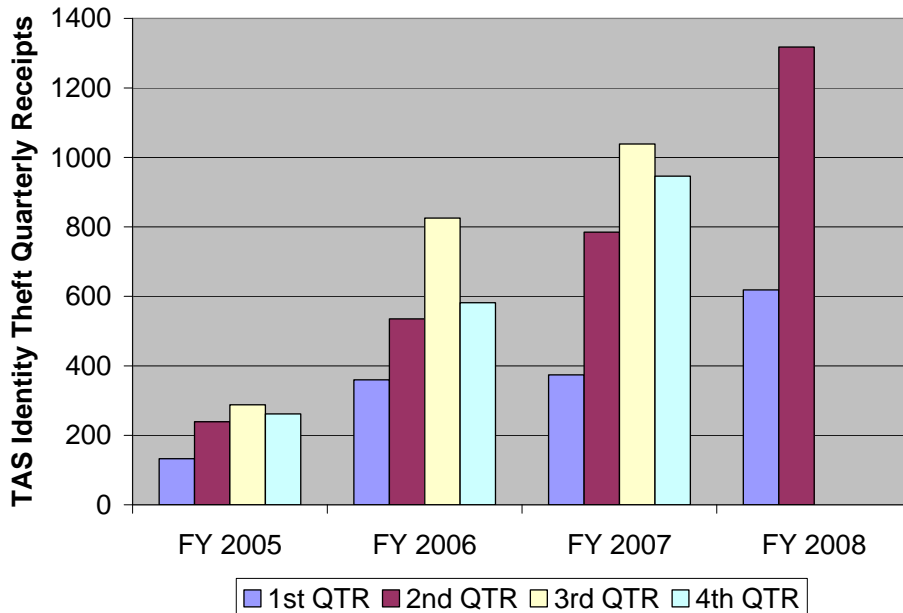
¹⁷ See National Taxpayer Advocate 2007 Annual Report to Congress 96-115 (comprehensively addressing the problems with IRS identity theft procedures); National Taxpayer Advocate 2005 Annual Report to Congress 180-191 (addressing the excessive delays in resolving taxpayer problems and deficiencies in IRS procedures); National Taxpayer Advocate 2004 Annual Report to Congress 133-36 (addressing the inconsistent treatment of identity theft cases across the IRS); *Identity Theft in Tax Administration: Hearing Before the Senate Committee on Finance*, 110th Cong. (Apr. 10, 2008) (statement of Nina E. Olson, National Taxpayer Advocate); *The Tax Return Filing Season, Internal Revenue Service Operations, Fiscal Year 2009 Budget Proposals, and the IRS National Taxpayer Advocate's Annual Report: Hearing Before the Subcomm. On Oversight of the H. Comm. On Ways and Means*, 110th Cong. (Mar. 13, 2008) (statement of Nina E. Olson, National Taxpayer Advocate). Identity theft is even a larger problem outside the context of administration. See Federal Trade Commission, *Identity Theft Victim Complaint Data Report, January 1-December 31, 2007*, at <http://www.ftc.gov/opa/2008/02/fraud.pdf> (reporting that identity theft is the number one consumer complaint, with 258,427 identity theft complaints logged in 2007; the next closest complaint was shop-at-home catalog sales, which led to 62,811 complaints).

¹⁸ The FTC reports there were over 20,000 incidents in calendar year 2007 in which identity theft victims' SSNs were used to file false tax returns. FTC, *Identity Theft Victim Complaint Data Report, January 1- December 31, 2007*, at <http://www.ftc.gov/opa/2008/02/fraud.pdf>.

¹⁹ FTC, *Identity Theft Victim Complaint Data Figures and Trends, January 1 – December 31, 2002*; FTC, *National and State Trends in Fraud and Identity Theft, January 1 – December 31, 2003*; FTC, *Consumer Fraud and Identity Theft Complaint Data, January 1 – December 31, 2006*; see also *Filing Your Taxes: An Ounce of Prevention Is Worth a*

TAS experienced a 644 percent increase in identity theft case receipts from FY 2004 to FY 2007.²⁰ These cases have continued to increase in FY 2008, as reflected by Chart II-1 below.

CHART II-1, IDENTITY THEFT QUARTERLY RECEIPTS FY 2005 THROUGH MARCH 31 FY 2008



TAS case advocates typically assist identity theft victims because of IRS actions taken on their accounts. These actions typically include refund freezes that result when an identity thief has already filed a return using the victim's SSN, or collection actions that result when an undocumented worker misuses the victim's SSN to obtain employment and the income earned by

Pound of Cure: Hearing Before the United States Senate Committee on Finance, 110th Cong. (2007) (statement of Michael R. Phillips, Deputy Inspector General for Audit, Treasury Inspector General for Tax Administration).

²⁰ The number of identity theft cases in TAS increased from 447 in FY 2004 to 3,327 in FY 2007. TAS began tracking identity theft cases in March 2004. The annual total for FY 2004 is a 12-month estimate based on an actual nine-month count of 335 cases. Taxpayer Advocate Management Information System (TAMIS) data, FY 2004 through FY 2007. However, the number of true TAS identity theft cases is understated. TAS uses three categories to track cases involving multiple uses of the same SSN: stolen identity, "mixed entity" (cases in which there are multiple users of the same SSN but the IRS knows who the true SSN owner is) and "scrambled SSN" (cases in which there are multiple users of the same SSN but the IRS cannot determine the rightful owner). TAS codes a case as "stolen identity" if the case is clearly a stolen identity case; however, it is clear that instances of identity theft are present among the "mixed entity" and "scrambled SSN" cases as well.

the worker is attributed to the victim. TAS case advocates report that IRS procedures are part of the problem. In her 2007 Annual Report to Congress, the National Taxpayer Advocate concluded that some IRS procedures exacerbate problems experienced by identity theft victims and that the IRS has not done enough to improve identity theft procedures or protect its filing system from fraudulent filers.²¹ Below, we describe some of the problems we observed as well as our efforts to work with the IRS to improve its procedures.

2. *IRS Identity Theft Procedures Exacerbate Problems Experienced By Victims*

Regardless of the motive for identity theft, the misuse of SSNs disrupts the tax accounts of innocent taxpayers. When the motive is refund fraud, the identity thief uses the personal information belonging to others (including the victim's name, SSN, and date of birth) to file false tax returns, typically early in the filing season before the innocent taxpayer files his or her own legitimate return. To authenticate returns, the IRS's electronic filing system uses a predetermined set of personal information that must be consistent with IRS data. If there is an inconsistency, the IRS will automatically reject the return. The IRS also has a personal identification number (PIN) process that adds an additional security feature.²²

The identity thief directs the refund to an account that he or she controls. When the lawful SSN owner electronically files a return, the IRS will reject it automatically because the data system only accepts one electronic filing per SSN for each tax period. The IRS does not clearly inform taxpayers why it rejected their filed returns or what steps are necessary to resolve the issue. When the taxpayer files a paper tax return (either because the IRS rejected the electronic version or because the taxpayer preferred to file by paper), the IRS will process the return but will freeze any refund due because of the previous filing.²³

The negative tax consequences can be equally serious when those without the necessary legal status to gain employment in the United States unlawfully use another person's SSN to obtain employment. The employer of the undocumented worker will file a Form W-2 reflecting the worker's wages, which IRS data systems will incorrectly attribute to the lawful SSN

²¹ National Taxpayer Advocate 2007 Annual Report to Congress 96-115.

²² IRM 3.0.273.15 (Jan. 1, 2008). The PIN process became mandatory beginning January 2008 for Electronic Return Originators that file returns for their clients. IRS response to TAS information request (Sept. 13, 2007).

²³ IRM 21.5.6.4 (Oct. 1, 2007). Even if the undocumented worker does not file a tax return to seek a refund of his or her withholding credits, the innocent taxpayer will be affected because the undocumented worker's wages will be attributed to the innocent taxpayer.

owner. If the lawful owner is entitled to a refund, even after the false income is attributed, the IRS will freeze the refund because its systems recognize that the SSN has been used twice.²⁴ If there is a balance due under the rightful SSN owner's account due to attribution of the false income, IRS systems will begin collection action against the rightful owner.

When taxpayers contact the IRS because of problems with their accounts, the IRS begins an information gathering process about the use and ownership of the SSN. If the taxpayer does not respond with the correct information in a timely fashion, the consequences to the lawful SSN owner can be significant. The IRS sends a letter (L-239C), which informs the taxpayer that there "may be a problem" with the return and includes a questionnaire to fill out.²⁵ The IRS does not tell the taxpayer that identity theft is a possible cause of the problem nor does it describe the consequences of an insufficient or untimely response.

When the IRS sends its L-239C, it becomes vitally important that taxpayers prove that the SSNs belong to them within the IRS's prescribed timeframe by providing identification (e.g., a driver's license, and either an FTC affidavit or a police report).²⁶ However, both the police report and the FTC affidavit requirements present challenges. Some local law enforcement authorities will not complete a police report for identity theft and the FTC affidavit has, emblazoned in red ink and capital letters, "DO NOT SEND AFFIDAVIT TO THE FTC OR ANY OTHER GOVERNMENT AGENCY."²⁷

Yet, if neither or both of the SSN users respond to the first L-239C letter within 40 days, the IRS institutes its "scrambled SSN" procedures.²⁸ Scrambled SSN procedures can produce harsh results for the innocent taxpayer, as all users of the SSN, including the victim of identity theft, are prohibited from using the SSN for tax-filing purposes until the Social Security Administration (SSA) can verify the correct owner. Taxpayers moved into

²⁴ IRM 21.5.6.4 (Oct. 1, 2007). Even if the undocumented worker does not file a tax return to seek a refund of his or her withholding credits, the innocent taxpayer will be affected because the undocumented worker's wages will be attributed to the innocent taxpayer.

²⁵ IRM 21.6.2.4.4 (Oct. 1, 2007). Letter 239C advises taxpayers:

You should use the Internal Revenue Service Number (IRSN) for federal income tax purposes until we can verify your social security number (SSN). Your IRSN is only a temporary number. We cannot allow you credits such as the Earned Income Tax Credit, etc., unless you have a valid taxpayer identification number. However, you should file your return on time and claim any credits you are legally entitled to even though you cannot receive them until we verify your SSN.

²⁶ IRM 21.6.2.4.3.9.2 (June 4, 2008).

²⁷ The Identity Theft Affidavit may be obtained from the FTC website at: www.ftc.gov/bcp/online/pubs/credit/affidavit.pdf.

²⁸ IRM 21.6.2.4.2.3(8) (Oct. 1, 2007). Note that for overseas taxpayers, the timeframe for response is 70 days rather than 40 days.

scrambled procedures are assigned an IRS number (IRSN) to use on their future tax returns instead of an SSN and will not be eligible for tax benefits that require a valid SSN, such as the earned income tax credit (EITC) and the personal exemption.²⁹ Nothing other than a letter from the SSA validating SSN ownership is sufficient to move a taxpayer out of scrambled procedures – a process that can take in excess of a year.³⁰

To further compound these problems, identity theft victims must often deal with a multitude of IRS functions (including Accounts Management, Criminal Investigation, Automated Underreporter, and Collection), because the IRS has no centralized, consistent approach to assisting these taxpayers.

3. *Planned Improvements to IRS Identity Theft Procedures*

The IRS has pledged to make numerous improvements to its procedures for assisting victims of identity theft. At a hearing before the Senate Finance Committee held on April 10, 2008, IRS Commissioner Douglas Shulman promised to develop a plan of action to be more responsive to victims of identity theft by the fall of 2008.³¹ Senate Finance Committee Chairman Max Baucus requested that the Commissioner provide a progress report within 90 days on the IRS strategy to address identity theft, with specific “goals, timelines, and milestones.”³²

a) The Identity Theft Account Indicator

One of the criticisms that the National Taxpayer Advocate voiced at the April 10 hearing was that the IRS has no idea how many tax-related identity theft cases exist.³³ To resolve this issue, the Commissioner stated that the IRS is implementing a new service-wide identity theft indicator that tracks taxpayer accounts. Beginning in January 2009, returns filed using SSNs associated with accounts that are coded with a universal identity theft indicator will be filtered to attempt to distinguish legitimate returns from fraudulent ones.³⁴

²⁹ IRM 21.6.2.4.4 (Oct. 1, 2007).

³⁰ *Id.*

³¹ See Tax Notes Today, *Shulman Promises Improvement in IRS Response to Identity Theft*, 2008 TNT 71-2 (Apr. 11, 2008).

³² *Id.*

³³ *Identity Theft in Tax Administration: Hearing Before the Senate Committee on Finance*, 110th Cong. (Apr. 10, 2008) (statement of Nina E. Olson, National Taxpayer Advocate).

³⁴ In January 2008, the IRS implemented a Service-wide identity theft indicator to track tax-related incidents of identity theft (referred to as “Phase I”). Memorandum for Division Commissioners, Chiefs, National Taxpayer Advocate, Directors, from Director, Privacy, Information Protection and Data Security, *Identity Theft Tracking Implementation* (Jan. 4, 2008). Beginning in January 2009, the IRS plans to implement procedures to that will make use the identity-theft indicator to protect the victim from possible future harm and

The National Taxpayer Advocate has long advocated for such an account indicator.³⁵ However, TAS has two primary concerns with the IRS's plans:

- ♦ The standards for applying the indicator fail to account for many identity theft cases; and
- ♦ All of the IRS's business units are establishing their own procedures for applying the indicator without consistent guidelines in a central Internal Revenue Manual (IRM) chapter dedicated to identity theft procedures.³⁶

The IRS will place the indicator only on accounts where the taxpayer has conclusively proven to the IRS's satisfaction that he or she is an identity theft victim (*i.e.*, where the taxpayer provides both proof of identification and a police report or FTC affidavit).³⁷ The IRS will not apply the indicator where identity theft is apparent but the taxpayer has not provided the IRS with its required proof within the prescribed timeframes.³⁸ For example, if the IRS has moved the taxpayer into scrambled procedures, the case will not count as an identity theft case, even where there are at least two taxpayers using that SSN. Further, the IRS will not use its identity theft indicator in certain employment-related fraud cases, such as in cases of a "name-SSN mismatch" (*i.e.*, cases where the taxpayer's name according to IRS data files does not match the associated SSN for that name). Thus, even with the electronic indicator of identity theft, the IRS will not be able to accurately quantify the number of identity theft cases it receives.

reduce the payment of fraudulent refund claims (referred to as "Phase II"). After this date, any returns submitted under the SSN of an account annotated with the identity theft indicator will be run through a series of "business rules" in an attempt to curb subsequent-year use of an identity theft victim's SSN. If the return fails any of the business rules, it will not be processed and the IRS will initiate contact with the identity theft victim to determine whether the return is fraudulent or was filed by the true account owner. Deloitte Briefing Paper: Privacy, Information Protection and Data Security, Identity Theft and Incident Management (ITIM), *Collaborative Working Session for the TC971 Phase II Business Rules Development* 8, 16-25 (Feb. 26, 2008).

³⁵ National Taxpayer Advocate 2005 Annual Report to Congress 191.

³⁶ In response to a recommendation in the National Taxpayer Advocate 2007 Annual Report to Congress, we understand that the IRS has begun to work on a centralized IRM. We have not yet had an opportunity to review a draft, but we are pleased the IRS is taking this step and we look forward to working with the IRS to refine and implement the IRM as quickly as possible.

³⁷ Memorandum for Division Commissioners, Chiefs, National Taxpayer Advocate, Directors, from Director, Privacy, Information Protection and Data Security, *Identity Theft Tracking Implementation* (Jan. 4, 2008); see also IRM 4.19.13.25 (Jan. 4, 2008) (implementing identity theft tracking procedures in the Automated Underreporter units and providing instructions to place marker on accounts only where taxpayers have provided personal identification and either a police report or FTC affidavit).

³⁸ *Id.*

The National Taxpayer Advocate is also concerned about a lack of consistency in the implementation of the tracking code while the IRS is still developing business rules to determine how and when the identity theft indicator should be placed on a victim's account and what the consequences of such an indicator would be. Each IRS operating division and function developed its procedures independently without central guidance from the IRS's Office of Identity Theft and Incident Management (ITIM). We recommend that the ITIM Office coordinate with the operating divisions to ensure that the IRS maintains consistent procedures across functions and develop a central IRM that contains the core procedures for identifying and handling these cases.

b) Centralized Unit Devoted to Assisting Identity Theft Victims

The IRS plans to create a centralized unit to assist identity theft victims. By October 1, 2008, taxpayers will be able to call an identity theft hotline to report their identity theft issue, obtain information, and take proactive steps to protect their accounts.³⁹

The National Taxpayer Advocate would like the centralized unit to operate very much like TAS – where an employee from the centralized unit “owns” the case from start to finish and monitors the progress of actions to be taken by the various functions (e.g., Accounts Management, Automated Underreporter, or Collection). Taxpayers should not be required to make multiple contacts within the IRS to resolve their identity theft issues. While we are encouraged by the IRS's plans to set up an identity theft hotline, it is not clear to us that the IRS vision for this centralized unit mirrors ours or otherwise provides the assistance required by identity theft victims.

c) Revising the Scrambled SSN Procedures

For years, the National Taxpayer Advocate has expressed concern that Accounts Management employees have been moving identity theft cases into the Scrambled SSN process prematurely rather than utilizing information already available to the IRS to avoid scrambled procedures.⁴⁰ In response to

³⁹ See Tax Notes Today, IRS Officials Pledge Improved Communications with Taxpayers, 2008 TNT 91-5 (May 9, 2008); Tax Notes Today, *Shulman Promises Improvement in IRS Response to Identity Theft*, 2008 TNT 71-2 (Apr. 11, 2008).

⁴⁰ *Identity Theft in Tax Administration: Hearing Before the Senate Committee on Finance*, 110th Cong. (Apr. 10, 2008) (statement of Nina E. Olson, National Taxpayer Advocate); National Taxpayer Advocate 2007 Annual Report to Congress 101-103; National Taxpayer Advocate 2005 Annual Report to Congress 184; National Taxpayer Advocate 2004 Annual Report to Congress 134-136.

this concern, the IRS is conducting an in-depth analysis to identify improvements in the Scrambled SSN process, using lean six sigma methodologies. A TAS case advocate with experience in working identity theft cases is a member of this team.

4. *TAS FY 2009 Identity Theft Objectives*

The challenges and frustrations that taxpayers with tax-related identity theft problems experience have been an issue of concern to the National Taxpayer Advocate over the past several years. We are pleased that the IRS has undertaken and is continuing to take a number of initiatives, as outlined above, to improve its processes for assisting victims of identity theft.

In FY 2009, the National Taxpayer Advocate plans to continue to monitor the IRS's progress in addressing the concerns we have identified. The Taxpayer Advocate Service will actively work with the IRS to develop and implement procedures to assist victims of identity theft.

B. Cancellation of Debt Income: Taxpayer Advocate Service Outreach and Education Efforts

With the collapse of the subprime mortgage market and the increase in home foreclosures and loan workouts, the tax consequences of cancellation of debt (COD) income pose a significant challenge to millions of taxpayers, as well as to the IRS. Recognizing the impact that this issue has had and will continue to have on taxpayers in general and low income taxpayers in particular, the National Taxpayer Advocate identified COD income as the second most serious problem facing taxpayers in her 2007 Annual Report to Congress.⁴¹

When an individual or business borrows money, the loan proceeds do not constitute income to the borrower because the borrower assumes an obligation to repay the loan. If the borrower is relieved of all or part of the repayment obligation, however, the amount of the debt canceled generally must be included in the borrower's gross income.⁴²

There are certain circumstances in which a canceled debt does not give rise to taxable COD income. These include the following:⁴³

⁴¹ National Taxpayer Advocate 2007 Annual Report to Congress 13.

⁴² IRC § 61(a)(12).

⁴³ See IRC § 108(a). In addition to the exceptions described in the text, there are two other circumstances described in Section 108(a) in which canceled debt is excludible from gross income – where the discharged debt is qualified farm indebtedness and, in the case of a taxpayer other than a C corporation, where the discharged debt is qualified real property business indebtedness. Canceled debt also is not taxable to the debtor if the

- ♦ The debt is canceled in a Title 11 bankruptcy case.
- ♦ The taxpayer is insolvent immediately before the debt is canceled. The amount of canceled debt excludible from gross income is capped at the amount by which the taxpayer is insolvent immediately before the cancellation. Insolvency means the amount by which a person's total debts exceed the fair market value of his total assets. So for example, if a lender cancels a debt of \$20,000 and the taxpayer's liabilities exceed his assets by \$15,000 immediately before the cancellation, the taxpayer may exclude \$15,000 from gross income but must still generally report gross income of \$5,000.
- ♦ The taxpayer is not personally liable for the debt.⁴⁴ In general, canceled debt gives rise to taxable COD income only if the borrower is personally liable for it. A borrower is personally liable when the lender is entitled to pursue the borrower's other assets if the borrower defaults. This type of debt is referred to as "recourse" debt. If the terms of the loan agreement provide that the lender's only remedy in case of default is to repossess the mortgaged property, the debt is referred to as "nonrecourse" debt. Cancellation of nonrecourse debt generally does not give rise to taxable COD income.

In 2007, Congress added a new exclusion. In response to widespread foreclosures relating to subprime mortgages, Congress passed legislation providing that generally that a debt canceled when a homeowner becomes unable to make payments on a loan secured by his principal residence is excludible from gross income as well.⁴⁵ Even when COD income is excluded, however, the taxpayer may face other tax consequences such as the requirement to make basis adjustments and or to recognize gain or loss from the disposition of assets that may have to be reported to the IRS.

Since the publication of the 2007 Annual Report to Congress, the National Taxpayer Advocate and her staff have worked with the Wage and Investment (W&I) Division to write and publish IRS Publication 4681, *Canceled Debts, Foreclosures, Repossessions, and Abandonments (for Individuals)*. This publication offers a wealth of information about the tax treatment of COD income and provides numerous examples to guide taxpayers through this complicated issue.

cancellation is otherwise excludible from gross income, such as if it were intended as a gift.

⁴⁴ See Treas. Reg. § 1.1001-2(a)(1) & (c), Example (7) (for cases involving dispositions of property).

⁴⁵ IRC § 108(a)(1)(E). This exclusion only applies to debts cancelled in 2007, 2008, or 2009.

The Taxpayer Advocate Service worked with W&I to revise Form 982, *Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)* for the 2008 filing season, incorporating the new exclusion for qualified principal residence indebtedness. TAS also worked with W&I to make the instructions for that form more user-friendly by incorporating a chart to help taxpayers identify which lines of the form should be completed for which type of event (foreclosure, repossession, etc).

The National Taxpayer Advocate is also producing and distributing a brochure on COD income as part of the Taxpayer Advocate Service's "Consumer Tax Tips" series. The Consumer Tax Tips brochure is designed to be a "consciousness-raising" document rather than a "how to" manual and, in that respect, will complement Publication 4681. The release of the Consumer Tax Tips brochure will coincide with a TAS public outreach campaign on this issue.

The National Taxpayer Advocate has produced two podcasts ("TAScasts"), both available online, that address COD income and its consequences. The first deals with COD income on a basic level and invites taxpayers who may be affected to seek out additional information from the IRS website and from TAS. The second goes into greater depth about COD income and the exclusions that may apply.

Recognizing that many taxpayers with potential COD income may not be able to effectively navigate the information available, the National Taxpayer Advocate provided specialized training for practitioners. At the annual Low Income Taxpayer Clinic (LITC) conference in December 2007, an in-depth training session about the law surrounding COD income took place. The session provided practical advice to LITC personnel about handling controversies involving COD income and about ways to educate taxpayers to help them properly report or exclude such income. The panel discussion included representatives from TAS, the IRS Chief Counsel's office, and an LITC. TAS helped to organize a similar panel discussion of tax law changes with respect to qualified residences at the American Bar Association (ABA) Section on Taxation's May 2008 meeting in Washington to cover the changes to the law with respect to qualified residences. The ABA panel also included a representative from the IRS's Examination function to address reporting and document-matching issues.

Throughout the remainder of FY 2008 and during FY 2009, the National Taxpayer Advocate and her staff will continue to educate and assist taxpayers and tax professionals concerning the tax consequences of COD income. She will work with IRS executives overseeing the Automated Underreporter (AUR) and Automated Substitute for Return (ASFR) programs to develop alternative approaches to unreported COD income, especially where the qualified principal residence exclusion might apply, so as not to

unnecessarily burden taxpayers who have already experienced a significant economic loss. In particular, the National Taxpayer Advocate will work with W&I to explore ways in which the IRS can systemically identify cancellations of qualified principal residence indebtedness to reduce the burden taxpayers face in claiming exclusions on their returns. Representatives from TAS will participate in COD presentations at all six of the 2008 IRS Nationwide Tax Forums. In addition, a representative from TAS will make a presentation to a group representing most of the major financial institutions in the United States regarding the proper reporting of COD income on Form 1099-A, *Acquisition or Abandonment of Secured Property*, and Form 1099-C, *Cancellation of Debt*.

C. Collection and Taxpayer Rights

The National Taxpayer Advocate addressed a number of collection issues in her 2006 Annual Report to Congress.⁴⁶ In response to the issues raised and recommendations made in that report, the IRS agreed to collaborate with TAS on several collection task forces. Five such working groups (levies, allowable living expense standards, installment agreements, offers in compromise, and early intervention techniques) were established in February 2008.⁴⁷ While these joint TAS-IRS collection task forces are a positive development, the National Taxpayer Advocate has recently identified some disturbing collection trends recently from TAS's caseload.

1. *IRS's Failure to Follow Its Own Policies and the Internal Revenue Manual (IRM)*

IRS Policy Statement 5-34⁴⁸ provides that, "Collection enforced through seizure and sale of the assets occurs only after thorough consideration of all factors and of alternative collection methods" and that "the official responsible for making the decision to seize must be satisfied that other efforts have been made to collect the delinquent taxes without seizing. . . . Seizure action is usually the last option in the collection process." Yet, TAS is now seeing in its cases an inclination toward seizure despite the existence of viable alternative collection methods. In addition, TAS is witnessing apparent failures on the part of the IRS to follow various provisions of the IRM regarding the collecting process. For example, TAS has seen the IRS seek extensions of collection statute expiration dates (CSEDs) in apparent contradiction to the terms of IRM 5.14.2.1 (July 12, 2005). In several instances, TAS has also observed the imposition of a levy on assets in a

⁴⁶ See National Taxpayer Advocate 2006 Annual Report to Congress 31-171.

⁴⁷ For a detailed discussion, see TAS-IRS Cooperative Task Forces Led by Systemic Advocacy, *infra*.

⁴⁸ IRM 1.2.14.1.8 (May 28, 1999).

taxpayer's retirement account even though the requisite "flagrant conduct"⁴⁹ did not appear to be present.

2. *Underutilization of Partial Payment Installment Agreements (PPIAs)*

The American Jobs Creation Act of 2004 amended Internal Revenue Code (IRC) § 6159 of the Internal Revenue Code to clarify that the IRS is authorized to enter into installment agreements with taxpayers which do not provide for full payment of the taxpayer's liability over the life of the agreement.⁵⁰ PPIAs are intended to provide a payment alternative to taxpayers who have the ability to make monthly payments but cannot fully pay their liabilities prior to expiration of the CSED.⁵¹

The IRM states that, "Before a PPIA may be granted, equity in assets must be addressed and, if appropriate, be used to make payment. In most cases, taxpayers will be required to use equity in assets to pay liabilities. However, as discussed below, complete utilization of equity is not always required as a condition of a PPIA."⁵² The IRM also provides that, "A PPIA may be granted if a taxpayer does not sell or cannot borrow against assets with equity because . . . it would impose an economic hardship on the taxpayer to sell property, borrow on equity in property, or use a liquid asset to pay the taxes."⁵³

The National Taxpayer Advocate is concerned that the IRS is adopting an overly restrictive interpretation of what it means to "address" equity and when selling or borrowing against an asset would impose an "economic hardship" on the taxpayer. TAS cases seem to suggest that the IRS is taking the position that all assets with equity (including personal residences) must be sold or an equity line or refinancing must be obtained before a PPIA will be granted. Yet, a slumping real estate market, poor credit histories, and lack of funds to service equity loans limit many taxpayers' ability to "cash-in" on the equity in their assets. In such cases, it makes good business sense for the IRS to enter into agreements to collect at least those funds that are immediately available.

⁴⁹ IRM 5.11.6.2(5) (March 15, 2005) (stating that funds in retirement accounts are not to be levied if the taxpayer has not engaged in flagrant conduct and providing examples of flagrant conduct, including taxpayers who make frivolous arguments, are convicted of tax evasion, are assessed fraud penalties, and hide assets).

⁵⁰ See H.R. Rep. No. 108-755, at 1697 (2004) (Conf. Rep.).

⁵¹ See Staff of Joint Committee on Taxation, 108th Cong., General Explanation of the American Jobs Creation Act of 2004 (Public Law 108-357) (Comm. Print 2005).

⁵² IRM 5.14.2.2(2) (July 12, 2005).

⁵³ IRM 5.14.2.2.2(e) (July 12, 2005).

3. *Lengthy Delays in Collection*

The National Taxpayer Advocate is seeing cases in which delinquent tax accounts have sat for five to ten years without meaningful IRS intervention only to be aggressively pursued as the CSEDs draw near. Such prolonged periods of IRS inactivity significantly exacerbate taxpayers' delinquency problems due to the accumulation of interest and penalties.

4. *Reliance on Taxpayers' Past Noncompliance to Justify Seizures*

The IRM states that seizure should be considered for taxpayers who "won't pay" and provides a number of examples of such taxpayers (including "taxpayers who have the ability to remain current and/or resolve their delinquent taxes through an alternative collection method but will not do so" and "taxpayers who will not cooperate with the Service, e.g., taxpayers that evade contact, will not provide financial information, etc.").⁵⁴ These examples focus on taxpayers' **present** conduct, not their past noncompliance. Yet, TAS is seeing a tendency to use the noncompliance that lead to taxpayers' deficiencies and other past behavior, not the current level of cooperation and willingness to find a way to resolve the liabilities, to justify seizure.

5. *Failure of Managerial Checks and Balances to Operate as Intended*

In some cases, the National Taxpayer Advocate has observed that significant factual inaccuracies and failures to follow the IRM have not been uncovered despite managerial review and involvement.

6. *Future Planned Improvements*

The National Taxpayer Advocate has addressed these concerns with the Commissioner of the IRS's Small Business/Self Employed (SB/SE) Division, and SB/SE has agreed to the following remedial steps:

1. TAS representation on the SB/SE Collection Governance Council;
2. The National Taxpayer Advocate will have an opportunity to discuss her concerns at the next all-Collection managers meeting;
3. Joint production by the National Taxpayer Advocate, Special Counsel to the National Taxpayer Advocate, and SB/SE Collection Policy of a video training for all Collection employees (including managers) about collection alternatives and taxpayer rights in the collection arena; and

⁵⁴ IRM § 5.10.1.4(2) (Oct. 1, 2004).

4. Local Taxpayer Advocates will have opportunities to discuss the role of TAS and the Taxpayer Assistance Order with local Collection groups.

These steps, to be implemented during the remainder of FY 2008 and throughout FY 2009, should address the National Taxpayer Advocate's concerns. The National Taxpayer Advocate commends SB/SE for being so responsive to the issues she has raised.

D. Private Debt Collection Initiative

In recent testimony before Congress, the National Taxpayer Advocate reiterated her call for repeal of the IRS's authority to use private collection agencies (PCAs) to collect delinquent taxes.⁵⁵ The National Taxpayer Advocate has identified the Private Debt Collection (PDC) program as a serious problem facing taxpayers and the tax administration system in her last three Annual Reports to Congress.⁵⁶ In these reports, we have expressed a number of concerns about the PDC initiative, including potential taxpayer rights violations and the transparency of PCA procedures to the public and to congressional oversight.⁵⁷

In this report, we identify three new concerns about the PDC initiative:

- The IRS's own collection actions account for a significant portion of the PDC program's full-paid accounts;
- The IRS has left cases in the control of PCAs for much longer than originally intended; and
- The IRS has not provided a clear reconciliation of PCA accounts.

1. Background

⁵⁵ *The Tax Return Filing Season, Internal Revenue Service Operations, Fiscal Year 2009 Budget Proposals, and the IRS National Taxpayer Advocate's Annual Report: Hearing Before the Subcomm. On Oversight of the H. Comm. On Ways and Means, 110th Cong.* (Mar. 13, 2008) (statement of Nina E. Olson, National Taxpayer Advocate); *Internal Revenue Service FY 2009 Budget Request: Hearing Before the Subcomm. On Financial Services and General Government of the Senate Comm. on Appropriations, 110th Cong.* (Apr. 16, 2008) (statement of Nina E. Olson, National Taxpayer Advocate).

⁵⁶ National Taxpayer Advocate 2007 Annual Report to Congress 411; National Taxpayer Advocate 2006 Annual Report to Congress 34; National Taxpayer Advocate 2005 Annual Report to Congress 76.

⁵⁷ See *IRS Private Debt Collection: Hearing Before the H. Comm. on Ways and Means, 110th Cong.* (May 23, 2007) (statement of Nina E. Olson, National Taxpayer Advocate); National Taxpayer Advocate 2007 Annual Report to Congress 411; National Taxpayer Advocate 2006 Annual Report to Congress 34.

Since the inception of the program, the National Taxpayer Advocate has raised numerous concerns about the PDC initiative. She has focused on three issues in particular:

- The PDC program is probably a money loser when foregone revenue is taken into account;
- The IRS's cost estimates of the PDC program are incomplete; and
- The IRS's inventory of "easy" cases for PCAs to work has dried up.

a) The PDC Initiative Probably Results in Reduced Federal Revenue Overall

The IRS projects that it will use \$7.65 million in appropriated funds in FY 2008 to administer the PDC program, and anticipates relatively steady-state costs in future years.⁵⁸ At the same time, it is expected that the program will generate gross revenue in the range of \$23.4 million to \$29.6 million this year, and, barring any significant changes in the program, the gross revenue is likely to remain relatively steady-state in future years.⁵⁹ Assuming gross revenue of \$26.5 million (the midpoint of the range), the annual net revenue the program can be expected to generate after subtracting the direct costs (\$7.65 million) and commissions payable to the PCAs (about \$5 million) comes to approximately \$14 million.

If the PDC program did not exist and the IRS instead allocated \$7.65 million in appropriated funds to its Automated Collection System (ACS) function, the return on investment (ROI) would be vastly greater. IRS data show that the average ROI for the ACS program is about 20:1, which means that an annual expenditure of \$7.65 million would generate annual revenue of \$153 million.⁶⁰ In testimony before the Ways and Means Committee last May, Acting IRS Commissioner Kevin Brown placed the ACS ROI somewhat

⁵⁸ E-mail from Director, PDC Program Office, to TAS Attorney Advisor (Feb. 29, 2008).

⁵⁹ In congressional testimony earlier this year, the National Taxpayer Advocate provided a similar analysis on the basis of a PDC Program Office email stating that projected PDC gross revenue is \$23.4 million for FY 2008 and \$22.6 million for FY 2009. E-mail from Director, PDC Program Office, to TAS Attorney Advisor (Feb. 29, 2008). However, the official PDC gross revenue projection of the PDC Program Office for FY 2008 consists of a range from \$23.4 million to \$29.6 million. For purposes of this report, we are therefore using the midpoint of the range. IRS, *Filing and Payment Compliance Modernization Briefing 5* (June 9, 2008).

⁶⁰ We have computed the fully loaded cost of an average ACS employee at about \$75,000 (assuming GS-8, step 5). The current average dollars collected by an ACS employee per year is about \$1.53 million. That translates to a return-on-investment on the average ACS employee of about 20:1.

lower, at about 13:1.⁶¹ Even accepting the lower figure for this purpose, a 13:1 ROI on an expenditure of \$7.65 million would produce gross revenue of \$99.45 million and net revenue (after subtracting the \$7.65 million expenditure) of \$91.8 million. Thus, the IRS's expenditure of \$7.65 million in appropriated funds is producing about \$14 million in revenue when applied to the PDC program but should yield at least \$91.8 million if applied to ACS. This suggests that the PDC program is costing the federal government about \$78 million each year.

b) The IRS Cost Estimates Do Not Capture All PDC-related Costs.

As noted, the IRS states that the current annual cost of the PDC initiative is \$7.65 million (excluding commissions paid to the PCAs), and as of September 2007, the IRS had 54 employees (not including Modernization & Information Technology Services (MITS) infrastructure or TAS case advocacy employees) working on the initiative and overseeing PCA employees.⁶² However, the annual expenditure of \$7.65 million does not cover all expenses associated with the PDC program. While the \$7.65 million figure encompasses PDC-related costs incurred by the IRS referral unit, IRS headquarters staff, MITS support, and TAS's representative working with the PDC Project Office, it does not cover the PDC-related costs incurred by the IRS Office of Chief Counsel (which is frequently consulted for legal advice), the IRS Office of Legislative Affairs (which has spent considerable time presenting the program to members and committees of the Congress and responding to inquiries), TAS employees working PDC cases, and other IRS functions outside the PDC Program Office.⁶³ The IRS cannot provide a complete estimate of these expenditures because the IRS does not separately track them. As a result, the costs of the program are understated by an unknown amount.

⁶¹ *IRS Private Debt Collection: Hearing Before the H. Comm. on Ways and Means*, 110th Cong. (May 23, 2007) (testimony of Kevin M. Brown, Acting Commissioner of Internal Revenue).

⁶² IRS response to TAS information request (Sept. 2007). The IRS also spent \$71 million in start-up costs on the PDC program. Although the IRS previously estimated that it would recoup these "sunk" costs in FY 2008, the IRS now acknowledges that FY 2010 is the earliest the initiative can break even. *The Tax Return Filing Season, Internal Revenue Service Operations, Fiscal Year 2009 Budget Proposals, and the IRS National Taxpayer Advocate's Annual Report: Hearing Before the Subcomm. On Oversight of the H. Comm. on Ways and Means* (March 13, 2008) (testimony of Linda E. Stiff, Acting Commissioner of Internal Revenue).

⁶³ IRS response to TAS information request (Apr. 10, 2008).

c) The IRS's Inventory of "Easy" Cases for PCAs to Work has Dried Up.

In addition to its high costs and low revenue, the PDC initiative has found fewer "easy" cases to be worked by PCAs than the IRS expected. This is disturbing because the initiative was premised on the IRS having large numbers of cases that a simple phone call could resolve.⁶⁴ The IRS presented all of the PCA-type accounts as easy cases in which the taxpayer had either made a voluntary payment or agreed the tax was due. Even before the initiative began, however, the IRS began pulling cases from the planned inventory due to case complexities, such as the payment on the account being by levy rather than voluntarily.

The problems with identifying easy case inventory continue to plague the PDC initiative, thereby forcing the IRS to consider expanding the types of cases it will send to the PCAs. For example, the IRS is studying the feasibility of including compliance assessment cases, where the taxpayer has not agreed to the outstanding tax liability, in the PCAs' inventory.⁶⁵ In addition, the IRS is studying 1,500 modules to identify cases that it can remove from current ACS inventory to place with the PCAs.⁶⁶ Thus, the IRS is now proposing to give the PCAs the types of cases that the IRS itself is already working and could continue to work at a greater rate in the future. Placing these types of cases with the PCAs runs directly counter to the premise on which the program was based – namely, giving PCAs only the easy types of cases the IRS itself would not work.⁶⁷

2. *New PDC Issues*

More recently, the National Taxpayer Advocate has identified three new issues that call into question the success of the PDC initiative and make it difficult to easily evaluate its progress:

⁶⁴ *Private Debt Collection: Hearing Before the Subcomm. On Oversight of the H. Comm. on Ways and Means*, 108th Cong. (May 13, 2003) (statement of Mark W. Everson, Commissioner of Internal Revenue).

⁶⁵ IRS, *Filing and Payment Compliance Modernization Briefing 5* (Jan. 14, 2008). The taxpayers have not agreed to the additional tax assessed in these cases. Currently, a case criteria exclusion prevents these unagreed assessments from being worked by the PCAs. However, the PDC Project Office is considering removing this exclusion criteria from the PDC filter so that these types of cases could be worked by the PCAs, at least in cases in which the unagreed assessment is less than 50 percent of the agreed assessment.

⁶⁶ IRS, *Filing and Payment Compliance Modernization Briefing 10* (Feb. 11, 2008).

⁶⁷ *Private Debt Collection: Hearing Before the Subcomm. On Oversight of the H. Comm. on Ways and Means*, 108th Cong. (May 13, 2003) (testimony of Mark W. Everson, Commissioner of Internal Revenue).

- The IRS’s “PCA gross revenue” figures overstate the revenue collected by the PCAs, and data shows that the IRS, contrary to the premise on which the PCA program was initially promoted, collects to a significant degree on accounts assigned to the PCAs;
- The IRS has left cases in the control of PCAs for much longer than originally intended; and
- The IRS has not provided a clear reconciliation of PCA accounts.

a) The IRS’s Own Collection Actions Account for a Significant Portion of the PDC Program’s Gross Revenue.

The IRS reports that PCA gross revenue (also referred to as “actual payments”) was \$31.0 million in FY 2007.⁶⁸ However, only \$24.7 million of that total was “commissionable revenue,”⁶⁹ *i.e.*, revenue attributable to actions taken by the PCAs. For FY 2008 through May 31, the IRS reports that PCA gross revenue stands at \$23.3 million.⁷⁰ However, only \$16.4 million of that total was “commissionable.”⁷¹ All or substantially all of the “non-commissionable revenue” is viewed as “non-commissionable” -- for good reason. This revenue is not attributable to PCA actions and would have been collected anyway due to, among other things: Federal Payment Levy Program (FPLP) levies, State Income Tax Levy Program (SITLP) levies, payments received with amended returns, and payments received after cases have been recalled from the PCAs where the payments are received more than ten days but fewer than eight weeks after the recall date.⁷² We believe it is inappropriate to count these “non-commissionable” payments in measuring the effectiveness of the PDC initiative and they should not be included in revenue estimates for the program.

As a separate matter, we note that the PDC program was initially proposed and promoted on the basis that the IRS did not have the resources to collect on these accounts, “leaving the current PCA cases untouched.”⁷³ However, the IRS is not leaving these cases untouched at all. As noted, the IRS is

⁶⁸ IRS, *Filing and Payment Compliance Modernization Briefing 3* (Nov. 7, 2007).

⁶⁹ *Id.*

⁷⁰ IRS, *Filing and Payment Compliance Modernization Briefing 3* (June 9, 2008).

⁷¹ *Id.*

⁷² E-mail from Deputy Director, PDC Program Office, to TAS Attorney Advisor (May 27, 2008).

⁷³ *IRS Private Debt Collection: Hearing Before the H. Comm. on Ways and Means*, 110th Cong. (May 23, 2007) (testimony of Kevin M. Brown, Acting Commissioner of Internal Revenue).

collecting “non-commissionable” revenue on these accounts, which generally is not attributable to PCA collection actions.⁷⁴ Moreover, the IRS is collecting additional dollars against accounts referred to PCAs that go beyond “non-commissionable” revenue. In FY 2007, the IRS collected an additional \$12.6 million due to (1) automated IRS offsets and (2) direct payments made by the taxpayer after receiving a letter from the IRS informing the taxpayer that his or her account would be placed with a PCA but before the PCA made contact with the taxpayer.⁷⁵ To its credit, the IRS is not counting these additional payments as “PCA gross revenue.” However, we find it significant that the IRS collected a total of \$43.6 million in FY 2007 on accounts that were assigned to PCAs -- \$24.7 million in “commissionable revenue,” but \$6.3 million in “non-commissionable” revenue and \$12.6 million in offsets and other payments. That means that nearly half of the revenue collected on these accounts was “non-commissionable” (*i.e.*, generally not attributable to PCA actions). This data refutes the implication that these taxpayers would be given a “pass” in the absence of the PDC program.

b) The IRS Has Left Cases in the Control of PCAs for Much Longer Than It Originally Intended.

The IRS’s concern about the PDC initiative’s low revenue might have influenced the IRS’s decision to extend the timeframe for resolving cases from the initial stage of the PDC program (known as Release 1.1), which have remained with the PCAs for over a year. Initially, the IRS planned to recall taxpayer accounts after 12 months.⁷⁶ However, the IRS extended the

⁷⁴ E-mail from Deputy Director, PDC Program Office, to TAS Attorney Advisor (May 27, 2008).

⁷⁵ IRS Collection Field Function Report (covering FY 2007) provided by PDC Program Office. The universe of payments included in the \$43.6 million total is referred to as “total posted payments/credits.” It includes payments received by the IRS through the following means: (a) dollars received by the government ten calendar days or less after the IRS transferred the account to the contractor; (b) unidentified payments (*i.e.*, payments that cannot be matched and posted to a debtor’s account within the contractor’s inventory of accounts); (c) dollars collected in excess of an individual’s balance, resulting in overpayment by the debtor; (d) dollars received on any account eleven calendar days or more after the account was returned to the IRS except as specifically described by contract; and (e) dollars received through Federal, State or local administrative, tax refund, salary, Treasury offset, Federal Levy payment or other type of offset or other administrative action which results in the reduction or elimination of the debt in a manner beyond the scope of the contractor’s performance. IRS, Request for Quotation, Request No. TIRNO-05-Q-00187, at 22 (¶ A.4.1).

⁷⁶ IRS, Request for Quotation, Request No. TIRNO-05-Q-00187, at 22 (¶ A.4.5). Taxpayer accounts will be automatically recalled after 12 months unless the account condition warrants continued work efforts by the PCA assigned the case. Conditions that would warrant an extension of the placement period may include receipt of acceptable payment within 60 calendar days prior to the recall date or approval from the Contracting Officer’s Technical Representative (COTR). The IRS can request the return of a case at any time upon notice to the PCA.

time to 18 months and is just now recalling these cases.⁷⁷ When considering cases that have been assigned to the PCAs for at least one year, more than 80 percent of PCA revenue was collected in the first six months of placement with the PCAs.⁷⁸ It is unclear why the IRS would run the risk of leaving taxpayers' confidential tax information with outside contractors for extended periods of time when the contractors are taking no productive action on the cases. In fact, when considering the nearly 43,000 cases placed with the PCAs for at least one year, only 21 percent have had a meaningful disposition, and nearly 70 percent of these dispositions occurred within the first six months of assignment.⁷⁹ Moreover, nearly 40 percent of meaningful dispositions through March 2008 were the result of a payment generated by an IRS action – not a PCA action.⁸⁰

The IRS should also give further consideration to how it will handle the recalled cases.⁸¹ Rather than putting these cases back on the shelf, the IRS should study which types of cases are being sent back to the IRS in an effort to avoid assigning unproductive cases to PCAs in the future. Once this analysis has been completed, the IRS should work these cases and compare its results to those of the PCAs, providing another piece of information as to who can collect these dollars more efficiently and effectively. Instead, the IRS plans to count these cases as resolved, even though the PCAs were unable to locate or contact the taxpayers.⁸²

c) The IRS Has Not Developed a Clear Reconciliation of PCA accounts.

It has been difficult for TAS to evaluate the success of the PDC initiative on a month-to-month basis because the IRS has not provided a clear reconciliation of PCA accounts. Evaluating the initiative would be easier if the monthly reports showed clearly on a separate chart:

1. The beginning PCA inventory for the period;

⁷⁷ IRS, *Filing and Payment Compliance Modernization Briefing* (June 9, 2008).

⁷⁸ TAS Research analysis of PDC measures for cases assigned by March 2007 and considering all PDC actions through March 2008. When considering cases assigned to PCAs for at least 40 weeks, over 75 percent of the revenue is collected within the first 20 weeks of assignment.

⁷⁹ Meaningful dispositions include full pay, installment agreement, hardship, bankruptcy or other litigation, decedent, or offer to compromise the tax liability. TAS Research analysis of PDC measures for cases assigned by March 2007 and considering all PDC actions through March 2008.

⁸⁰ TAS Research analysis of PDC measures for cases assigned by March 2007 and considering all PDC actions through March 2008.

⁸¹ IRS, *Filing and Payment Compliance Modernization Briefing* (June 9, 2008). On July 17, 2008, PDC will begin temporal recalls on cases that were placed with the PCAs in September 2006 and have had no payment activity in the past 60 days.

⁸² IRS, *Filing and Payment Compliance Modernization Briefing* (June 9, 2008).

2. New cases assigned during the period;
3. Cases closed during the period categorized by type of case resolution (e.g., full pays, offsets, installment agreements, currently not collectible, offers in compromise, audit reconsiderations, etc.); and
4. The closing inventory.

The chart should display this information with one column showing case numbers and a second column showing dollar totals. It would also be helpful if the method of reconciliation provides information about the following:

1. The current PCA inventory, including average age of the assigned cases.
2. Information on the age of cases being disposed.
3. Accounting of cases recalled for reasons not included in the standard PDC measures.
4. Separation of dollars by direct (PDC) or indirect (IRS activity, such as refund offset) disposition.⁸³

Although the PDC program office does provide some of this information in a monthly report, it is not organized in a way that clearly reconciles PCA accounts. Instead, the monthly report provides pieces of information that have to be put together in order to obtain a complete picture of PCA performance. Redesigning how PCA cases are tracked would simplify the reconciliation of PCA accounts, thereby providing a clearer and more complete picture of PCA performance.

3. TAS Objectives Regarding the PDC Initiative in FY 2009

In FY 2009, the National Taxpayer Advocate will continue to monitor the initiative, with particular emphasis on the concerns described in this report. In addition, TAS will analyze the results from the IRS's PDC Cost Effectiveness Study,⁸⁴ carefully review any contemplated expansions of PCA case criteria, and encourage the IRS to consider a clearer method for analyzing the PDC initiative's financial and case performance, including an improved monthly reconciliation of PCA accounts.

⁸³ Module dispositions are categorized only by the source of the final payment that satisfied the liability (PDC or IRS collection activity).

⁸⁴ As discussed previously, the National Taxpayer Advocate does not consider the PDC Cost Effectiveness Study a true apples-to-apples comparison of PCA and IRS collection performance, because the PCAs are prohibited from taking any enforcement action, whereas the IRS has several enforcement options it can employ if a taxpayer is not paying. See IRC §§ 6321 and 6331; National Taxpayer Advocate 2007 Annual Report to Congress 411.

E. Addressing the "ISO-AMT" Problem

Over the coming fiscal year, the Taxpayer Advocate Service will continue to work with the IRS to help taxpayers who face the "ISO-AMT" problem.

1. *What is the ISO-AMT Problem?*

The IRC encourages companies to issue Incentive Stock Options (ISOs) to employees as a financial inducement to share in the employer's long-term growth.⁸⁵ When the employee exercises the ISO, however, he or she may be subject to the Alternative Minimum Tax (AMT), unless the stock received upon exercise of the option is disposed of in the same taxable year.⁸⁶ Especially during the technology stock decline in 2000 and 2001, many employees exercised their ISOs but did not sell their stock before the end of the year, even though the stock value had declined to less than the AMT they would owe as a result of the exercise.⁸⁷ As a result, and because no withholding was required on ISO exercises, many taxpayers first learned in April of the following year (or even later) that they had AMT liabilities that exceeded the value of their stock. In essence, the taxpayers found that they owed substantial amounts of tax on paper gains that could not be offset by their paper losses – what some refer to as "phantom income."

While a taxpayer who was subject to AMT on the exercise of an ISO received AMT credits, he or she could not recover these credits quickly.⁸⁸ For many of the affected taxpayers, the AMT credits could take a lifetime to offset the original debts.

⁸⁵ See IRC § 422.

⁸⁶ IRC § 56(b)(3); IRC § 422(c)(2).

⁸⁷ Many employees were discouraged from selling the stock quickly because of various legal, contractual, or practical limitations. Such limitations may have included:

- (a) contractual "lock up" periods imposed by underwriters after an initial public offering,
- (b) the potential that a sale of stock would subject the employee to liability under Rule 10b-5 of the Securities Exchange Act of 1934 because he or she is in possession of material nonpublic information about his or her employer,
- (c) a compliance policy that allowed employees to sell employer stock only during limited periods, or
- (d) misinformation about the potential tax consequences of holding the stock.

None of these restrictions would prevent an employee from recognizing taxable income upon the exercise of an option, however. See, e.g., IRC § 83; Rev. Rul. 2005-48, 2005-23 IRB 1.

⁸⁸ Prior to recent legislation, described below, AMT credits could only be used in future years to the extent the taxpayer's regular tax liability exceeds his or her "tentative minimum tax" for the year. IRC § 53. Moreover, any AMT capital losses on a sale of the stock could only be offset against AMT capital gains plus \$3,000 of ordinary AMT income per year. See e.g., *Guzak v. U.S.*, 75 Fed. Cl. 304 (Feb. 15, 2007).

Since the entire AMT liability was due in April of the year following the exercise, often after the stock value had evaporated, many of the middle-class taxpayers who became aware of their resulting AMT liabilities could not pay them without liquidating retirement assets or selling their homes. Moreover, because ISO exercises were not subject to information reporting, this problem mainly affected honest taxpayers who diligently discovered their ISO-AMT liabilities and voluntarily reported their ISO exercises and resulting AMT liabilities on their returns.

To make matters worse, in 2000 and 2001, the ISO-AMT problem was not well known. At the time, it was difficult to find a professional who understood both ISOs and the AMT well enough to explain the potential consequences.⁸⁹ Even after the 2000-2001 period, reputable tax professionals continued to question various aspects of the ISO-AMT problem.⁹⁰

2. *Why Hasn't Recent Legislation Fully Addressed the Problem?*

In 2006, Congress passed Public Law 109-432 which addressed the ISO-AMT problem by generally allowing taxpayers to recover 20 percent of their AMT credits each year over the period beginning in 2007 and ending in 2012.⁹¹ So, for example, a person with a \$100,000 AMT credit resulting from an ISO-AMT liability in 2001 would be entitled to recover \$20,000 in AMT credits each year from 2007-2011.⁹²

However, the legislation did not address the fact that taxpayers still need to pay their AMT liabilities timely – long before they can obtain the credits. Nor did it address the penalties and interest accruing on unpaid ISO-AMT liabilities that arose during 2000-2001.

⁸⁹ See, e.g., Robert L. Sommers, *ISOs Meet the AMT: Employees Ambushed by the Tax Code*, 2001 TNT 117-69 (June 15, 2001) (describing the lack of good information about the ISO-AMT problem even in leading tax treatises). Even critics of broad relief provisions to address the ISO-AMT problem have acknowledged that: “[i]t was just about impossible back in 2000 to find a financial advisor or tax pro that understood incentive stock options well enough to explain how to construct a good strategy for ISOs.” Kaye A. Thomas, *AMT Credit Relief -- Commentary*, Tax Guide for Investors (Dec. 11, 2006).

⁹⁰ For example, some suggested that the \$3,000 per year capital loss limitation applicable to individuals under section 1211(b) may not apply to AMT losses. See, e.g., Joe Mikrut and Jonathan Talisman, *Capitol Tax Partners Urge Treasury to Address AMT Issues*, 2004 TNT 166-29, n.7 (Aug. 26, 2004). Courts have since clarified that the limitation does apply. See, e.g., *Guzak v. U.S.*, 75 Fed. Cl. 304 (Feb. 15, 2007).

⁹¹ Tax Relief and Health Care Act of 2006, Pub. L. 109-432, as amended by, Tax Technical Corrections Act of 2007, Pub. L. 110-172 (codified at IRC § 53(e)).

⁹² For a helpful example, see Joint Committee on Taxation, JCX-119-07, *Description of the Tax Technical Corrections Act of 2007, as Passed by the House of Representatives 2* (Dec. 18, 2007).

Moreover, without access to significant amounts of credit or financing, some taxpayers with unpaid ISO-AMT liabilities now face the prospect of losing their homes and retirement assets due to stepped-up IRS collection activities before they can obtain the AMT credits to satisfy the liability.⁹³ Although the IRS can forgo collection to the extent it would result in an “economic hardship,” in many cases the loss of homes and assets will not be considered an economic hardship as currently defined.⁹⁴ Therefore, for many of these taxpayers, the IRS, under current guidance, will not forego collection action on the basis that requiring them to sell their homes or liquidate retirement assets presents an economic hardship.

3. *What Can Congress Do to Address the Problem?*

A number of bills would resolve the problems facing many taxpayers with outstanding ISO-AMT liabilities by abating the liabilities along with associated penalties and interest.⁹⁵ The National Taxpayer Advocate urges the Congress to pass such a provision as quickly as possible.⁹⁶

⁹³ We have heard that IRS employees initially put some of these taxpayers into low dollar installment agreements without their permission, which the affected taxpayers voluntarily paid. We understand, however, that at least some of these accounts were recently shifted into active collection status as part of a nationwide “asset ownership” project initiated by Collection.

⁹⁴ IRC § 6343; Treas. Reg. § 301.6343-1. One example of potential economic hardship would be if the taxpayer has assets, but is unable to borrow against the equity in those assets, and liquidation to pay outstanding tax liability(s) would render the taxpayer unable to meet basic living expenses. IRM 5.8.11.2.1(6) (Sept. 1, 2005). If a middle-class taxpayer who owns a home could still meet basic living expenses after selling his or her home, the taxpayer would not have an economic hardship and the IRS would expect the person to sell his or her home to pay the tax liability.

⁹⁵ See, e.g., H.R. 3861 and S. 2389. The bills would not allow taxpayers to obtain a double recovery by obtaining credits for liabilities that were abated. However, they would accelerate the AMT credit recovery period. The bills would also allow taxpayers who have already paid interest and penalties on their ISO-AMT liabilities to recover such payments through refundable credits.

⁹⁶ We do not disagree with certain aspects of comments criticizing the refundable AMT credit provisions of Public Law 109-432 as being somewhat overbroad. Kaye A. Thomas, *AMT Credit Relief -- Commentary*, Tax Guide for Investors (Dec. 11, 2006). However, many taxpayers facing the ISO-AMT problem could lose their homes or retirement assets as a result of a tax liability (or penalties and interest on the liability) attributable to a paper gain that cannot be offset against paper losses and which will be refunded to them within the next five years, even though they have done their best to comply with extremely complex AMT provisions that often contradict reasonable expectations. Given these considerations, the risk to the tax system of doing nothing for these taxpayers outweighs the danger that these provisions may be somewhat overbroad. It would be more difficult and inefficient for the IRS to administer a tax provision that would withhold relief from taxpayers (if there are any) who made a conscious and well informed decision to hold onto the stock they received in connection with their ISO exercises, notwithstanding the knowledge that they would have no reasonable means to pay the AMT liability if the stock declined suddenly.

4. What Can the IRS Do to Address the Problem?

The IRS may already have the authority to abate the tax, penalties, and interest that are causing the problem. The Internal Revenue Code authorizes the IRS to abate the unpaid portion of the assessment of any tax liability (including penalties and interest) which is “excessive in amount” or “erroneously or illegally assessed.”⁹⁷ Two recent Tax Court opinions interpreted “excessive in amount” to mean “unfair,” perhaps suggesting that the IRS could abate outstanding ISO-AMT liabilities along with penalties and interest.⁹⁸ Moreover, Policy Statement 20-1 (Formerly P-1-18), provides that “in limited circumstances where doing so will promote sound and efficient tax administration, the Service may approve a reduction of otherwise applicable penalties... to encourage efficient and prompt resolution of cases of noncompliant taxpayers.”⁹⁹ Thus, the National Taxpayer Advocate has urged the IRS to determine if it could use its existing authority to abate the tax, penalties, and interest in ISO-AMT cases, on the basis that collecting it would be “unfair” or abatement would encourage “efficient tax administration,” especially in this limited circumstance where Congress has already passed legislation to essentially refund the tax.¹⁰⁰

In the alternative, the National Taxpayer Advocate has urged the IRS to use its existing authority to consider accepting installment agreements (including partial payment installment agreements) and offers in compromise from those taxpayers who are eligible.¹⁰¹ The IRS should work with the Taxpayer

⁹⁷ IRC § 6404(a). Unfortunately for those facing the ISO-AMT problem, however, they may not make a claim for abatement of any tax imposed under subtitle A or B (*i.e.*, income tax and estate and gift taxes). See IRC § 6404(b). Thus, the IRS’s exercise of discretion in this regard may not be subject to judicial review.

⁹⁸ See *H & H Trim & Upholstry, Inc. v. Comm’r*, TC Memo 2003-9; *Law Offices of Michael B.L. Hepps v. Comm’r*, T.C. Memo. 2005-138. In *H & H Trim*, the IRS suggested that interest is “excessive” only if it is assessed erroneously or illegally. *H & H Trim & Upholstry, Inc. v. Comm’r*, TC Memo 2003-9 at 6. The court rejected the IRS’s reasoning because it would render the term “excessive in amount” superfluous and went on to observe that the dictionary defined “excessive” to include “whatever notably exceeds the reasonable, usual, proper, necessary, *just*, or endurable;” and defined “just” to mean “equitable” or “fair.” *Id.* at 6-7. (Emphasis in original).

⁹⁹ Reprinted in IRM 1.2.20.1.1(7) (June 29, 2004).

¹⁰⁰ TAS will work with the IRS to help ensure that taxpayers do not receive a double recovery (*i.e.*, both abatement and refund of the AMT).

¹⁰¹ Partial payment installment agreements (PPIAs) allow taxpayers to pay what they can until the collection statute expiration date. See IRC § 6159; IRM 5.14.2.2 (July 12, 2005). As noted above, however, the IRS will generally not enter into installment agreements or certain types of offers with middle-income taxpayers unless they agree to liquidate their homes and retirement assets. See, *e.g.*, IRM 5.14.2.2.2(3) (July 12, 2005) (explaining, for example, that “[T]he taxpayer will normally be required to make a good faith attempt to utilize equity [in his or her home or other assets] before the Service will approve a PPIA.”); IRM 5.8.5.3(3) (Sept. 1, 2005) (noting “[A]ssets will not be eliminated or valued at zero dollars simply because the Service may choose not to take enforcement action against

Advocate Service to identify cases it should compromise on the basis of “effective tax administration” (ETA) and those cases where installment agreements are more appropriate.¹⁰² Public Law 109-432 provides a unique opportunity for the IRS to compromise these cases in a manner consistent with compromises it has made in other instances.

The IRS could use its offer in compromise (OIC) or abatement authority to settle appropriate cases as follows:

(1) apply the total AMT credits, which are currently recovered over a five-year period, against the AMT liability, using a collateral agreement or deferred payment offer and (2) compromise (or abate) any remaining balance (e.g., penalties and interest) on the basis of non-hardship effective tax administration (ETA) considerations (*i.e.*, equitable or public policy grounds).

These offers would be similar to compromises that the IRS has accepted in other instances. They would not be based on the validity or fairness of the original AMT law, but rather on the basis that these cases “involve circumstances that would lead a reasonable third party to believe that acceptance of the OIC would be fair, equitable and promote effective tax administration.”¹⁰³ The IRS would receive full payment of the AMT. It would merely compromise penalties and interest, which many third parties would

the asset, even though the net result is rejection of the offer and reporting the case currently not collectible.”).

¹⁰² In my 2004 report to Congress, I recommended that Congress enact legislation to give the IRS additional direction in this regard. See National Taxpayer Advocate, 2004 Annual Report to Congress 433-450. However, I believe the IRS has sufficient authority under current law and have previously urged them to use it. See National Taxpayer Advocate, 2004 Annual Report to Congress 341. I was in good company in urging the IRS to address this issue. See Senator Chuck Grassley, *Grassley Addresses Disclosure, E-Filing At Hearing On Tax Return Preparation, 2006 TNT 65-31 (Apr. 5, 2006)* (stating: “I would ask that Ms. Olson, as Taxpayer Advocate, take back a message that my patience is wearing thin on the issue of Offers in Compromise and Effective Tax Administration – I’ve asked the Secretary and the Commissioner for a response to this matter. It is important to many of my constituents hit by the Incentive Stock Option AMT. I know you share my concerns and have been fighting the good fight. However, I’ve heard nothing from Treasury in response to my request and I’m not pleased with what appears to be thinking that rather than responding to my question, Treasury hopes this will just go away. I see no reason why the IRS cannot put a pilot program together in this area and see what the reaction is from practitioners and taxpayers – rather than doing nothing for fear of the unknown.”).

¹⁰³ Memorandum from Director, Collection Policy, for Directors, Collection Area Offices, SBSE-05-1107-058, *Re-issuance of Guidance Regarding “Non-hardship” Effective Tax Administration Offers in Compromise*, 3 (Nov. 15, 2007) available at <http://www.irs.gov/pub/foia/ig/sbse/sbse-05-1107-058.pdf> (paraphrasing Treas. Reg. § 301.7122-1(b)(3)(ii)). The many sponsors and supporters of H.R. 3861 and S. 2389 and similar provisions are reasonable third parties who believe these taxpayers should not have to pay penalties and interest on unpaid ISO-AMT liabilities that will be returned to them over the next few years.

likely view as the right result given the controversy and confusion surrounding the ISO-AMT problem since the year 2000 stock market decline. These compromises would be similar to compromises of penalties and interest that the IRS has accepted from certain taxpayers whose tax payments were stolen by payroll service providers.

Further, this approach is consistent with legislative history that expressly provides that the “IRS may utilize this new [non-hardship ETA] authority to resolve longstanding cases by forgoing penalties and interest.”¹⁰⁴ Moreover, such flexibility would have the effect of allowing the IRS to collect taxes that are due under existing law out of future refunds without imposing additional and unnecessary financial strains on these taxpayers.

F. Correspondence Examination Issues

On April 18, 2008, the Treasury Inspector General for Tax Administration (TIGTA) published its *Trends in Compliance Activities through Fiscal Year 2007* report.¹⁰⁵ TIGTA commented on the continual increase in the numbers of individual income tax returns examined since 2000. During FY 2000, 617,765 individual returns were examined. In FY 2007, this figure more than doubled with 1,384,563 individual returns examined. Of the examinations conducted in FY 2007, 83 percent were completed via correspondence.¹⁰⁶

The volume of these audits is cause for concern when considering the findings of a 1999 General Accounting Office (GAO, now the Government Accountability Office) study.¹⁰⁷ GAO found more than 50 percent of the taxpayers audited by correspondence did not respond to the IRS’s letters. When asked why, the IRS indicated it had not studied the issue but speculated taxpayers may be overwhelmed or intimidated by IRS letters and may not be comfortable with responding. Some may not understand the letters or not know how to respond; while others may know they owe additional tax but hoped their non-responsiveness will discourage the IRS from trying to collect the tax.

Focus groups and targeted interviews conducted by TAS in 2007 confirmed the IRS’s speculations in 1999 are a reality today. Participants surveyed described numerous barriers encountered with the IRS correspondence

¹⁰⁴ H.R. Conf. Rep. No. 599, 105th Cong. 289 (1998).

¹⁰⁵ Treasury Inspector General for Tax Administration, *Trends in Compliance Activities Through Fiscal Year 2007*, 8, April 18, 2008, 2008-30-095.

¹⁰⁶ *Id.*

¹⁰⁷ General Accounting Office, GAO/GGD-99-48, *IRS Audits – Weaknesses in Selecting and Conducting Correspondence Audits* (Mar. 1999).

examination process.¹⁰⁸ Taxpayers shared concerns about confusing letters, inappropriate requests for documentation, non-responsiveness, and the inability to discuss the matter with the IRS by telephone. This data, combined with recent practitioner communiqués to the National Taxpayer Advocate, call into question the effectiveness of the IRS's Correspondence Examination Program. Of particular concern is the timing of IRS responses before and after the issuance of a Statutory Notice of Deficiency.

If the IRS concludes during the examination process that a taxpayer owes additional tax, the IRS generally will send the taxpayer a "30-day letter" (which may be a "combination letter" encompassing an Initial Contact Letter and a 30-day letter) proposing changes to the amount of tax reported on the taxpayer's return. The letter directs the taxpayer either to agree with the proposed changes or to provide documentation or request a meeting or telephone conference with the IRS within 30 days. To allow time for mail delivery and processing of incoming correspondence, the Internal Revenue Manual and other staff instructions generally require the IRS to wait 15 days beyond the 30-day response period (for a total of 45 days) before concluding that the taxpayer did not respond and issuing a Statutory Notice of Deficiency.¹⁰⁹ However, a recent review of the correspondence examination process conducted at one campus by the Wage & Investment Division found that 9.52 percent (or 3,086 cases) out of 32,422 cases reviewed were forwarded for the issuance of a Statutory Notice of Deficiency prematurely.¹¹⁰ In her 2007 Annual Report to Congress, the National Taxpayer Advocate once again encouraged the IRS to allow more time to associate and consider taxpayer documentation before proceeding to issue a Statutory Notice of Deficiency. While the IRS has not yet implemented this suggestion for improvement, TAS is pleased to report that SB/SE has agreed to revisit the number and types of letters it uses in its Correspondence Examination process.

In the summary of the review, the IRS expressed pride in its accomplishment of a 43 percent reduction in correspondence examination cases in process for more than one year.¹¹¹ While TAS applauds the IRS's efforts toward addressing inventory in a timely manner, this success should not be accomplished through directives aimed at accelerating the issuance of notices without properly considering taxpayer correspondence.

During FY 2009, the National Taxpayer Advocate will work in partnership with the IRS to correct the problems and inefficiencies noted in the Correspondence Examination Program. This will be accomplished by:

¹⁰⁸ See National Taxpayer Advocate 2007 Annual Report to Congress, *IRS Earned Income Credit Audits – A Challenge to Taxpayers*, vol. 2, at 94-116.

¹⁰⁹ See, e.g., IRM 4.19.14.3.1; IRM 4.19.15.10.1; IRM 4.19.15.39.2.

¹¹⁰ IRS Wage & Investment Division, Response to TAS Inquiry (May 28, 2008).

¹¹¹ *Id.*

- ♦ Establishing a TAS/IRS working group to study the correspondence examination process and address taxpayer and practitioner concerns with premature notices;¹¹²
- ♦ Participating in site visits with the operating divisions to ensure local practices for mail receipt and routing do not negatively affect the correspondence examination process;
- ♦ Reviewing internal guidance to ensure the IRS is not providing direction to employees that leads to premature notices and early case closures; and
- ♦ Encouraging the IRS to establish a measure of overall audit effectiveness for the Correspondence Examination Program that considers the cost and revenue impact of audit reconsiderations, cases resolved after the issuance of a notice of deficiency, and unwarranted tax court petitions.

G. Ombudsmen Report

In 2003, TAS published a report titled: *Independent Advocacy Agencies Within Agencies: A Survey of Federal Agency External Ombudsmen*. The report examined the structure of the office of the National Taxpayer Advocate, as well as other federal ombudsmen offices, based on responses collected by TAS and publicly available information. The National Taxpayer Advocate is updating the report and has reached out to the federal external ombudsmen who were included in the initial report and newly identified federal external ombudsmen, as well as some federal internal ombudsmen offices. TAS will publish the updated survey in late FY 2008. Throughout FY 2009, the National Taxpayer Advocate and her staff will work with other federal agency ombudsmen to promote standards for these offices and seek to incorporate those standards into a Federal Agency Ombudsman Act.

Recognizing the growing number of ombudsman offices within both the federal government and public sectors, the American Bar Association (ABA) adopted the Standards for the Establishment and Operations of Ombuds Offices in 2004. At the core of these standards are the characteristics of independence, impartiality, and confidentiality that are essential for an

¹¹² See Correspondence Exam Process, *infra*.

ombuds to perform his or her duties in a manner that will instill “confidence in the integrity of the process.”¹¹³

The ABA standards are not the only source for guidance. Other organizations, such as the International Ombudsman Association,¹¹⁴ the United States Ombudsman Association,¹¹⁵ and the Coalition of Federal Ombudsmen,¹¹⁶ have also promulgated standards and guidelines for the practice of the ombudsman function. Since the three essential characteristics proposed by the ABA also form the core of those guides, the National Taxpayer Advocate will focus on the ABA’s definitions in this discussion to examine how current federal external ombudsmen offices function and are structured.

1. *Independence*

According to the ABA, an ombudsman must be independent in his or her “structure, function, and appearance.”¹¹⁷ No one subject to the ombudsman’s jurisdiction should limit the performance of the ombudsman’s duties or remove the ombudsman for retaliatory purposes. This protection should extend to indirect controls such as the ombudsman’s legal counsel or budget and resources.

Responses to TAS’s recent survey indicate that most external ombudsmen lack the independence the ABA recommends. Only one, the ombudsman for the Federal Reserve Board of Governors, indicated that she has access to independent counsel. The remaining participants rely on agency counsel and few have mechanisms to screen appointed counsel from issues within the ombudsmen’s jurisdiction. In her 2002 Annual Report to Congress, the National Taxpayer Advocate discussed the inherent conflict of interest created by requiring ombudsmen to rely on agency counsel.¹¹⁸ Agency counsel, which reports to and is evaluated by the parent organization, may be forced to provide advice that is “directly contrary” to the advice of counsel representing the parent organization.¹¹⁹ Such conflict directly impairs the successful performance of the ombudsman’s duties.

¹¹³ American Bar Association, *Standards for the Establishment and Operation of Ombuds Offices* 3 (Feb. 9, 2004), <http://www.abanet.org/adminlaw/ombuds/115.pdf>.

¹¹⁴ See <http://www.ombudsassociation.org>.

¹¹⁵ See <http://www.usombudsman.org>.

¹¹⁶ See <http://www.federalombuds.ed.gov>.

¹¹⁷ American Bar Association, *Standards for the Establishment and Operation of Ombuds Offices* 12 (Feb. 9, 2004), available at: <http://www.abanet.org/adminlaw/ombuds/115.pdf> (last visited June 23, 2008).

¹¹⁸ National Taxpayer Advocate 2002 Annual Report to Congress, 202-203.

¹¹⁹ *Id.*

Although most survey participants indicated they were not subject to removal by a superior within his or her jurisdiction, their responses to other questions indicate otherwise. Twelve of the participating ombudsmen provide reports directly to their parent agency, often to the same officer or group who appointed the ombudsman and may have the authority to remove the ombudsman. One participant, the Ombudsman for the Center for Biologics Evaluation and Research, of the Food and Drug Administration, noted that it was theoretically possible for someone within her jurisdiction to remove her from office. In addition, the ability of the agency to appoint its own ombudsman may allow the agency to appoint only those employees deferential to the agency's interests.¹²⁰ These controls over the position of the ombudsman undermine the ombudsman's independence from his or her parent organization.

Three of the participants reported that they do not have an independent budget, and most of the other responding offices appear to lack independent budgets. The ABA guidelines state that parent organization control over the ombudsman's budget provides indirect control over the staffing and daily operations of the ombudsman office itself. Requiring the ombudsman to rely on his or her parent organization for funding severely restricts both their functional and apparent independence.

2. *Impartiality*

An ombudsman must be free from bias or conflicts of interest while performing his or her duties to maintain impartiality. At a minimum, the ombudsman should be independent from management or other administrative obligations or functions. The more an ombudsman must rely on his or her parent organization, the more difficult it is to operate impartially. The ombudsman must have the ability to gather information in a manner that will allow him or her to impartially consider the interests of all parties within his or her jurisdiction.¹²¹

Several ombudsmen have administrative obligations in addition to their ombudsman function. Approximately half of the participants indicated they do not have the authority to obtain documents or information. Reliance on the parent organization for the tools necessary to advocate effectively creates a conflict of interest that may require the ombudsman to operate in a manner that will give greater weight to the interests of his or her parent organization.

¹²⁰ Several ombudsmen, such as the National Taxpayer Advocate, have statutory procedures that protect against this type of hazard. For example, the National Taxpayer Advocate must not have served as an employee of the IRS for two years prior to appointment and for five years after leaving office. IRC § 7803(c)(1)(B)(iv).

¹²¹ American Bar Association, *Standards for the Establishment and Operation of Ombuds Offices* 13 (Feb. 9, 2004), <http://www.abanet.org/adminlaw/ombuds/115.pdf>.

The degree to which the ombudsman provides for transparency in his or her day-to-day activities contributes to his or her perceived impartiality. Although the majority of the participants provide information to the public via their websites or other publications, only nine of the nineteen ombudsmen have specific reporting requirements, and only four report directly to Congress. Reports from the offices that do not report to Congress are generally available to the public only from the ombudsman's website, which is usually a single page within the agency site, or through publications distributed by their parent organization. Dependence on the parent agency for publicity of the work of the ombudsman can create the perception among the ombudsman's customers that the ombudsman and the agency are one entity, frustrating the ombudsman's mission.

3. Confidentiality

Confidentiality must extend to all communications with the ombudsman and to all documents created by the ombudsman in the performance of his or her obligations. The ability to keep information confidential will promote disclosure to the ombudsman, elicit candid discussions, and reduce the chance for retaliation against complainants.¹²² Reliance on existing confidentiality protections in state or federal legislation may not be sufficient. The agency or legislation creating the ombudsman office should adopt written policies that provide for the highest level of confidentiality allowed by law.¹²³

Almost all of the participating ombudsmen attempt to provide maximum confidentiality protections, and provide written policies explaining their commitment on their websites. Most cite the Privacy Act,¹²⁴ the Administrative Dispute Resolution Act,¹²⁵ and the Freedom of Information Act (FOIA)¹²⁶ as the basis for their policies. However, most participants indicate that when handling FOIA requests or court orders requiring disclosure, the ombudsman relied on his or her parent organization to handle the requests. Reliance on the parent organization requires the ombudsman to share customer information with the parent organization with which the customer has an issue. No ombudsman mentioned abuse of this privilege, but the possibility of abuse, coupled with the appearance of a lack of confidentiality may dissuade customers from utilizing the ombudsman's services.

¹²² American Bar Association, *Standards for the Establishment and Operation of Ombuds Offices* 14 (Feb. 9, 2004), <http://www.abanet.org/adminlaw/ombuds/115.pdf>.

¹²³ American Bar Association, *Standards for the Establishment and Operation of Ombuds Offices* 15 (Feb. 9, 2004), <http://www.abanet.org/adminlaw/ombuds/115.pdf>.

¹²⁴ 5 U.S.C.A. § 552a.

¹²⁵ 5 U.S.C.A. § 571 et seq.

¹²⁶ 5 U.S.C.A. § 552.

III. ADVOCATING FOR TAXPAYERS

Internal Revenue Code § 7803(c)(2)(B) requires the National Taxpayer Advocate to report annually by June 30 to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of TAS for the upcoming fiscal year. This report describes the actions taken toward accomplishing the National Taxpayer Advocate's objectives for FY 2008 and plans to achieve TAS's objectives for FY 2009.

A. TAS Delegated Authority

To more efficiently serve taxpayers, the IRS Commissioner delegated to the National Taxpayer Advocate certain tax administration authorities that allow TAS to take many actions necessary to resolve routine taxpayer problems. The National Taxpayer Advocate's guiding principle is that TAS's delegated authorities must not conflict with or undermine TAS's unique statutory mission of advocating for taxpayers. For example, if TAS did have the authority to deny a taxpayer's claim for refund and the taxpayer exercises his or her right to an appeal, TAS can no longer advocate on behalf of the taxpayer's position and the taxpayer loses his or her voice within the IRS.

Over the years, TAS's delegated authorities have undergone review and modification, but the underlying principles remain constant:

- ♦ The authorities delegated to TAS should be limited in general to customer service issues and problems;
- ♦ The authorities delegated to TAS should not establish a new process;
- ♦ The authorities delegated to TAS should not establish a "mini-IRS" (*i.e.*, TAS should not be a substitute for some other IRS operating division or function);
- ♦ The authorities delegated to TAS should not create situations where TAS and another function are concurrently working a case and disagree about its proper resolution;
- ♦ The authorities delegated to TAS must not include cases where TAS does not have access to the IRS systems necessary to resolve the problem; and
- ♦ The authorities delegated to TAS cover any case that meets TAS case criteria, without regard to the specific criteria number.

When TAS lacks the statutory or delegated authority to directly effect resolution of a taxpayer's problem, TAS resolves cases through interaction with the responsible IRS operating division or function. TAS employees independently assess the facts of such cases and recommend solutions to

the IRS. The National Taxpayer Advocate has negotiated agreements with each IRS operating division and function that establish and outline procedures and responsibilities for processing TAS cases when the authority to complete the necessary actions rests outside of TAS.¹²⁷

IV. FULFILLING OUR MISSION THROUGH INTEGRATING ADVOCACY FOR TAXPAYERS INTO ALL TAS OPERATIONS

The TAS mission as defined in IRC § 7803(c) is comprised of four principal activities:

- ♦ Helping taxpayers resolve problems with the IRS;
- ♦ Identifying administrative causes of those problems;
- ♦ Identifying legislative causes of those problems; and
- ♦ Making recommendations to both the IRS and Congress on how to mitigate those problems.

Together, these activities frame our integrated approach to taxpayer advocacy, and give us a variety of avenues for accomplishing the TAS mission. Local Taxpayer Advocates and their staffs help taxpayers resolve specific problems with the IRS, but in the process often observe systemic problems developing at the onset. To bring the local advocates' expertise to bear on these problems, the National Taxpayer Advocate assigns each Local Taxpayer Advocate a technical tax issue or "portfolio" to develop, and upon which to serve as a subject matter expert as issues arise.¹²⁸

TAS employees collaborate with the IRS on joint task forces to identify and address systemic issues that impair taxpayer rights or create burden.¹²⁹ TAS also works independently and with the IRS to educate taxpayers on their rights and responsibilities.¹³⁰ Through these and other activities, TAS brings together and engages the experience and knowledge of employees at all levels to provide the most effective advocacy for taxpayers.

¹²⁷ See Taxpayer Advocate Service Level Agreements (SLAs) at <http://www.irs.gov/foia/content/0,,id=170400,00.html>.

¹²⁸ See Local Taxpayer Advocate Portfolio Process, *infra*.

¹²⁹ See TAS-IRS Cooperative Task Forces, *infra*.

¹³⁰ See The National Taxpayer Advocate FY 2009 Objectives Report Supplement at 17. Also, see Awareness of TAS Services, *infra*.

A. How TAS Identifies Systemic Issues

TAS uses a variety of sources to identify and prioritize the most significant issues facing taxpayers and to advocate for tax laws and procedures that protect taxpayer rights, reduce taxpayer burden, and improve IRS effectiveness. These include analyzing the most common systemic issues submitted to TAS and the issues that most often lead taxpayers to seek TAS assistance.

The Systemic Advocacy Management System (SAMS) is a web-based system that allows taxpayers, practitioners, and IRS employees the opportunities to identify problems with IRS processes and procedures, and to propose solutions. TAS reviews, analyzes, and prioritizes these issues for potential development as advocacy projects.¹³¹

Case advocates use the Taxpayer Advocate Management Information System (TAMIS) to work TAS cases and assign primary and secondary issue codes to identify and track issues that lead taxpayers to seek TAS assistance. We use the codes to categorize cases as an indicator of the downstream impact of IRS initiatives, quantify workload, and understand problems facing taxpayers. Table IV-1 illustrates the top 15 issues through March of FY 2008 and compares the volume of receipts for these issues to the same periods for FY 2004 through FY 2007. Receipts related to Combined Annual Wage Reporting (CAWR)¹³² and Federal Unemployment Tax Act (FUTA),¹³³ amended return processing, levies,

¹³¹ For a list of the top 15 issues received in FY 2008 and how TAS uses SAMS issues to assist in identifying its operational priorities, see *Determining Operational Priorities*, *infra*.

¹³² The CAWR program is a document-matching program that compares wages and tax information reported to the IRS against that reported to the Social Security Administration (SSA). When the IRS and SSA data does not agree, a CAWR case is created. There are two major parts of the CAWR program, IRS-CAWR and SSA-CAWR. The IRS is interested in IRS-CAWR cases for underpayment of taxes or excess withholding of federal income tax or Advance Earned Income Tax Credit. If a discrepancy is detected, an IRS-CAWR case is created. The SSA is interested in SSA-CAWR cases because an employer has not filed proper wage and tax statements which adversely affect an individual's retirement benefits. Small Business/Self-Employed (SB/SE) Division, *Business Performance Review*, 35 (Aug. 13, 2007).

¹³³ The FUTA certification program provides for cooperation between federal and state governments in the establishment and administration of unemployment insurance. Under this dual system, the employer is subject to a payroll tax levied by the federal and state governments. The FUTA certification program is the method the IRS uses to verify with the states that the credit claimed on IRS forms was actually paid into the states' unemployment funds. SB/SE Division, *Business Performance Review*, 35 (Aug. 13, 2007). The SSA provides records to the IRS of wages paid and taxes withheld. The IRS compares these records to the information reported by employers on their payroll and unemployment returns (Form 941, *Employer's Quarterly Federal Tax Return*, and Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax*

liens, and requests for installment agreement have all increased significantly.

TABLE IV-1, TOP 15 ISSUES RECEIVED IN TAS AS OF MARCH 31 OF EACH FISCAL YEAR

Description of the Issue	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	% Change FY 2007 to FY 2008	% Change FY 2004 to FY 2008
Levies (including the Federal Payment Levy Program)	4,063	5,143	8,338	9,258	9,490	3%	134%
Processing Amended Returns	4,691	5,030	5,321	6,316	6,381	1%	36%
Earned Income Tax Credit (EITC) Cases ¹³⁴	7,085	6,578	6,001	6,625	6,331	-4%	-11%
Reconsiderations of Substitute for Return under IRC § 6020(b) ¹³⁵ and Audit ¹³⁶	3,472	3,473	4,823	6,130	6,180	1%	78%
Combined Annual Wage Reporting and Federal Unemployment Tax Act ¹³⁷	1,375	1,150	1,686	3,183	5,712	79%	315%
Expedite Refund Request	3,711	3,601	5,206	5,201	5,462	5%	47%
Automated Underreporter Examination Completed ¹³⁸	2,199	2,911	3,710	5,032	4,940	-2%	125%
Open Audit	2,388	2,638	3,182	4,142	4,619	12%	93%

Return). CAWR refers to the Form 941 matching program and FUTA refers to the Form 940 matching program.

¹³⁴ Includes EITC claims, EITC certification cases, EITC Automated Underreporter cases, requests for reconsideration of EITC audit assessments, and EITC recertification cases.

¹³⁵ IRC § 6020(b)(1) provides:

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

¹³⁶ Reconsideration of a tax assessment resulting from an IRS examination, or an income or employment tax return prepared by the IRS under IRC § 6020(b).

¹³⁷ The SSA provides records to the IRS of wages paid and taxes withheld. The IRS compares these records to the information reported by employers on their payroll and unemployment returns (Form 941, *Employer's Quarterly Federal Tax Return*, and Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*). CAWR refers to the Form 941 matching program and FUTA refers to the Form 940 matching program.

¹³⁸ The Automated Underreporter program matches taxpayer income and deductions submitted by third parties against amounts reported on the individual income tax return.

Description of the Issue	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	% Change FY 2007 to FY 2008	% Change FY 2004 to FY 2008
IRS Offset	1,021	1,545	2,162	2,843	3,663	29%	259%
Criminal Investigation	6,469	11,999	14,793	3,837	3,573	-7%	-45%
Processing Original Returns	3,180	3,712	3,878	3,699	3,456	-7%	9%
Installment Agreements	918	1,185	1,658	2,294	3,085	34%	236%
Injured Spouse Claims	2,076	1,785	2,132	2,607	2,641	1%	27%
Other Collection Actions	860	1,286	1,418	2,063	2,580	25%	200%
Liens (including original filing, releases, withdrawal, subordination, and discharge)	1,845	2,504	3,161	2,554	2,561	0%	39%

B. Examples of Advocacy in Action

TAS uses several avenues to resolve taxpayers' problems. For example, the Executive Director Systemic Advocacy (EDSA) is collaborating with the SB/SE operating division to address the CAWR/FUTA issues¹³⁹ and is nearing the recommendation stage with the W&I division to address amended return processing issues.¹⁴⁰ In this section, we will provide examples of problems identified through systemic issues elevated to TAS or through issues identified in our casework, and the steps TAS is taking to address them.

1. Issues Related to Levies

As the IRS continues to step up enforcement actions, the number of levies issued also rises. The IRS issued 3.8 million levies in FY 2007¹⁴¹ compared to just over 2.7 million in FY 2005, an increase of 41 percent.¹⁴² TAS levy receipts increased 84.5 percent from the end of March 2005 through the end of March 2008. Levies were the number one reason taxpayers sought TAS intervention in the first six months of FY 2008, showing an increase of three percent over FY 2007.¹⁴³ The following

¹³⁹ See Combined Annual Wage Reporting and Federal Unemployment Tax Act Program Issues, *infra*.

¹⁴⁰ See TAS-IRS Rework Studies, *infra*.

¹⁴¹ See IRS, *Fiscal Year 2007 Enforcement and Service Results* (Mar. 13, 2008), at <http://www.irs.gov/newsroom/article/0,,id=177701,00.html>

¹⁴² See IRS Data Book 41 (Mar. 2007), at <http://www.irs.gov/pub/irs-soi/06datbk.pdf>.

¹⁴³ TAMIS data obtained from Business Performance Management System (BPMS) (Apr. 14, 2008). For the first six months of FY 2007, TAS received 9,258 levy-related cases. For the same timeframe in FY 2008, TAS received 9,490 such cases.

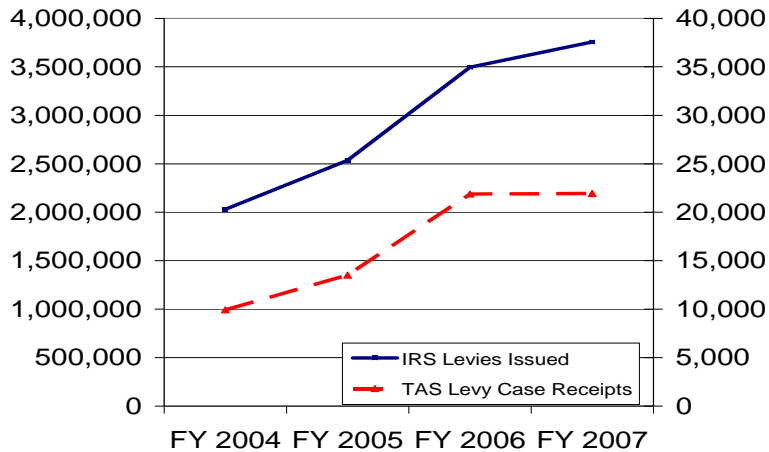
table shows the number of TAS levy cases received in the first six months of each fiscal year from 2004 through 2008. During this time, these receipts have increased by almost 134 percent.

TABLE IV-2, TAS LEVY RECEIPTS THROUGH MARCH 31, FY 2004 – FY 2008¹⁴⁴

Fiscal Year	TAS Levy Receipts	Percent Change	% Change FY 2004-2008
FY 2004	4,063		
FY 2005	5,143	26.6%	
FY 2006	8,338	62.1%	
FY 2007	9,258	11.0%	
FY 2008	9,490	2.51%	133.6%

The following chart shows the correlation between the number of levies the IRS issued from FY 2004 through 2007 and the TAS cases where a levy was either the primary or secondary issue that caused the taxpayer to seek TAS assistance.¹⁴⁵

CHART IV-3, IRS LEVIES ISSUED AND TAS LEVY CASE RECEIPTS FOR FY 2004 THROUGH FY 2007



¹⁴⁴ TAMIS data obtained from BPMS (Apr 14, 2008).

¹⁴⁵ TAS uses both primary and secondary core issue codes to identify the issues that cause taxpayers to seek TAS assistance.

Levy cases are more likely than others to involve economic burden due to the adverse impact of levies on taxpayer assets.¹⁴⁶ As levy receipts increase, so does the percentage of economic burden cases among all TAS cases.¹⁴⁷

The National Taxpayer Advocate expressed several concerns about the IRS's levy program (related to pre-levy and post-levy actions) in the 2006 Annual Report to Congress.¹⁴⁸ A joint TAS-IRS task force is addressing the TAS recommendations.¹⁴⁹

TAS receipts of Federal Payment Levy Program (FPLP) related cases increased from 525 in FY 2004 to nearly 3,500 in FY 2007.¹⁵⁰ In January 2006, the IRS eliminated an income filter that excluded taxpayers with income below a specified level from the FPLP. TAS Research is collaborating with W&I Research in a study of FPLP cases to determine if the IRS and TAS can develop a reliable way to systemically identify taxpayers who would experience an economic burden if subjected to an FPLP levy.¹⁵¹

2. *Combined Annual Wage Reporting and Federal Unemployment Tax Act Program Issues*

The IRS and the Social Security Administration (SSA) jointly administer the Combined Annual Wage Reporting (CAWR) Program. CAWR is a document-matching program designed to ascertain whether employers report the correct amount of wages, pay the proper amount of taxes, and properly credit the individual employee's Social Security account. The Federal Unemployment Tax Act (FUTA) authorizes the IRS to collect a federal tax used to fund state workforce agencies. The Social Security Act of 1935¹⁵² created the unemployment compensation program, which today is a federal-state partnership based upon federal law and administered by state agencies. The FUTA program is designed to guarantee that employers report the correct amount of federal tax, based upon their state contributions.

¹⁴⁶ Economic burden cases are those accepted into TAS with criteria codes of 1 (the taxpayer is experiencing economic harm or is about to suffer economic harm), 2 (the taxpayer is facing an immediate threat of adverse action), 3 (the taxpayer will incur significant costs if relief is not granted (including fees for professional representation), or 4 (the taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted).

¹⁴⁷ See Economic Burden Case Receipts, *infra*.

¹⁴⁸ See National Taxpayer Advocate 2006 Annual Report to Congress 31-33.

¹⁴⁹ See Collection Joint Task Forces, *infra*.

¹⁵⁰ See TAMIS. TAS FPLP cases totaled over 4,100 in FY 2006.

¹⁵¹ See Federal Payment Levy Program (FPLP) Levies, *infra*.

¹⁵² Pub. L. No. 74-271, 49 Stat. 620 (Aug. 14, 1935).

TAS receipts related to CAWR/FUTA issues rose 79.5 percent in FY 2008 compared to the same period in FY 2007,¹⁵³ due in large part to the downstream impact of the IRS's consolidation of the CAWR/FUTA program. A substantial volume of work at one campus significantly delayed processing cases and taxpayers' correspondence.¹⁵⁴ Many taxpayers who were simply waiting for a response from the IRS were subject to levy action when the IRS prematurely moved an estimated 15,000 cases to its Automated Collection System,¹⁵⁵ requiring SB/SE to suspend collection actions and monitor CAWR inventory closely to prevent further inappropriate transfers.¹⁵⁶ Of all the CAWR cases, 88.4 percent are attributable to systemic burden (*i.e.*, delays of more than 30 days or no response or resolution by the date promised).¹⁵⁷

In addition to dealing with the rise in CAWR/FUTA receipts, TAS worked two advocacy projects¹⁵⁸ related to the program and later created a joint task force with SB/SE to evaluate these programs.¹⁵⁹ TAS selected this issue as part of our commitment to the IRS Oversight Board to work with the IRS to reduce sources of rework in TAS.¹⁶⁰

3. *Issues Related to Requests for Installment Agreements*

The IRS may grant installment agreements to taxpayers who have a balance due on their accounts and cannot pay in full.¹⁶¹ TAS receipts involving requests for all types of installment agreements rose by 34 percent from the end of March 2007 through March 2008. The increase in audits and other enforcement has already created a growing need for installment agreements, which economic conditions may exacerbate. TAS and the IRS are reviewing the entire installment agreement process to identify opportunities for improvement.¹⁶²

¹⁵³ TAS received 3,183 CAWR/FUTA cases during the first six months of FY 2007 compared to 5,712 cases during the first six months of FY 2008.

¹⁵⁴ See National Taxpayer Advocate 2007 Annual Report to Congress 651.

¹⁵⁵ See National Taxpayer Advocate 2007 Annual Report to Congress 651.

¹⁵⁶ SB/SE, *Business Performance Review* 35 (Aug. 13, 2007).

¹⁵⁷ National Taxpayer Advocate 2007 Annual Report to Congress 651. This trend continues in the first quarter of FY 2008, in which TAS received and opened 2,606 CAWR/FUTA cases. TAS, *Business Performance Review* (Dec. 2007).

¹⁵⁸ Systemic Advocacy works projects based on submissions of advocacy issues submitted to TAS by IRS employees and the public.

¹⁵⁹ See SAMS issue I0027106.

¹⁶⁰ See TAS-IRS CAWR/FUTA Rework Study, *infra*.

¹⁶¹ See IRC § 6159. Taxpayers have the option to request the IRS debit the monthly installment amount directly from their bank account, or to submit equal monthly payments to the IRS.

¹⁶² See Collection Joint Taskforces, *infra*.

V. CASE ADVOCACY

The primary objectives of case advocacy are to assist taxpayers in resolving problems with the IRS, identify systemic issues, maintain local congressional liaisons, and perform outreach to underserved taxpayer populations. To strengthen these operations, TAS established the Executive Director, Case Advocacy (EDCA) executive position in 2006. The EDCA has responsibility for the oversight and delivery of critical programs including casework, outreach, local congressional relations, integration of case advocacy with systemic advocacy, customer satisfaction, and employee engagement. The success of these programs is vital to fulfilling the responsibilities of the National Taxpayer Advocate as defined in IRC § 7803.¹⁶³ In 2007, TAS established two new offices, Field Systemic Advocacy (FSA) and the Internal Technical Advisory Program (ITAP), to assist in achieving the EDCA's primary objectives.

The EDCA is also responsible for providing leadership and direction to the Local Taxpayer Advocates. There is at least one Local Taxpayer Advocate in each state, the District of Columbia, and Puerto Rico. Local Taxpayer Advocates provide service in 65 geographic locations and ten IRS campuses, and manage over 1,700 employees under the oversight of seven Area Directors who report to the EDCA.

During FY 2008, the EDCA office focused on improving the TAS Balanced Measures, specifically Customer Satisfaction and Employee Engagement. EDCA worked with TAS Business Assessment (BA) and took the first steps toward developing a long-term customer satisfaction national strategy, linking customer satisfaction with other measures driving organizational changes and improvement.¹⁶⁴

A. **TAS Case Inventory Levels Are Rising While the Number of TAS Employees Available to Work Cases Is Declining**

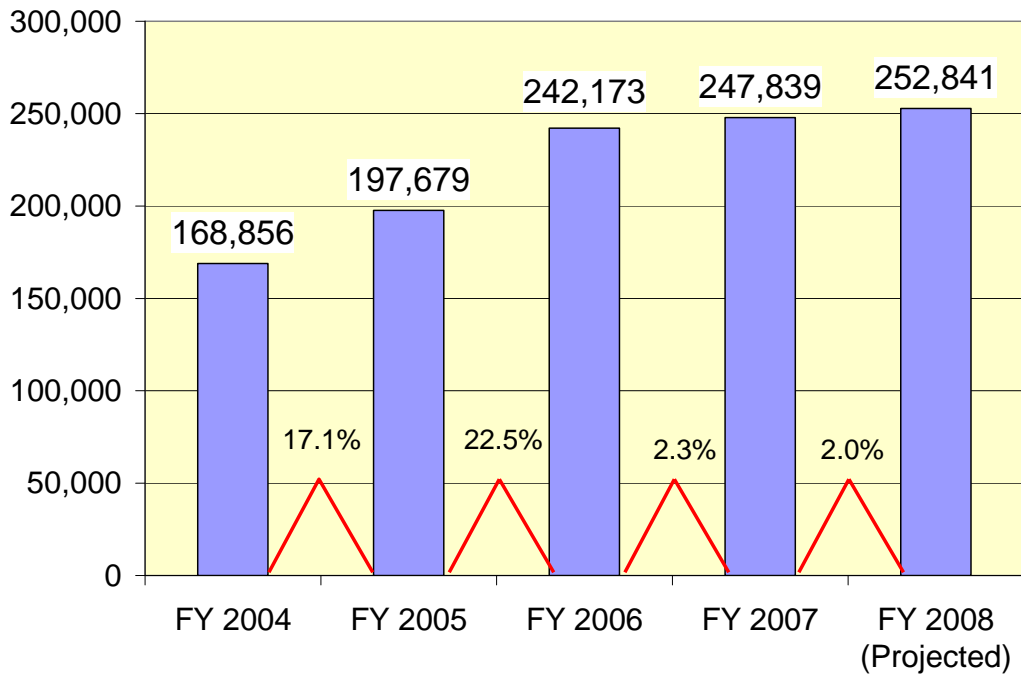
Taxpayers come to TAS when they have encountered problems trying to resolve their issues directly with the IRS, or when an IRS action or inaction has caused or will cause negative financial consequences or economic burden, or will have a long-term adverse impact on the taxpayer. TAS does not turn away taxpayers who qualify for assistance. It is essential to sound tax administration that taxpayers receive prompt and thorough action on these subsequent attempts to resolve their problems, or when

¹⁶³ IRC § 7803(c)(2).

¹⁶⁴ See Addressing and Improving Case Advocacy Customer Satisfaction, *infra*.

they experience economic burden. TAS case advocates play a critical role in this process. As shown in Chart V-1 below, TAS case receipts have increased 47 percent from FY 2004 through FY 2007 and are still on the rise, although we have observed some leveling since FY 2006. During the first six months of FY 2008, receipts rose 2.6 percent over the same period in FY 2007,¹⁶⁵ and are projected to reach a total of approximately 253,000 cases by the end of FY 2008.

CHART V-1, CUMULATIVE TAS CASE RECEIPTS, FY 2004 THROUGH FY 2007 AND PROJECTED RECEIPTS FOR FY 2008



As shown in the following table, open inventory and the average number of cases assigned to each advocate have also continued to grow. Open inventory has increased 69 percent since FY 2004, while the number of case advocates has declined by 11 percent and the average number of cases per advocate has risen 90 percent.

¹⁶⁵ TAS received 116,245 cases as of March 31, 2008, compared to 113,290 for the same period in FY 2007. TAMIS data obtained from BPMS (Apr. 14, 2008).

TABLE V-2, TAS OPEN INVENTORY AND NUMBER OF CASE ADVOCATES FOR FY 2004 THROUGH FY 2008

Fiscal Year¹⁶⁶	Open Inventory	Percent Change	Number of Case Advocates	Percent Change	Number of Cases Per Case Advocate	Percent Change
2004	32,046		1,242 ¹⁶⁷		25.8	
2005	40,648	26.8%	1,164	-6.3%	34.9	36.1%
2006	48,198	18.6%	1,147	-1.5%	42.0	20.3%
2007	50,534	4.8%	1,080	-5.8%	46.8	11.4%
2008	54,309	7.5%	1,108	2.6%	49.0	4.7%

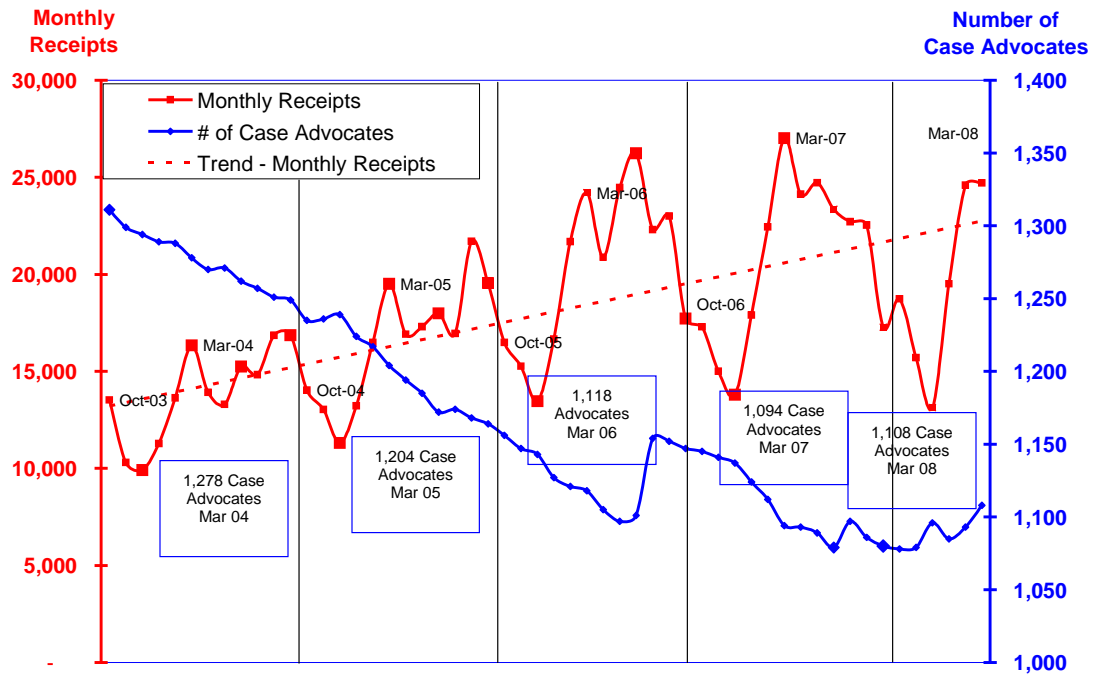
As shown in Chart V-3, TAS monthly case receipts have increased continuously since FY 2004 while the number of case advocates declined through the end of FY 2007. TAS initiated an aggressive hiring plan to address this decline.¹⁶⁸

¹⁶⁶ Data for FY 2004, 2005, 2006, and 2007 as of September 30 of each fiscal year. FY 2008 data is as of March 31, 2008.

¹⁶⁷ Number of case advocates on rolls is as of pay period 19 ending Oct. 2, 2004.

¹⁶⁸ See The Need for Effective Recruitment, Hiring, and Retention to Cope with Increasing Case Inventories, *infra*.

CHART V-3, MONTHLY TAS CASE RECEIPTS AND THE NUMBER OF CASE ADVOCATES FROM OCTOBER 2003 THROUGH MARCH 2008



B. Trends in TAS Receipts

A number of factors influence TAS workload volumes, including new IRS initiatives, changes in legislation or IRS practices, increased IRS emphasis on compliance activities, and external factors such as the state of the U.S. economy. TAS case acceptance criteria fall into four main categories:

- ◆ Economic Burden;
- ◆ Systemic Burden;
- ◆ Equitable Treatment or Taxpayer Rights Issues; and
- ◆ Public Policy.

The following table shows TAS case receipts by criteria code for the first six months of FY 2008:

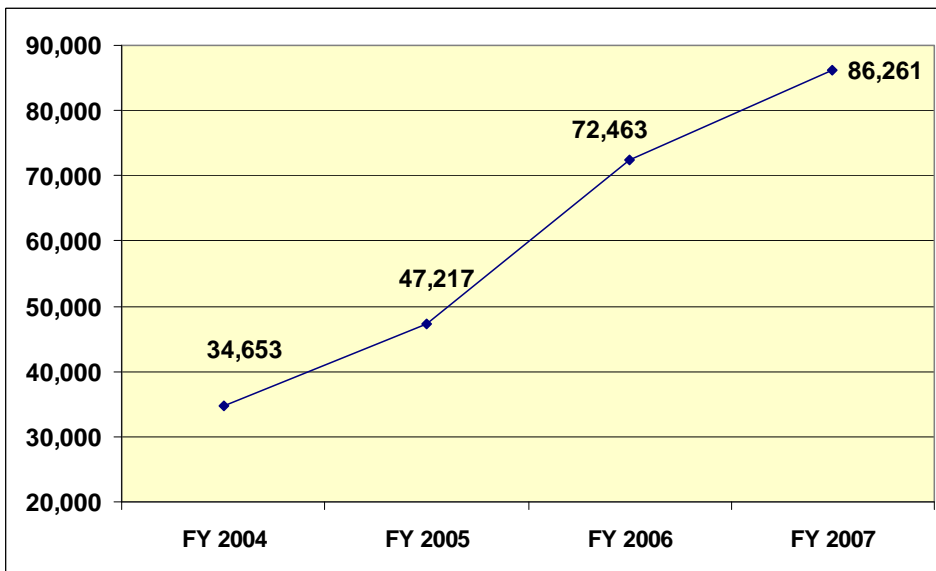
TABLE V-4, TAS CASE RECEIPTS BY CRITERIA CODE

Economic Burden Case Receipts Through March 31, 2008			
Criteria Code	Description	Number of Cases	Percentage of Cases
1	The taxpayer is experiencing economic harm or is about to suffer economic harm.	26,984	23.2%
2	The taxpayer is facing an immediate threat of adverse action.	9,412	8.1%
3	The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).	3,507	3.0%
4	The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.	3,146	2.7%
Total Economic Burden Case Receipts		43,049	37.0%
Systemic Burden Case Receipts Through March 31, 2008			
Criteria Code	Description	Number of Cases	Percentage of Cases
5	The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.	28,728	24.7%
6	The taxpayer has not received a response or resolution to their problem or inquiry by the date promised.	10,547	9.1%
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.	33,548	28.8%
Total System Burden Case Receipts		72,809	62.6%
Equitable Treatment or Taxpayer Rights Receipts Through March 31, 2008			
Criteria Code	Description	Number of Cases	Percentage of Cases
8	The manner in which the tax laws are being administered raise considerations of equity, or have impaired or will impair taxpayers' rights.	351	0.3%
Public Policy Case Receipts Through March 31, 2008			
Criteria Code	Description	Number of Cases	Percentage of Cases
9	The National Taxpayer Advocate determines compelling public policy warrants special assistance to an individual or group of taxpayers.	22	< 0.1%
Total Case Receipts		116,245	100%

1. *Economic Burden Receipts*

TAS defines economic burden cases as those that involve financial difficulty for taxpayers. These cases arise when an IRS action or inaction has caused or will cause financial harm or have a long-term adverse impact on the taxpayer. As shown in Chart V-5 below, economic burden case receipts have increased almost 150 percent from FY 2004 through FY 2007.

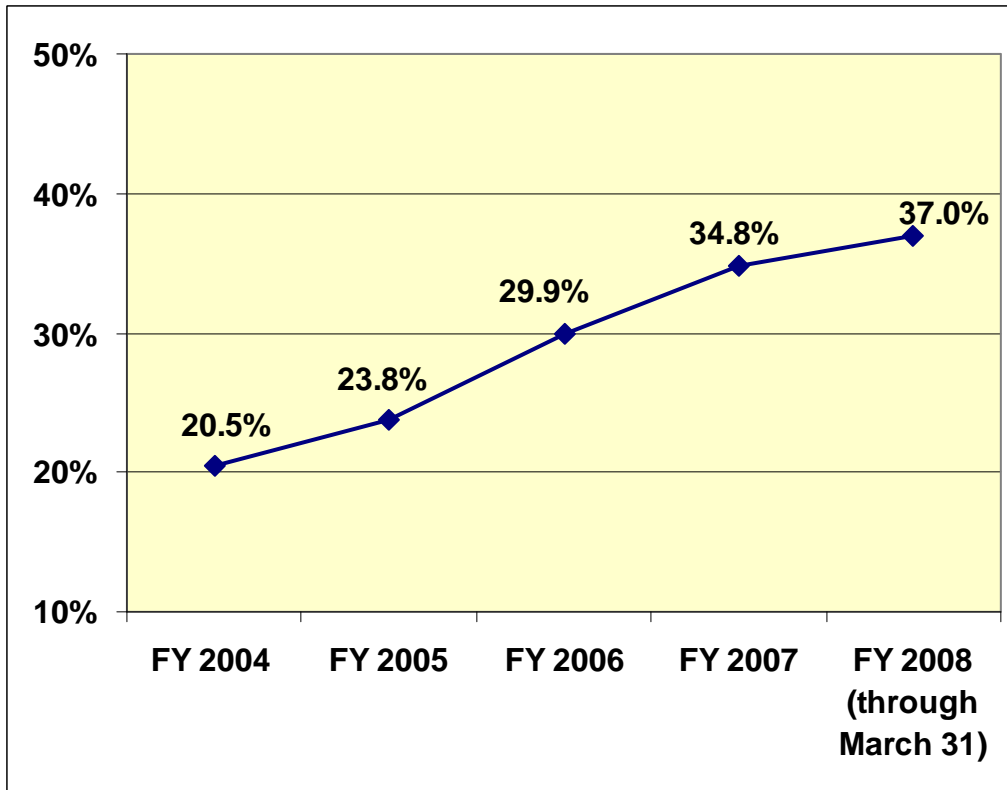
CHART V-5, ECONOMIC BURDEN CASE RECEIPTS FY 2004 THROUGH FY 2007



From October 1, 2007, through March 31, 2008, cases involving economic burden accounted for 37 percent of all receipts.¹⁶⁹ Since FY 2004, the percentage of economic burden case receipts has continued to increase as shown in Chart V-6.

¹⁶⁹ TAMIS data obtained from BPMS (Apr. 14, 2008).

CHART V-6, ECONOMIC BURDEN RECEIPTS AS A PERCENTAGE OF TOTAL RECEIPTS



Both internal (*i.e.*, IRS) and external factors can affect the number of economic burden case receipts. As the IRS increased compliance activities, TAS received more economic burden cases with compliance related issues. For example, from FY 2004 through FY 2007, economic burden receipts related to closed Automated Underreporter examinations (AUR) increased 390 percent and 379 percent from Open AUR examinations. Earned Income Tax Credit (EITC) cases where the taxpayer is experiencing an economic burden have increased by 78 percent from FY 2004 to 2007, and yet overall EITC case receipts have increased only nine percent, indicating a decrease in EITC cases resulting from taxpayers experiencing a systemic burden.¹⁷⁰

Similarly, as reflected in Table V-7, as IRS has stepped up enforcement actions, economic burden case receipts related to enforcement issues have also increased.

¹⁷⁰ For a discussion on EITC systemic burden case receipts, see Systemic Burden Case Receipts, *infra*.

TABLE V-7, ECONOMIC BURDEN CASE RECEIPTS RESULTING FROM IRS ENFORCEMENT ACTIVITIES WITH SIGNIFICANT INCREASES FROM FY 2004 TO 2007, AND FY 2008 THROUGH MARCH 31

Description of the Issue	FY 2004	FY 2007	% Change FY 2004 to 2007	FY 2008
Levies (including the Federal Payment Levy Program)	6,299	15,481	145.77%	7,906
Criminal Investigation	2,228	5,072	127.65%	2,093
IRS Offset	972	3,311	240.64%	2,924
Liens (including original filing, releases, withdrawal, subordination, and discharge)	1,752	3,246	85.27%	1,673
Reconsiderations of Substitute for Return under IRC § 6020(b) ¹⁷¹ and Audit ¹⁷²	605	2,411	298.51%	1,305
Taxpayer Delinquency Investigation - Substitute for Return under IRC § 6020(b) ¹⁷³	356	1,738	388.20%	407
Installment Agreements	435	1,660	281.61%	1,129
Other Collection Actions	302	1,306	332.45%	819
Failure to Pay and Failure to File Penalties	167	784	369.46%	250
Civil Penalties Other Than Trust Fund Recovery (TFRP) Penalties	71	504	609.86%	272

TAS is also experiencing a significant increase in economic burden case receipts related to penalty issues, collection actions, and audit reconsiderations. In addition, the number of taxpayers experiencing economic harm because of IRS Criminal Investigation (CI) program activities increased by nearly 128 percent from FY 2004 to 2007, while overall CI case receipts decreased by 28 percent.¹⁷⁴

¹⁷¹ IRC § 6020(b)(1) provides:

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

¹⁷² Reconsideration of a tax assessment resulting from an IRS examination, or an income or employment tax return prepared by the IRS under IRC § 6020(b).

¹⁷³ Taxpayer Delinquent Investigations involve delinquent tax returns where the taxpayer disputes the filing requirement, proposed liability, or claims the return was previously filed.

¹⁷⁴ See Systemic Burden Case Receipts for a discussion on the decrease in Criminal Investigation systemic burden receipts.

The increase in economic burden case receipts result not only from the downstream impact of increased IRS compliance and enforcement activities, but also from external issues such as identity theft and a slowdown in U.S. economic growth.¹⁷⁵ Economic burden receipts related to identity theft increased 2,176 percent from FY 2004 through FY 2007.¹⁷⁶ Economic burden cases involving bankruptcy issues increased by 143 percent from FY 2004 to FY 2007, and TAS has already received 298 cases through March 2008, 89 more than for all of FY 2004. The increase may be attributable in part to the rise in U.S. bankruptcy filings for 2008, which are up 31 percent from 2007.¹⁷⁷ Economic factors may also have contributed to a 496 percent increase in economic burden receipts related to problems with direct deposit refunds.¹⁷⁸ TAS expects these trends to continue in FY 2009.

2. Systemic Burden Case Receipts

Systemic burden cases are those in which an IRS process, system, or procedure failed to operate as intended, and as a result, the IRS has failed to timely respond to or resolve a taxpayer issue. By measuring systemic burden receipts against all receipts, TAS can monitor its ability to identify problems that affect large numbers of taxpayers and work with the IRS to prevent the problems. Chart V-8 reflects the number of systemic burden case receipts from FY 2004 through FY 2007.

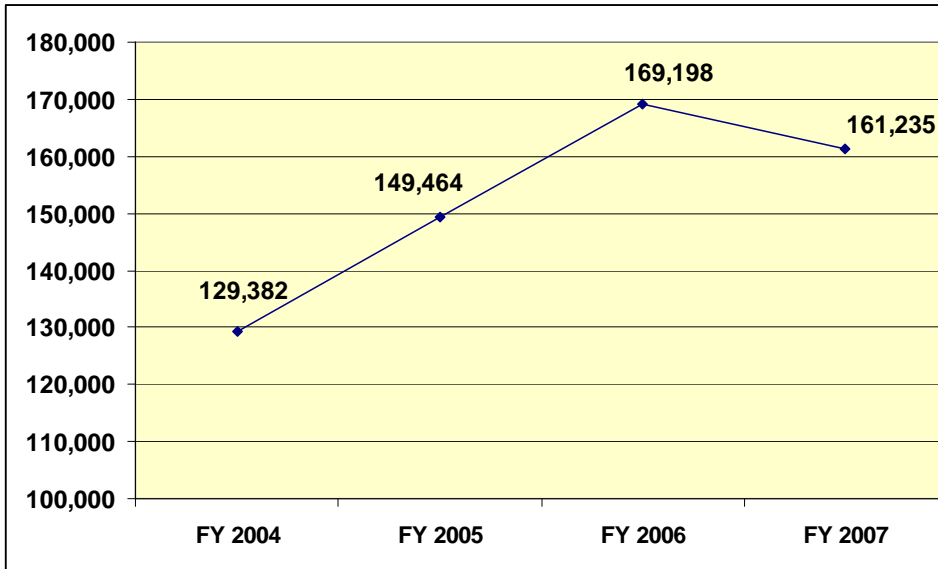
¹⁷⁵ “Signs of distress, such as bankruptcies and foreclosures, are rising as economic growth has slowed to its weakest pace since the last recession in 2001.” Bill Rochelle and Bob Willis, *U.S. April Business Bankruptcy Filings Increase 49% (Update 2)*, at <http://www.bloomberg.com/apps/news?pid=20601087&refer=home&sid=aN7scHpAb6no#> (May 6, 2008).

¹⁷⁶ TAS received 41 economic burden stolen identity cases in FY 2004 and 933 in FY 2007.

¹⁷⁷ Bill Rochelle and Bob Willis, *U.S. April Business Bankruptcy Filings Increase 49% (Update 2)*, at <http://www.bloomberg.com/apps/news?pid=20601087&refer=home&sid=aN7scHpAb6no#> (May 6, 2008).

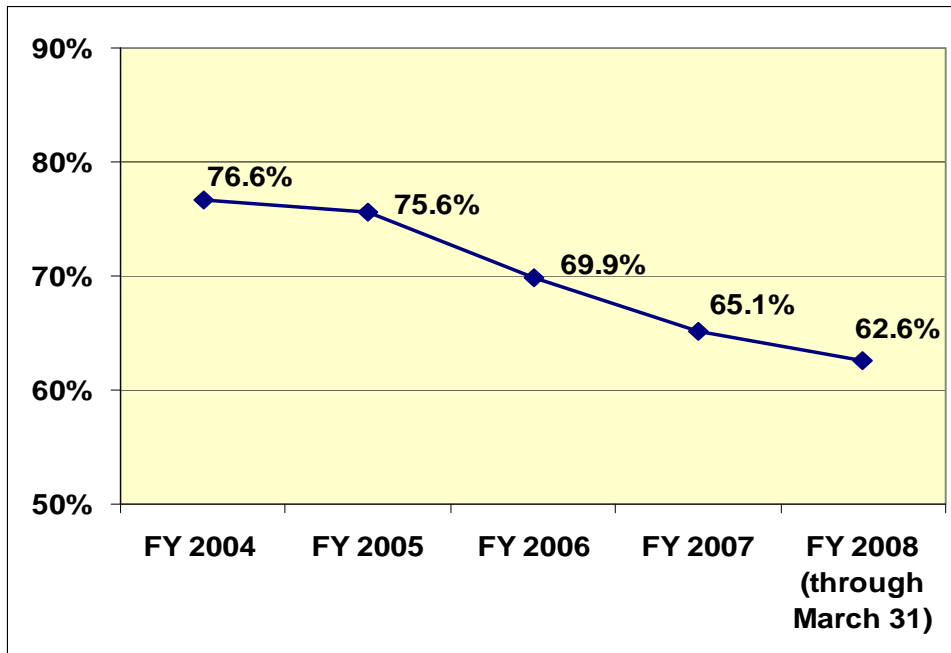
¹⁷⁸ In FY 2004, TAS had 85 economic burden direct deposit cases and in FY 2007, there were 507 cases.

CHART V-8, SYSTEMIC BURDEN CASE RECEIPTS FY 2004 THROUGH FY 2007



Systemic burden case receipts have increased along with overall receipts from FY 2004 through FY 2007; however, as shown in Chart V-9, the percentage compared to all TAS case receipts has declined.

CHART V-9, SYSTEMIC BURDEN RECEIPTS AS A PERCENTAGE OF TOTAL RECEIPTS



A number of factors may have contributed to the decrease. As discussed in the 2007 Annual Report to Congress, CI has significantly improved its Questionable Refund Program, leading to a decrease of 52 percent in systemic burden criminal investigation receipts.¹⁷⁹ Another area in which the IRS has made significant strides is in simplifying the EITC examination process.¹⁸⁰ As a result, EITC systemic burden receipts dropped 12 percent from FY 2004 to 2007. As the IRS improves its processes and procedures, TAS can expect to see a decrease in systemic burden case receipts.

3. *Equitable Treatment or Taxpayer Rights Receipts*

TAS accepts cases in situations where the manner in which the tax laws are being administered raises considerations of equity, and has impaired or will impair taxpayer rights. Acceptance of these cases guarantees that taxpayers receive fair and equitable treatment and protects their rights in situations where no other TAS acceptance criteria apply. During the first six months of FY 2008, TAS accepted 351 cases meeting this criterion.¹⁸¹ Eighty-nine percent of these cases relate to compliance or enforcement issues (e.g., audits and reconsiderations, levies, liens, and other collection issues).

4. *Public Policy*

TAS uses the public policy category for case acceptance when the National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers with problems that may arise due to the implementation of new tax programs or initiatives, and no other case acceptance criteria apply. During the first six months of FY 2008, TAS received 22 such cases, all of which involved the IRS's Private Debt Collection initiative.¹⁸²

C. **Trends in TAS Closures**

From October 1, 2007, through March 31, 2008, TAS closed 112,423 cases, providing full or partial relief to 72.1 percent of the taxpayers.¹⁸³ Total closures increased 2.9 percent over the same period in FY 2007,

¹⁷⁹ For a discussion of the Questionable Refund Program, see National Taxpayer Advocate 2007 Annual Report to Congress 448 – 458.

¹⁸⁰ For a discussion of EITC examinations, see National Taxpayer Advocate 2007 Annual Report to Congress 222 – 241.

¹⁸¹ TAMIS data from BPMS (Apr. 14, 2008).

¹⁸² *Id.*

¹⁸³ Full relief means that all of the relief requested by the taxpayer is provided. Partial relief means that a portion of the relief requested by the taxpayer is provided.

which corresponds to the growth in receipts for the same period.¹⁸⁴ The following table outlines the disposition of cases closed during the first half of FY 2008.

TABLE V-10, DISPOSITION OF TAS CASES FROM OCTOBER 1, 2007 THROUGH MARCH 31, 2008

Type of Relief	Number	Percent
Relief Provided to Taxpayer	81,113	72.1%
Full relief	75,217	66.9%
Partial relief	5,870	5.2%
TAO issued - IRS complied	25	0.0%
TAO issued - IRS appealed; TAO sustained	1	0.0%
TAO issued - IRS appealed; TAO modified	0	0.0%
No Relief Provided to Taxpayer	31,310	27.9%
TAO Issued - IRS Appealed; TAO Rescinded	4	0.0%
No relief (no response from taxpayer)	15,905	14.1%
Relief provided prior to TAS intervention	5,548	4.9%
Relief not required (taxpayer rescinded request)	1,750	1.6%
No relief (hardship not validated)	427	0.4%
Relief not required (hardship not related to internal revenue laws)	574	0.5%
No relief (tax law precluded relief)	856	0.8%
Other	6,246	5.6%
Total TAS Cases Closed	112,423	100%

D. Operations Assistance Requests

TAS issues Operations Assistance Requests (OARs) to the IRS operating divisions and functions when TAS does not have the statutory or delegated authority to take the actions necessary to resolve a case.¹⁸⁵ TAS sends Form 12412, *Operations Assistance Request*, to the operating division or function with the authority and responsibility for taking the requested actions.

As receipts rise, so do OARs. During the first six months of FY 2008, TAS issued 99,773 OARs, an increase of 8.6 percent over the same period in

¹⁸⁴ TAS closed 109,180 cases through March 31, 2007 and 112,423 cases through March 31, 2008. TAS case receipts increased 2.6 percent in the first half of FY 2008 compared to the same period in FY 2007.

¹⁸⁵ See TAS Delegated Authorities, *supra*.

FY 2007. Between October 1, 2007, and March 31, 2008, 52.4 percent of all TAS case closures required at least one OAR to resolve taxpayer problems. In FY 2007, the average time taken to complete the OARs was 18.2 days; through March 31, 2008, the average time was 18.3 days. TAS took several actions to improve OAR processing, which included revising directions to TAS employees in the Internal Revenue Manual (IRM) and negotiating new Service Level Agreements¹⁸⁶ (SLAs) with the operating divisions, as discussed later in this section.

Table V-11 below provides a breakdown of OAR activity by operating division during FY 2008.

TABLE V-11, TOTAL OARS ISSUED, CLOSED, AND REJECTED BY OPERATING DIVISION OCTOBER 1, 2007 THROUGH MARCH 31, 2008 AND OAR REJECT RATES OCTOBER 1, 2006 THROUGH MARCH 31, 2007

Operating Division/ Function	OARs Issued	OARs Closed	Average Age	OARs Rejected	FY 2008 Reject Rate	FY 2007 Reject Rate	Reject Rate % Change
SB/SE	48,199	41,771	17.6	5,719	11.9%	16.6%	-28.3%
W&I	46,734	41,782	18.3	4,205	9.0%	13.1%	-31.3%
CI	3,786	3,345	24.3	153	4.0%	6.6%	-39.4%
TE/GE	586	461	33.5	53	9.0%	10.0%	-10.0%
Appeals	420	356	36.6	66	15.7%	24.2%	-35.1%
LMSB	48	39	46.1	7	14.6%	14.6%	0.0%
Total	99,773	87,754	18.3	10,203	10.2%	14.6%	-30.1%

TAS set a goal of reducing the OAR reject rate by ten percent nationwide in FY 2008. As of March 31, 2008, the reject rate was 10.2 percent, an improvement of 30 percent over FY 2007. The operating divisions can reject OARs for a variety of reasons, but rejected OARs delay resolving taxpayers' problems and generate significant "re-work" for both TAS and the IRS.¹⁸⁷ Common causes of rejected OARs include:

- ♦ TAS sending the OAR to the wrong IRS location or unit when the taxpayer's issue involved a process that the IRS had centralized or consolidated;
- ♦ TAS sending the OAR to the wrong IRS location or unit after the IRS had transshipped work to resolve backlogs;

¹⁸⁶ SLAs outline the procedures and responsibilities for the processing of TAS casework when the authority to complete case transactions rests outside of TAS.

¹⁸⁷ OARs can be rejected for the following reasons: the operating division disagrees with TAS's recommended actions, TAS has the authority to complete the requested action, OAR was routed to the wrong operating division/organizational unit/area/location, actions requested on the OAR are not clear, OAR is incomplete, supporting documentation not attached, or "other."

- ♦ The IRS returning the OAR to TAS because additional documentation was needed from the taxpayer before the IRS could take the actions TAS recommended; and
- ♦ The IRS returning the OAR to TAS because another IRS location or unit needed to take additional steps before the actions recommended by TAS could be completed.

TAS has developed various tools to assist employees in handling OARs, including web links to IRS resources that aid in OAR routing, updating guidance on developing OARs on the TAS intranet site, transmitting OARs to IRS operating divisions and functions using dedicated email boxes and secure email, and adding a feedback button to the TAS intranet site that allows employees to elevate problems with the OAR process.

TAS also completed a number of initiatives to improve the OAR process to reduce delays and errors:

- ♦ Updated the SLAs with the W&I and SB/SE Divisions to improve the OAR process;
- ♦ Revised the IRM that provides guidance on the OAR process to TAS employees;
- ♦ Analyzed rejected OARs to determine common causes and provided training and clarification on processes with high rates of rejected OARs to TAS employees;
- ♦ Centralized the delivery of OARs submitted to the Office of Appeals¹⁸⁸ and the CI Division to dedicated units to improve efficiency, reduce delays, and eliminate confusion regarding routing of OARs; and
- ♦ Continued to pursue centralization of OARs with other IRS business units to improve efficiencies and eliminate routing problems.

The Supplement to this report, which is posted on the TAS public website (at <http://www.irs.gov/advocate>), includes additional information on improvements TAS made to the OAR process in FY 2008.

TAS is also revising Form 12412, *Operations Assistance Request*, to clarify the “Action Taken” and “Reason Rejected” sections, which should reduce the number of OARs returned as “rejects” when the reason for return is the result of a substantive disagreement about the actions TAS requested. These revisions will require programming changes to TAMIS, which MITS cannot complete until FY 2009 or FY 2010.

¹⁸⁸ The reject rate of OARs to Appeals for all of FY 2007 was 25.3 percent. During the first quarter of FY 2007, the reject rate was as high as 28.3 percent. After centralization, the reject rate of OARs to Appeals for the first quarter of FY 2008 has dropped to 14.8 percent, an improvement of 47.7 percent.

TAS also developed an electronic OAR platform that would enable electronic routing of OAR information back and forth from TAMIS to the IRS via the Desktop Integration system.¹⁸⁹ Because this system will require substantial programming resources, TAS does not expect it to be operational until 2009.

E. Taxpayer Assistance Orders

IRC § 7811 authorizes the National Taxpayer Advocate to issue a Taxpayer Assistance Order (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 if relief is not granted. In certain circumstances, the National Taxpayer Advocate or her delegate may issue a TAO to order the IRS to take an action, cease an action, or refrain from taking an action in a case.¹⁹⁰ The National Taxpayer Advocate or her delegate may also issue a TAO to order the IRS to expedite consideration of a taxpayer's case, reconsider its determination in a case, or review the case at a higher level of the organization.¹⁹¹ Upon receipt of a TAO, the responsible IRS official can either agree to take the action ordered or appeal the order.¹⁹²

In December 2007, TAS issued IRM 13.1.20, *TAS Taxpayer Assistance Order (TAO) Process*, to provide updated guidance for TAS employees. IRM 13.1.20 streamlines TAO procedures by reducing the levels of managerial review in the approval process before a Local Taxpayer Advocate may issue a TAO. These levels of review unnecessarily delayed TAOs and did not add sufficient value to justify the delays. During FY 2007 and 2008, the National Taxpayer Advocate and her staff trained Local Taxpayer Advocates and case advocates on the importance of the TAO and its effective use.

During the first six months of FY 2008, TAS issued more TAOs than in all of FY 2007. The following table illustrates the number of TAOs in each fiscal year from October 1, 2004, through March 31, 2008.

¹⁸⁹ Desktop Integration integrates various IRS systems, through a common user interface (a web browser), which allows access to the system's information.

¹⁹⁰ See IRC § 7811(b); IRM 13.1.20.2 (Dec. 15, 2007).

¹⁹¹ IRM 13.1.20.3 (Dec. 15, 2007).

¹⁹² IRM 13.1.20.5(2) (Dec. 15, 2007).

TABLE V-12, NUMBER OF TAXPAYER ASSISTANCE ORDERS ISSUED FOR FY 2004 THROUGH FY 2008

Fiscal Year	Number of Taxpayer Assistance Orders Issued
2004	30
2005	20
2006	46
2007	28 ¹⁹³
2008 (through March 31, 2008)	37

In the first six months of FY 2008, the IRS complied with 26 TAOs, TAS rescinded four,¹⁹⁴ and seven remain open. Table V-13 shows the status of TAOs issued in FY 2008.

TABLE V-13, SUMMARY OF TAXPAYER ASSISTANCE ORDERS ISSUED OCTOBER 1, 2007, THROUGH MARCH 31, 2008

Business Operating Division	TAO Complied	TAO Rescinded	Open TAO
Appeals	1		
Criminal Investigation	4		
Large and Midsize Business (LMSB)	1		
Small Business/ Self Employed (SB/SE)	11	1	4
Tax Exempt/ Government Entities (TE/GE)			1
Wage and Investment (W&I)	9	3	2
Total	26	4	7

¹⁹³ The number of TAOs issued in FY 2007 differs from the number reported in the 2007 Annual Report to Congress due to a TAO that was issued late in the fiscal year and not initially captured in year-end statistical reports.

¹⁹⁴ Complied TAOs includes one sustained TAO issued to SB/SE Field Compliance.

The TAOs issued through the first half of FY 2008 included a wide range of issues as reflected in the following table.

TABLE V-14, TAXPAYER ASSISTANCE ORDERS ISSUED IN FY 2008 AS OF MARCH 31, 2008

Issue Description	Number
Refund Issues	10
Levy Issues	4
Identity Theft	4
Offer in Compromise-Effective Tax Administration ¹⁹⁵	3
Reconsideration of Substitute for Return Prepared under IRC §6020(b) ¹⁹⁶ and Audits ¹⁹⁷	2
Seizure & Sale	2
Application for Exempt Status	1
Installment Agreements	1
Innocent Spouse Claims ¹⁹⁸	1
Other Collection Issues	1
Criminal Investigation	1
Failure to File Penalty ¹⁹⁹	1
Document Processing Issue	1
Open Audit-Excludes Non Revenue Protection Strategy & Earned Income Credit ²⁰⁰	1

¹⁹⁵ An offer in compromise is an agreement between a taxpayer and the IRS that resolves the taxpayer's tax debt for less than the full amount owed. Where there is no doubt as to liability or as to collectibility, the IRS may compromise to promote effective tax administration where compelling public policy or equity considerations are present.

¹⁹⁶ IRC § 6020(b) provides: "If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise."

¹⁹⁷ Reconsideration of a tax assessment resulting from an IRS examination, or an income or employment tax return prepared by the IRS under IRC § 6020(b).

¹⁹⁸ Generally, married taxpayers who file joint federal income tax returns are jointly and severally liable. IRC § 6015 offers taxpayers three possible avenues from relief from the joint and several liability and these types of relief are commonly referred to as innocent spouse relief..

¹⁹⁹ IRC § 6651(a)(2) imposes a failure to pay penalty if the tax shown on any return is not paid by the due date of that return.

²⁰⁰ Excludes audits involving Revenue Protection Strategy examinations resulting from projects developed through Research and Development, and the Dependent Data Base and claims for Earned Income Credit.

Issue Description	Number
Injured Spouse Claim ²⁰¹	1
Lien Release	1
Bankruptcy	1
Exam: Appeals	1
Total TAOs Issued	37

F. FY 2009 Case Advocacy Operational Priorities

TAS identified a number of operational priorities that will improve and enhance our case advocacy processes, and improve customer and employee satisfaction in FY 2009. Examples of our operational priorities are discussed below. A detailed list of case advocacy operational priorities is provided in Appendix V of this report.

During FY 2009, the EDCA will continue to develop and implement the Customer Satisfaction National Strategy through office consultations for the remaining offices identified in FY 2008. This comprehensive approach incorporates the national strategy into a local office setting. Using a broad range of data analysis and unique office profiles, EDCA will identify skill gaps and potential training opportunities tailored to specific office needs, and will develop a comprehensive communication plan to share local office successes and proven practices with all TAS offices.

In addition to the comprehensive planning of the customer satisfaction efforts, the EDCA initiated and developed long-term plans to deliver the TAS Quality of Work Life Initiative throughout 2008. In FY 2009, TAS will focus on the delivery of the plan's two major components: (1) reducing organizational barriers that contribute to unnecessary employee stress and (2) providing employees the essential tools and techniques to establish a healthy work life balance.

The EDCA will also continue defining the role of field support organizations and integrate them into field activities by communicating the roles of Internal Technical Advisors (ITAP), Field Systemic Advocacy (FSA), and the EDCA and the services they provide to employees. The EDCA will also develop a Technical Guidance Referral button on TAMIS, which will improve our ability to refer cases to technical advisors and track the number and types of cases that are referred.

²⁰¹ If an individual files a joint tax return with his or her spouse expecting a tax refund, and all or part of the refund was, or is expected to be, applied to the spouse's legally enforceable past-due federal tax debt, child or spousal support, federal non-tax debt or state income tax obligation, the spouse who is not liable for the outstanding debt is considered an injured spouse.

TAS will also undertake a number of initiatives to improve case advocacy efficiency and provide our employees with the tools and guidance needed to effectively advocate for taxpayers. Examples include updating TAS IRMs, improving the OAR process to reduce taxpayer burden and delays, collaborating with the IRS, and providing feedback to the IRS on case referrals that do not meet TAS case acceptance criteria.

VI. SYSTEMIC ADVOCACY

The Executive Director Systemic Advocacy (EDSA) provides oversight and focus to identifying and resolving systemic issues within the IRS. The EDSA and Systemic Advocacy (SA) technical liaisons meet with the executives from the IRS operating divisions to identify and discuss emerging issues and ensure a TAS presence in IRS policy decisions. The technical liaisons represent the National Taxpayer Advocate before the operating divisions and functions, participate on task forces, teams, and outreach efforts to identify systemic issues, processes or procedures, and coordinate closely with the business community.

The EDSA provides oversight and focus for the identification and resolution of systemic problems within the IRS. Responsibilities include:

- ♦ The National Taxpayer Advocate's Annual Report to Congress;²⁰²
- ♦ The Immediate Intervention Program;
 - The Systemic Advocacy Management System (SAMS)
 - The Internal Management Document (IMD) process
- ♦ The Advocacy Projects Program; and
- ♦ The Collection and Examination Liaison Program.

Systemic Advocacy's progress on its 2008 operational priorities is set forth below.

A. Annual Report to Congress

Systemic Advocacy plays a significant role in developing the National Taxpayer Advocate's Annual Report to Congress (ARC) by assisting the National Taxpayer Advocate in identifying at least 20 of the Most Serious Problems affecting taxpayers and recommending solutions to those problems. In determining the Most Serious Problems for the ARC, the National Taxpayer Advocate considers recommendations from the

²⁰² IRC § 7803(c)(2)(B) requires the National Taxpayer Advocate to submit a comprehensive Annual Report to Congress that includes 20 of the most serious problems, legislative recommendations, and the ten most litigated issues no later than December 31 of each year.

Immediate Intervention and the Advocacy Projects programs relating to issues that the IRS will not or cannot address on its own. The National Taxpayer Advocate also utilizes case-related data from the Taxpayer Advocate Management Information System (TAMIS),²⁰³ information provided by the Local Taxpayer Advocates, the TAS Research function, the office of Technical Analysis and Guidance (TAG) and other TAS offices, and the IRS operating divisions to substantiate the problems addressed in the ARC. In addition to assisting the National Taxpayer Advocate on substantive aspects of the ARC, Systemic Advocacy tracks the responses of the IRS to the recommendations in the ARC.²⁰⁴

B. Immediate Intervention Program

The Immediate Intervention Program includes:

- ♦ Resolving problems relating to IRS processes and procedures severe enough to require an immediate intervention by the Office of Systemic Advocacy;
- ♦ Managing SAMS; and
- ♦ Analyzing and commenting on internal IRS procedural changes, known throughout the IRS as the Internal Management Document (IMD) process.

1. Immediate Interventions

An Immediate Intervention is an action taken to address an administrative issue, identified internally or externally, which causes immediate, significant harm to multiple taxpayers and demands an urgent response. The Director of Immediate Interventions reviews all advocacy issue submissions to determine if they will become immediate interventions or advocacy projects. TAS received 21 issues requiring immediate intervention during the first six months of FY 2008.²⁰⁵ As an example, Systemic Advocacy recently intervened to prevent the IRS from incorrectly assessing military retirees on nontaxable retirement distributions because of incorrect coding on Forms 1099R, *Distributions From Pensions*,

²⁰³ TAS uses TAMIS to record, control, and process taxpayer cases, as well as to analyze the issues that bring taxpayers to TAS.

²⁰⁴ Systemic Advocacy is tracking both the 2006 and 2007 Annual Report to Congress recommendations through the Department of Treasury's system known as the Joint Audit Management Enterprise System (JAMES). JAMES provides the National Taxpayer Advocate a means to track responses to recommendations and assign responsibility to IRS officials for follow-up on those recommendations.

²⁰⁵ In FY 2007, Systemic Advocacy received 24 Immediate Intervention issues for the same time period and 68 for the entire fiscal year. The number of Immediate Interventions decreased by 4 percent when comparing the first two quarters of FY 2007 against the first two quarters of FY 2008.

*Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*²⁰⁶

2. *Systemic Advocacy Management System (SAMS)*

SAMS allows IRS employees and external stakeholders to submit advocacy issues to the Office of Systemic Advocacy for review, analysis, and potential development as advocacy projects. SAMS also provides the Taxpayer Advocate Service with a means of creating, working, and monitoring these projects. SAMS became available to IRS employees in FY 2003 and was upgraded in FY 2004 by delivery of an Internet portal, including a screening process for issue submissions. These improvements enable the public, including taxpayers and their representatives, to submit perceived systemic problems directly to the Office of Systemic Advocacy.

3. *Internal Management Document Process*

Because the IRS is in a constant state of administrative and procedural change, TAS established a program to coordinate the review of the IRS's proposed changes to its Internal Revenue Manual (IRM) and other internal procedural guidance. Systemic Advocacy manages the Internal Management Document (IMD) process, using tax and IRS procedural expertise of TAS subject matter experts to review IRMs and other internal guidance and provide feedback.²⁰⁷ The IMD review process also includes analyzing and revising proposed IRS customer communications, such as notices, letters, and stuffers. For example, in FY 2008 TAS personnel offered substantial changes to the IRS's plans to revise Forms 433-A and 433-B, *Financial Statements for Individuals and Corporations*. Financial

²⁰⁶ The IRS was assessing the early withdrawal penalty under IRC § 72(t) based on incorrect coding on Forms 1099R issued by the Department of Defense. The distribution code the military was using was intended for retirees who had reached age 59½. Many of the recipients of the 1099s had not reached age 59 ½, but were receiving a series of substantially equal periodic payments satisfying an exception to the penalty under IRC § 72(t)2(iv). The Forms 1099R should have reflected the non-taxable distribution code that applied to this situation. Systemic Advocacy worked with the IRS Tax Law Specialists Employee Plans-Rulings/Agreements group to issue a letter to the Department of Defense advising the Department of Defense of the correct distribution codes when issuing Form 1099R to employees who have not reached the age of 59½. The IRS issued this letter in time for the Department of Defense to change its computer programming prior to issuing the 2007 Forms 1099R to retirees. Systemic Advocacy also worked with W&I and SB/SE Compliance to issue an alert to apprise IRS employees of the error and provide instructions on how to resolve any additional assessments made on retiree accounts resulting from the incorrect 1099R distribution codes.

²⁰⁷ IMDs include directives, internal directives and instructions to staff, as well as the IRM (including Law Enforcement Manuals (LEMs) and Chief Counsel Directives Manual (CCDM), Policy Statements, Delegation Orders, and Letters or Memoranda of Understanding). See IRM 1.11.1.1 (Apr. 29, 2008).

statements are critical to taxpayers who must demonstrate their financial condition to the IRS to qualify for certain collection alternatives. Through the IMD process, the IRS incorporated all of TAS's proposed changes to these forms.

C. Advocacy Projects Program

When Systemic Advocacy decides to not handle an issue as an immediate intervention, it may be worked as an advocacy project by Systemic Advocacy analysts. Advocacy projects typically deal with systemic problems that may take longer to resolve. Any unresolved project issues may be identified as Most Serious Problems in the National Taxpayer Advocate's Annual Report to Congress. Typical examples of ongoing advocacy projects are the Failure to Pay Penalty Project and the IRS Files Retrieval Project.

1. *Problems Calculating Failure to Pay Penalty and Interest*

The Failure to Pay (FTP) penalty under IRC § 6651(a)(2) authorizes the IRS to impose a penalty for a taxpayer's failure to pay his or her full tax liability by the due date of the payment. Additionally, taxpayers with delinquent tax debts will be charged statutory interest on the debt.²⁰⁸ The National Taxpayer Advocate has identified situations in which IRS data systems cannot compute either the correct FTP penalty or the correct interest obligation. Incorrect calculations have occurred in the following situations:

- ♦ The IRS overcharges the FTP penalty after taxpayers have entered into installment agreements.²⁰⁹
- ♦ Interest is not automatically updated in certain situations, thereby obligating IRS personnel to manually update interest using a series of complex data transactions that routinely cause errors;²¹⁰ and
- ♦ The IRS often cannot properly calculate the FTP penalty when prior bankruptcy or litigation affected the taxpayer's account.

²⁰⁸ IRC § 6601.

²⁰⁹ When a taxpayer enters into an installment agreement, the FTP penalty rates should decrease to 0.25 percent per month; however, in cases TAS has reviewed, the penalty ranged from 0.5 percent to one percent. IRC § 6651(h).

²¹⁰ Numerous Internal Revenue Code sections restrict the accrual of interest, e.g., IRC § 6601(c) (interest restricted after Form 870, Waiver of Restrictions on Assessment And Collection of Deficiency, is provided by taxpayer to the IRS and notice and demand is not sent within 30 days). IRS procedures require manual interest calculations in certain restricted interest situations. IRM 20.2.8.6 (Aug. 1, 2006). The result is that IRS employees are required to manually compute restricted interest using a series of complex steps.

Ordinary taxpayers find it difficult, if not impossible, to identify errors in complex penalty and interest calculations when reviewing their IRS notices and payoff statements. Taxpayers routinely request and receive payoff balances from the IRS by telephone or correspondence. It is not unusual for taxpayers to pay the balances provided by the IRS only to receive additional bills for accruals of interest, FTP penalties, or both. The following table demonstrates increasing TAS case receipts related to the penalties authorized under IRC § 6651.²¹¹

TABLE VI-1, IRC § 6651 TAS CASES FOR FY 2005 THROUGH FY 2007²¹²

Fiscal Year	IRC § 6651 Cases in TAS	Percentage Increase From Prior Year
2005	3,333	N/A
2006	4,190	26 %
2007	5,076	21 %

Systemic Advocacy is also working to identify the direct causes of FTP and interest miscalculations and advocate for system upgrades and changes in procedures so that miscalculations are less likely. For example, when taxpayers enter into a qualified installment agreement, the law requires the rate of the FTP penalty to decrease from one-half of a percent per month to one-quarter of a percent per month.²¹³ However, IRS data systems miscalculate the penalty percentage in certain situations. The IRS is aware of its system limitations but has not prioritized upgrades. Instead, the IRS Office of Penalties uses “manual workarounds” that do not correct all accounts, and many taxpayers continue to pay more penalties and interest than are legally required.²¹⁴ From FY 2006 through FY 2008, Systemic Advocacy created numerous projects to address incorrect FTP calculations; however, the problems

²¹¹ TAMIS data obtained from BPMS (Mar. 4, 2008).

²¹² The cases in the table include both the FTP penalty and the Failure to File penalty, each of which is authorized by IRC § 6651, because both penalties are tracked under the same issue code in TAMIS; however, Systemic Advocacy is attempting to isolate which cases are FTP penalty cases. Additionally, it is unclear what percentage of these TAS FTP cases involve incorrectly calculated FTP penalties as opposed to other FTP related issues; however, Systemic Advocacy is attempting to determine the scope of the problem.

²¹³ IRC § 6651(h).

²¹⁴ The IRS has issued procedural alerts to its employees so that they are aware of these problems, such as IRS SERP Alerts 080035 and 07077. In January 2008, the IRS also ran a recovery on certain accounts to correct for programming errors and credit taxpayer accounts.

identified were not resolved through normal processes. In FY 2008, the National Taxpayer Advocate created a team within TAS to fully identify the scope of these problems.

2. *IRS Files Retrieval Function*

There are various reasons why taxpayers need access to copies of previously filed tax returns, including resolving disputes with the IRS over items on a previously filed return. The National Taxpayer Advocate addressed concerns about the quality of the IRS files retrieval function in her 2001 and 2002 Annual Reports to Congress.²¹⁵ In 2006, the IRS began outsourcing this program, and in 2007, transferred all files retrieval functions to a single contractor. Since the IRS began outsourcing this function, taxpayers, practitioners, IRS employees and other government agencies complain that they either experience significant delays in receipt of files or never receive them at all.

In some cases, taxpayers' private information is inadvertently sent to the wrong person. For example, TAS has identified cases in which taxpayers submitted a Form 4506, *Request for Copy of Tax Return*, to an IRS campus requesting a copy of their Form 1040, *U.S. Individual Income Tax Return*, and receive copies of returns belonging to other taxpayers. Mistakes such as these are compromising taxpayers' tax return information (also known as personal identifiable information or PII).²¹⁶

Anecdotal reports from Local Taxpayer Advocates indicate that the contractor fills fewer than 50 percent of file requests. The National Taxpayer Advocate has created a team to study the problems with the file retrieval system. In FY 2008 and FY 2009, TAS will attempt to quantify these problems and recommend improvements to the program.

3. *Local Taxpayer Advocate Portfolio Process*

The National Taxpayer Advocate has assigned each Local Taxpayer Advocate an advocacy topic or "portfolio" in which the Local Taxpayer Advocate can become expert and assist the National Taxpayer Advocate in fulfilling her statutory duties.²¹⁷ When the National Taxpayer Advocate

²¹⁵ See National Taxpayer Advocate 2001 Annual Report to Congress 70; National Taxpayer Advocate 2002 Annual Report to Congress 140.

²¹⁶ IRC § 6103 prohibits the unauthorized disclosure of returns and return information.

²¹⁷ For example, the National Taxpayer Advocate is tasked with:

- Assisting taxpayers in resolving problems with the Internal Revenue Service. IRC § 7803(c)(2)(A)(i).
- Identifying areas in which taxpayers have problems in dealings with the Internal Revenue Service. IRC § 7803(c)(2)(A)(ii).
- Proposing changes in the administrative practices of the Internal Revenue Service to mitigate such problems. IRC § 7803(c)(2)(A)(iii).

or other parts of the organization need assistance with a topic that is a portfolio, the Local Taxpayer Advocate provides necessary expertise. The Executive Director, Case Advocacy manages this program for the National Taxpayer Advocate; however, the Advocacy Projects program in Systemic Advocacy acts as a liaison between Local Taxpayer Advocates and Systemic Advocacy, involving them in projects, joint task forces, and Annual Report to Congress assignments.

The portfolio program has provided tangible benefits for tax administration. For example, a Local Taxpayer Advocate giving a speech at a tax seminar relating to his portfolio (tax issues affecting Indian tribal governments) learned that tribal governments (ITGs) were receiving information from the IRS in an unreadable format causing the governments to incur unnecessary IRS penalties. ITGs, like other payers, file their information returns (Forms 1099) using the Filing Information Returns Electronically (FIRE) system. The IRS then identifies payees with incorrect or missing taxpayer identification number (TIN) information and sends this information electronically to the tribes, which are required to explain why the information was incorrect. The failure to reply to the IRS with an explanation can lead to monetary penalties.²¹⁸ During the seminar, the tribal representatives informed the Local Taxpayer Advocate that the IRS uses antiquated magnetic tapes to compile and send this information to entities that are required to issue Forms 1099. After researching the matter and involving Systemic Advocacy, the Local Taxpayer Advocate learned that the technology used by the IRS was so old and obsolete that few payers could access the data on the tapes, and therefore could not determine the accuracy of any proposed penalties. One payer had to ship a tape to Europe to find a service bureau to convert the data into a usable format. TAS worked with the IRS Representatives in the Office of Penalties and Interest to provide the 1099 notice data to the tribes on their preferred media, compact disks (CDs). See Appendix VII for a list of advocacy portfolios.

D. Collection and Examination Liaison Program

Systemic Advocacy maintains liaisons with the IRS Examination and Collection functions to raise TAS's concerns about systemic problems and to find areas where TAS and the IRS can improve IRS procedures. The Systemic Advocacy Liaison Program consists of collection and examination experts who interact with all TAS functions to identify

-
- Identifying potential legislative changes that may be appropriate to mitigate such problems. IRC § 7803(c)(2)(A)(iv).
 - Reporting to Congress as required by IRC § 7803(c)(2)(B)(i)-(ii).

²¹⁸ See IRC §§ 6721 – 6724, governing the imposition of penalties for incorrect information reporting as well as the abatement of such penalties upon the demonstration of reasonable cause by the reporting entity.

problematic trends observed by TAS employees. The liaisons consult with their counterparts in the operating divisions to form cooperative work groups and task forces to address the issues.²¹⁹ Recently, the IRS and TAS collaborated to improve the Allowable Living Expense (ALE) standards used to make collectability determinations. The National Taxpayer Advocate believed the IRS's expense standards failed to take into account the nature and extent of different expenses which taxpayers should be allowed when the IRS is making collection determinations. The revised standards released on October 1, 2007, allow taxpayers a more realistic base level of living expenses when reporting their financial situation to the IRS.²²⁰ TAS continues to work with the IRS to refine the ALE application and methodology to allow fair and equitable treatment of taxpayers at all income levels.

E. FY 2008 Systemic Advocacy Operational Priorities

Systemic Advocacy derives its operational priorities from various sources, including the National Taxpayer Advocate's Annual Report to Congress, analysis of the most prevalent reasons taxpayers come to TAS for assistance, interaction with internal and external stakeholders, and analysis of case related trends in TAMIS, as well as trends in issues submitted on SAMS. For example, problems with the IRS's processing of amended returns and associated refund delays consistently rank in the top three reasons that taxpayers come to TAS each year.²²¹ Discussions with the IRS Oversight Board resulted in a joint study with the W&I Division to review the amended return process, which became an operational priority. TAS is in the initial stages of a similar study with the SB/SE Division to address increases in taxpayers coming to TAS regarding incorrect assessments from the CAWR program.²²²

²¹⁹ See discussion of TAS-IRS Joint Task Forces, *infra*.

²²⁰ TAS continues to work closely with the IRS on IRM 5.15 to improve the allowable living expenses. Moreover, the National Taxpayer Advocate remains committed to helping the IRS develop and administer standards that adhere to IRC § 7122. Specifically, these standards should allow for the taxpayer to achieve a level of "self-sufficiency" and should not deprive the taxpayer from having adequate means to provide for basic living expenses. For example, if a taxpayer has a sharply reduced basic living expense because he or she simply cannot presently afford an item, such as adequate medical care for the taxpayer's individual circumstance or that of the taxpayer's dependents, then the IRS should take the adequacy of such expense into account when determining the taxpayer's ability to pay.

²²¹ See National Taxpayer Advocate 2004 Annual Report to Congress 594; National Taxpayer Advocate 2005 Annual Report to Congress 569; National Taxpayer Advocate 2006 Annual Report to Congress 660; and National Taxpayer Advocate 2007 Annual Report to Congress 676.

²²² See Combined Annual Wage Reporting and Federal Unemployment Tax Act Program Issues, *supra*.

SAMS issue submissions also assist in establishing operational priorities. Table VI-2 identifies refund, examination, and identity theft issues as the top systemic advocacy submissions on SAMS during the first six months of FY 2008.²²³

Table VI-2, SAMS – Top Issues, October 1, 2007 – March 31, 2008

Issue	Number of Receipts
Refund Issues	38
Examination Issues	25
Identity Theft	23
Access to IRS	18
Case Processing	16
Notices	15
Penalty Issues	15
Form or Publication Issue	14
Collection Issues	13
Information Reporting	13

These programs rank high among the reasons taxpayers seek TAS assistance: the National Taxpayer Advocate's 2007 Annual Report to Congress identified examination issues and IRS identity theft procedures among the Most Serious Problems for taxpayers.²²⁴ The correction of systemic problems within these programs is a Systemic Advocacy operational priority.

Levy-related issues have been among the top two reasons taxpayers come to TAS for the last two fiscal years, being second in FY 2006 and first in FY 2007.²²⁵ Consequently, addressing systemic issues underlying collection actions has been an important operational priority for FY 2008. Private Debt Collection (PDC) constitutes another Systemic Advocacy operational priority, as the National Taxpayer Advocate has addressed the issue as a Most Serious Problem affecting taxpayers and the tax administration system.²²⁶ Systemic Advocacy has taken different approaches to addressing each of these priorities. A more detailed description of Systemic Advocacy's progress on these operational priorities follows.

²²³ See Case Advocacy and Areas of Emphasis, *supra*.

²²⁴ National Taxpayer Advocate 2007 Annual Report to Congress 222-303.

²²⁵ See National Taxpayer Advocate 2007 Annual Report to Congress 676; National Taxpayer Advocate 2006 Annual Report to Congress 660; see also Trends in TAS Receipts, *supra*.

²²⁶ National Taxpayer Advocate 2007 Annual Report to Congress 411; National Taxpayer Advocate 2006 Annual Report to Congress 34; National Taxpayer Advocate 2005 Annual Report to Congress 76.

1. *TAS-IRS Rework Studies*

As noted earlier, the IRS Oversight Board asked TAS to work with the operating divisions to identify systemic problems and document progress toward reducing those problems, which is viewed as IRS re-work.²²⁷

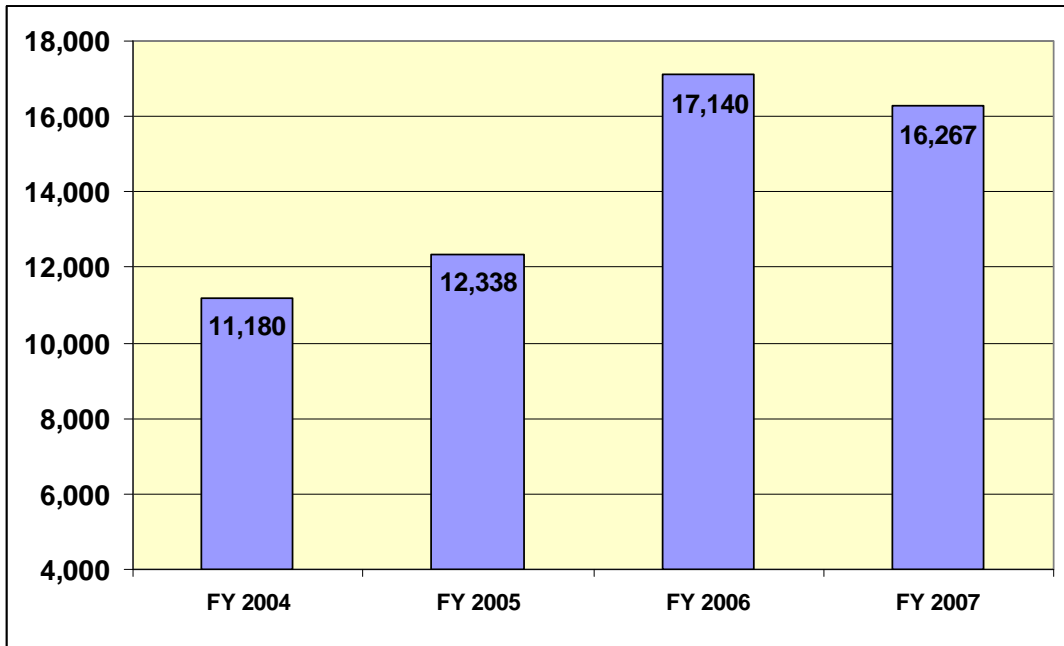
a) Amended Return TAS-IRS Rework Study

Delays associated with amended return processing are consistently among the top reasons why taxpayers seek TAS assistance. Chart VI-3 shows amended return case receipts increased over 45 percent from FY 2004 through FY 2007.²²⁸

²²⁷ The IRS Oversight Board “oversee[s] the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.” IRC § 7802(c)(1)(A).

²²⁸ See National Taxpayer Advocate 2004 Annual Report to Congress 594 (TAS received 11,180 amended return cases, amounting to the number two reason taxpayers came to TAS for assistance in FY 2004); TAS received 12,338 amended return cases, amounting to the number two reason taxpayers sought TAS assistance in FY 2005 (TAMIS data obtained from BPMS July 21, 2008); National Taxpayer Advocate 2006 Annual Report to Congress 660 (TAS received 17,140 amended return cases, amounting to the number three reason taxpayers sought TAS assistance in FY 2006); and National Taxpayer Advocate 2007 Annual Report to Congress 676 (TAS received 16,267 amended return cases, amounting to the number two reason taxpayers sought TAS assistance in FY 2007).

CHART VI-3, AMENDED RETURN CASES IN TAS FROM FY 2004 THROUGH FY 2007²²⁹



According to the IRS’s own procedures, the “normal” timeframe for processing an amended return is eight to 12 weeks.²³⁰ However, an analysis of a statistically valid sample of TAS amended return cases (identified using TAMIS receipts) revealed that the mean period that cases were open prior to contacting TAS was 182 days.²³¹ Delayed amended return processing can lead to economic burden for taxpayers and to contacts with the IRS, wasting both taxpayer and IRS time and resources.

TAS and the W&I Division mutually identified amended return processing delays as the first target for these outcome measures suggested by the IRS Oversight Board, and established an initial action plan that consisted of four phases.²³² TAS and W&I are finalizing Phase II of the Amended Return study.²³³

²²⁹ For FY 2004, TAS had 11,180 amended return processing cases and for FY 2007, TAS had 16,267 cases. See National Taxpayer Advocate 2004 Annual Report to Congress 594; National Taxpayer Advocate 2007 Annual Report to Congress 676.

²³⁰ IRM 21.4.1.3 (Oct. 1, 2006).

²³¹ The analysis used Correspondence Imaging System (CIS) data to measure the time between the IRS received date and the date that the taxpayer contacted TAS. The analysis of CIS information was based on 348 of the 458 original TAS sample of cases (110 of the cases were removed from the original sample because of insufficient information on CIS) revealed that the mean number of days that cases were open prior to contacting TAS was 182 days with a lower bound of 167 days and an upper bound of 197 days. The median number of days was 143.

²³² *Id.*

²³³ Phase I of the amended return study was completed in September 2007. Phase I culminated in the issuance of two independent studies by TAS and W&I. The TAS

During Phase II, the Amended Return Study Group (ARSG) conducted a walking tour of the amended return process -- from the initial receipt to final case resolution – and completed a process map. The ARSG eliminated the Submission Processing function as a systemic contributor to the delays based on the process map validation of Submission Processing's use of a 12-day (maximum) processing cycle. Amended returns processed within the 12-day cycle generally do not meet TAS criteria unless the taxpayer is suffering an economic burden.²³⁴ The ARSG is continuing to identify the causes of the systemic delays in the process.

The ARSG made preliminary recommendations to responsible officials in the IRS for reducing delays in amended return cases. The group also developed potential testing methodologies based on established measurement criteria, designed for use in tracking anticipated improvements within amended return processing. The primary focus of the ARSG's preliminary recommendations centers on reducing delays from the Examination function's "Category A" (CAT-A) process.²³⁵ The ARSG is awaiting executive approval on the recommendations to begin testing. The group will use data gathered during the testing to extrapolate the downstream impact on TAS's caseload and possibly to recommend more comprehensive tests or full implementation of the recommendation.

b) CAWR/FUTA TAS-IRS Rework Study

A variety of factors influence TAS workload volumes, such as the IRS consolidating and centralizing CAWR/FUTA work as described earlier in this report.²³⁶ TAS identified the effect of the CAWR and the FUTA certification programs on TAS case receipts as a second target for the TAS-IRS Rework Study.²³⁷ TAS and SB/SE will develop outcome measures to document progress toward reducing the number of the CAWR and FUTA cases that come to TAS.

TABLE VI-4, ACTION PLAN: STUDY ON EFFECTS OF CAWR AND FUTA PROGRAMS ON TAS RECEIPTS

Phase I Report: The PCIC 330 Amended Return Study was issued on September 25, 2007, and the W&I Lean Six Sigma Report: 1040X Amended Return Project Overview was issued on May 30, 2007.

²³⁴ See Appendix II, Taxpayer Advocate Service Case Acceptance Criteria, *infra*.

²³⁵ Amended returns that meet CAT-A criteria must be referred to Examination. These criteria were established based on past examinations that identified characteristics indicating a high degree of noncompliance. See IRM Exhibit 21.5.3-2 for description of cases meeting CAT-A criteria that must be referred for examination.

²³⁶ See Combined Annual Wage Reporting and Federal Unemployment Tax Act Program Issues, *supra*.

²³⁷ This group is currently working to identify improvement opportunities to reduce the volume of amended returns that require TAS assistance. See FY 2009 Systemic Advocacy Operational Priorities, *infra*.

Phase	Actions
I	TAS and SB/SE will review CAWR and FUTA processes, identify systemic problems, and conduct analysis of sample cases.
II	TAS and SB/SE will review root causes and develop recommendations for improvement.
III	TAS and SB/SE will test recommendations formed and analyze the results of testing to develop permanent recommendations for improvement.
IV	TAS will monitor case inventories for improvements.

F. TAS-IRS Cooperative Task Forces Led by Systemic Advocacy

TAS sponsors a number of joint task forces to address issues that create burden for taxpayers or affect their rights. TAS's participation in these efforts affords TAS the opportunity to provide the taxpayer's perspective when the IRS is considering new initiatives, work processes, or policies.²³⁸

1. Collection Joint Task Forces

In the 2006 Annual Report to Congress, the National Taxpayer Advocate addressed the IRS's collection strategy, providing recommendations that would help the IRS effectively and efficiently balance the goals of tax collection, taxpayer service, and tax compliance.²³⁹ In its formal response to the National Taxpayer Advocate's specific recommendations, the IRS agreed to collaborate with TAS on several task forces and further explore TAS's concerns. The National Taxpayer Advocate is encouraged by the IRS's willingness to undertake these proactive measures and is pleased to report that in February 2008, TAS and the IRS held a kickoff meeting to establish five new TAS-Collection working groups.

The purpose of these cooperative efforts is to achieve the proper balance of service and enforcement to better serve taxpayers. The working groups will review current IRS policies, identify barriers and concerns, and seek the best available solutions for the following collection-related issues:

- ♦ *Levies.* As outlined earlier in this report, levies were the number one reason taxpayers came to TAS for assistance in FY 2007.²⁴⁰ This trend continued during the first six months of FY 2008, as levy cases increased an additional three percent.²⁴¹ The National

²³⁸ For a comprehensive list, see Appendix III, Collaborative Efforts between TAS and the IRS, *infra*.

²³⁹ See National Taxpayer Advocate 2006 Annual Report to Congress 62-82, 83-109, 110-129, 130-140, and 141-156.

²⁴⁰ TAMIS data obtained from BPMS (Sept. 30, 2007).

²⁴¹ TAMIS data obtained from BPMS (Apr. 30, 2008). For the first six months of FY 2007, TAS received 9,258 levy-related cases. For the same timeframe in FY 2008, TAS received 9,490 such cases.

Taxpayer Advocate expressed numerous concerns with the IRS's levy program (related to pre-levy and post-levy actions) in the 2006 Annual Report to Congress, and the task force will analyze these issues and her respective recommendations in detail.²⁴²

- ♦ *Allowable Living Expense (ALE) standards.* The National Taxpayer Advocate listed ALE as a Most Serious Problem in the 2005 Annual Report and raised concerns regarding the IRS's application of the standards used to determine a taxpayer's ability to pay. The task force will allow TAS and the IRS to collaborate on the development of standards that might better reflect taxpayers' actual living expenses and help to determine the most appropriate collection alternative (e.g., installment agreement (IA), offer in compromise (OIC), or currently not collectible (CNC));
- ♦ *Installment agreements (IA).* Through the first six months of FY 2008, TAS has experienced a 34 percent increase in IA-related cases.²⁴³ Although this increase may be attributable to a variety of reasons, including a revision to the IA user fee, the task force will closely review the entire IA process and research IA default rates;
- ♦ *Offers in Compromise (OIC).* The National Taxpayer Advocate has repeatedly voiced concerns over the rules and procedures that limit the accessibility and use of the OIC program.²⁴⁴ Between FY 2001 and FY 2007, offer receipts declined by 63 percent and the number of offers accepted declined by 70 percent.²⁴⁵ The task force's charge is to take a closer look at existing OIC policy and procedures and determine if they needlessly deter taxpayers from submitting good offers (i.e., an offer that represents a good faith attempt by a taxpayer to resolve the tax debt); and
- ♦ *Early Intervention techniques.* The National Taxpayer Advocate continues to believe that the IRS is too slow in early intervention (i.e., getting involved at a time when the taxpayer is likely to have

²⁴² National Taxpayer Advocate 2006 Annual Report to Congress 110-129.

²⁴³ TAMIS data obtained from BPMS (Apr. 30, 2008). For the first six months of FY 2007 (Oct. 2007 to Feb. 2008), TAS received 2,294 IA-related cases, whereas for the same timeframe in FY 2008, TAS received 3,085 such cases. See also, Issues Related to Requests for Installment Agreements, *supra*.

²⁴⁴ National Taxpayer Advocate 2001 Annual Report to Congress 52; National Taxpayer Advocate 2003 Annual Report to Congress 99; National Taxpayer Advocate 2004 Annual Report to Congress 311; National Taxpayer Advocate 2005 Annual Report to Congress 270; National Taxpayer Advocate 2006 Annual Report to Congress 62, 83, and 141; and National Taxpayer Advocate 2007 Annual Report to Congress 374 and 388.

²⁴⁵ SB/SE Collection Activity Report No. 5000-108 (FY 2001-FY 2006); SB/SE Collection Activity Report No. 5000-108 (Oct. 1, 2007). In FY 2001, the IRS received 125,390 offers and accepted 38,643. In FY 2007, the IRS received 46,270 offers and accepted 11,618.

the ability to successfully resolve the tax debt) and overly restrictive in how it uses collection alternatives to help resolve debts that have been allowed to pyramid and age. Simply stated, the IRS needs to attempt personal contact with taxpayers at the earliest possible interval. The task force will explore the IRS's existing address and telephone research process as well as test alternative treatment streams that might better suit taxpayer needs and preferences.

2. *TAS-Examination Function Task Forces*

Systemic Advocacy is also collaborating with the IRS on examination issues. As Table VI-5 reflects, examination issues continue to rise with examination related cases in TAS increasing by 32 percent from FY 2004 to FY 2007.²⁴⁶

TABLE VI-5, EXAMINATION CASES IN TAS FROM FY 2004 THROUGH FY 2007

Issue	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
Audit Reconsiderations	7,131	7,406	10,005	12,331
Open Audits	4,773	5,924	6,934	8,729
Revenue Protection Strategy - EITC Claim	10,179	6,544	5,704	7,728
Other Exam	771	812	1,040	1,375
Examination Appeals	505	569	684	662
Subchapter S Corporations	679	632	691	785
Total Exam Cases in TAS	24,038	21,887	25,058	31,610

TAS is collaborating with the SB/SE and the W&I Divisions to address issues in the examination process that create problems for taxpayers.

a) Correspondence Examination Process

The National Taxpayer Advocate identified the correspondence examination process as a Most Serious Problem in her 2006 Annual Report to Congress. Problems with this program cause audit

²⁴⁶ BPMS data for fiscal years 2005, 2006, 2007, and 2008.

reconsiderations -- a key source of rework and tax abatement.²⁴⁷ TAS continues to address taxpayer and return preparer concerns about the lack of time taxpayers have to respond to IRS requests for audit information, as well as IRS delays in acknowledging the receipt of taxpayer documentation.²⁴⁸ In March 2008, TAS initiated a team with representatives from SB/SE and W&I to review the process and recommend improvements. The team also seeks to enhance customer knowledge of the process and reduce the need for audit reconsiderations as the mechanism to arrive at taxpayers' correct tax liabilities.

b) S Corporation Elections

In the 2007 Annual Report to Congress, the National Taxpayer Advocate identified the S corporation election process as a Most Serious Problem.²⁴⁹ Taxpayers and return preparers also identified the S corporation election process as one of the most difficult challenges for eligible small business corporations.²⁵⁰ Each year, approximately 700,000 small business taxpayers elect S corporation status by submitting Form 2553, *Election by a Small Business Corporation*.²⁵¹ An eligible entity can file an election form at any time during the preceding taxable year, or on or before the 15th day of the third month of the taxable year for which the election is to be in effect.²⁵² If the entity files an untimely or incomplete election, the taxpayer's S corporation return is converted to a C corporation return when filed. For profitable businesses, this creates a corporate tax liability with no required flow-through income reporting by the shareholders.

²⁴⁷ National Taxpayer Advocate 2006 Annual Report to Congress 289; see also National Taxpayer Advocate 2007 Annual Report to Congress 287.

²⁴⁸ For example, in a November 28, 2007, letter to IRS Acting Commissioner, the president of the National Association of Enrolled Agents (NAEA) expressed concern about recent enforcement efforts, including the trend of the IRS issuing a succession of notices without allowing sufficient time to review and act on taxpayer responses. The NAEA stated that in some cases, the IRS lost responses or claimed not to have received them. Some enrolled agents requested face-to-face meetings to resolve issues and were denied the option. Some tax professionals filed Forms 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*, claiming the taxpayer suffered harm from the arbitrary tax law administration process. The NAEA also noted that taxpayers may agree to proposed changes just to avoid further enforcement activity, or their representatives may petition the U.S. Tax Court to protect a taxpayer's right to have documentation considered. The NAEA asked the Acting Commissioner to investigate the timing of notices and take appropriate action.

²⁴⁹ National Taxpayer Advocate 2007 Annual Report to Congress 309.

²⁵⁰ IRS, The Office of Taxpayer Burden Reduction, *S-Corporation Elections*, at <http://www.irs.gov/businesses/small/article/0,,id=146223,00.html>.

²⁵¹ IRS, The Office of Taxpayer Burden Reduction, *The Sub-Chapter S Corporation Election*, Summary for Small Business Forum 1 (July 2006).

²⁵² IRC § 1362(b)(1).

In processing years 2005 and 2006, the IRS received 78,597 and 88,672 unpostable S corporation returns (*i.e.*, the return could not be processed because the S corporation election was not approved), respectively, or roughly 14.16 percent of all new S corporation filings.²⁵³ Approximately 20 percent of S corporation returns are unpostable for multiple years because of missing information or IRS processing errors, which indicates the election process is especially problematic for these taxpayers.²⁵⁴

In the 2004 Annual Report, the National Taxpayer Advocate identified the election process as a small business burden and recommended that Congress "[a]mend IRC § 1362(b)(1) to allow a small business corporation to elect to be treated as an S corporation no later than the date it timely files (including extensions) its first Form 1120S, *U.S. Income Tax Return for an S Corporation*."²⁵⁵ In 2006, the IRS Office of Taxpayer Burden Reduction established a project to simplify the S-election process for taxpayers and reduce internal costs associated with processing the requests. Revenue Procedure 2007-62, 2007-41 I.R.B. 786, effective for taxable years that end on or after December 31, 2007, permits late elections of S corporation status in certain circumstances. This procedure should reduce the number of unpostable returns and ease taxpayer burden. In March 2008, the TAS and the IRS established a working group to identify and resolve campus processing issues that increase taxpayer burden relating to S Corporation filing. The team will review procedures and recommend improvements.

²⁵³ IRS SB/SE Research, St. Paul, *Profile Taxpayers with Unpostable Initial 1120S Returns* 6 (May 2007) and *Projections and Forecasting Document 6292 Table 1* (Fiscal Year 2006).

²⁵⁴ IRS SB/SE Research, St. Paul, *Profile Taxpayers with Unpostable Initial 1120S Returns* 9 (May 2007).

²⁵⁵ National Taxpayer Advocate 2004 Annual Report to Congress 391.

3. *Delays in Determination Letters for Nonprofit Organizations*

The Tax Exempt and Government Entities (TE/GE) Division of the IRS is responsible for processing applications from entities seeking nonprofit status under IRC § 501(c).²⁵⁶ Many of these organizations provide vital services to the community, and thus, it is important for the IRS to timely process the exemption applications. The National Taxpayer Advocate has concluded that, while the IRS is taking positive steps to reduce the processing time for exemption applications, TE/GE is not doing everything it can to reduce the processing time.²⁵⁷ In her 2007 Annual Report to Congress, the National Taxpayer Advocate noted that while TE/GE had achieved a 55 percent decrease in the backlog of applications, the improvements are not sustainable without permanent changes to the application review process, such as a mandatory managerial review when applications remain unapproved.²⁵⁸ One of Systemic Advocacy's FY 2008 operational priorities is to collaborate with TE/GE on a TAS-IRS Rework Study to determine other ways to speed the review process.

4. *Third Party Payroll Services Providers*

Many businesses use third parties to provide a variety of payroll services, including fulfilling filing and payment obligations. These taxpayers frequently deposit the funds with the payroll service provider (PSP) which in turn pays the money to the IRS. Because the business taxpayers remain liable even if the PSPs do not make the required deposits, problems arise when the PSP either goes out of business or absconds with the businesses' funds.²⁵⁹ IRS policies can compound the difficulties experienced by these business taxpayers, such as:

- ♦ *Allowing PSPs to change the employer's address to that of the PSP without requiring specific consent by the employer.* When a PSP does not make the required deposits, the IRS sends collection notices to the PSP rather than the employer.

²⁵⁶ Entities seeking exempt status under IRC § 501(c)(3) file Form 1023 and include organizations that are charitable, literary, scientific, educational, religious, testing for public safety, fostering national or international amateur sports competition, or the prevention of cruelty to children or animals entities. Other exempt organizations, such as civic organizations under IRC § 501(c)(4), file Form 1024.

²⁵⁷ See National Taxpayer Advocate 2007 Annual Report to Congress 210; see also National Taxpayer Advocate 2004 Annual Report to Congress 209.

²⁵⁸ National Taxpayer Advocate 2007 Annual Report to Congress 219.

²⁵⁹ See generally IRC §§ 3101, 3102, 3111 – 3113 and 3121 – 3128 (Federal Insurance Contributions Act); IRC §§ 3201, 3202, 3211, 3221, 3231 – 3233, and 3241 (Railroad Retirement Tax Act); IRC §§ 3301-3311 (Federal Unemployment Tax Act); IRC §§ 3401 – 3407 (collection of income at source on wages); IRC §§ 3501-3511 (general provisions related to employment taxes).

- ♦ *Using inconsistent collection approaches.* In some instances, the IRS has treated affected employers differently than other similarly situated taxpayers.

The National Taxpayer Advocate believes these policies impose significant burdens on taxpayers (who essentially have to pay the tax twice) and the IRS (who must work each employer's liability on a case-by-case basis rather than as a coordinated group). Another of Systemic Advocacy's operational priorities is to work with the IRS on these collection policy issues. The IRS agreed to work in cooperation with Systemic Advocacy, on behalf of the National Taxpayer Advocate, after it studied the recommendations made in the National Taxpayer Advocate's 2007 Annual Report to Congress.

5. Questionable Refund Program

The National Taxpayer Advocate has discussed her concerns about the Criminal Investigation Division's (CI) Questionable Refund Program (QRP) for the last three years, including.²⁶⁰

- ♦ Lack of notice to taxpayers about their frozen refunds;
- ♦ A review process that compounded delays on top of delays;
- ♦ Hundreds of thousands of refunds being frozen with no action ever taken to validate whether the claims were legitimate or not; and
- ♦ High numbers of "false positives" (*i.e.*, refund claims that the IRS deemed fraudulent but were ultimately proven legitimate).²⁶¹

Over the past three years, the IRS has dramatically changed and improved the QRP process, including providing notices to taxpayers whose refunds are frozen, establishing minimum periods of time in which a refund claim can be frozen, providing an opportunity for taxpayers to come forward to substantiate their refund claims, and directing held refunds to treatment that will either lead to a review by the examination function or to the IRS issuing a notice of claim disallowance. Additionally, the IRS established the Pre-Refund Program Office (PRPO) in W&I with the intent that the PRPO provide oversight for the QRP. The IRS took this step in response to the National Taxpayer Advocate's concern that the QRP program's functions would be better housed in the W&I Division

²⁶⁰ The QRP is a revenue protection program that utilizes data mining techniques to search for fraudulent claims among more than 100 million refund claims filed annually. For a comprehensive description of the QRP and the National Taxpayer Advocate's concerns about the program, see National Taxpayer Advocate 2005 Annual Report to Congress 25; National Taxpayer Advocate 2006 Annual Report to Congress 408; and National Taxpayer Advocate 2007 Annual Report to Congress 448.

²⁶¹ In a review of TAS-QRP, TAS determined that nearly 66 percent of the cases in TAS in which the Criminal Investigation function found fraud ultimately received full refund relief from the IRS. National Taxpayer Advocate 2005 Annual Report to Congress Vol. 2, at 2.

outside of CI because by far the predominant outcomes of QRP cases are civil liabilities rather than criminal.²⁶² Due to the resource impact of the Economic Stimulus Payments, W&I delayed transition of the management of the QRP until after the 2009 filing season. TAS helped to develop the transition plan and business process improvements for the QRP and will monitor their implementation. The National Taxpayer Advocate's remaining concerns include:

- ♦ The continued ownership of the QRP by CI;
- ♦ The need for further improvement to the QRP's case selection process; and
- ♦ That taxpayers are not provided the right to have their proposed refund claim disallowance heard by the Office of Appeals.

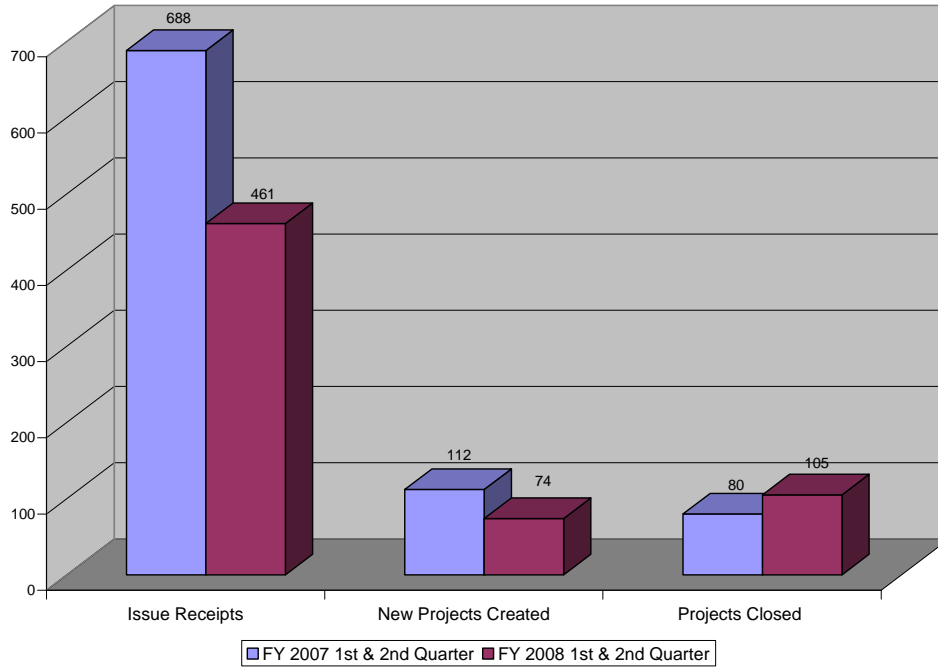
Systemic Advocacy continues its advocacy on these remaining concerns through participation on the Pre-Refund Executive Steering Committee. Systemic Advocacy will continue to research the issue related to referrals to Appeals.

G. Systemic Advocacy Management System

Chart VI-6 compares the numbers of systemic issues received, projects created, and projects closed during the first and second quarters of FY 2007 and FY 2008. As the chart demonstrates, the number of submissions received through March 2008 decreased by 33 percent over the same period last year while the number of projects created declined by 34 percent. This may be occurring, in part, because many submissions are related to projects already in process.

²⁶² For example, in FY 2007 CI's Electronic Fraud Detection System reviewed 102,000,000 refund claims, identified 468,000 returns as requiring manual review, selected 301,000 for additional verification, 201,000 were identified as potentially false, 124,000 returns were referred to civil functions within the IRS, 18,000 returns were retained by CI as potentially fraudulent, and only 164 cases resulted in criminal indictment. National Taxpayer Advocate 2007 Annual Report to Congress 451.

CHART VI-6, SAMS COMPARISON DATA FY 2007 AND FY 2008 – NUMBER OF SYSTEMIC ISSUES RECEIVED, PROJECTS CREATED AND PROJECTS CLOSED



Advocacy submissions and related projects fluctuate in correlation with IRS compliance efforts and changes to IRS policies and procedures. For example, in January 2007, the IRS implemented revised user fees for most installment agreements. This action caused a sharp rise in submissions involving installment agreements, notices, and forms and publications for the first and second quarters of FY 2007. So far, in FY 2008, there have been no large-scale increases in compliance initiatives or major changes to IRS procedures as reflected in SAMS submissions. However, since enactment of the 2008 Economic Stimulus Act on February 13, 2008,²⁶³ TAS received 19 submissions regarding stimulus payments between the date the law was passed and the end of March.

TAS continues to improve communications with SAMS stakeholders, who are the primarily submitters of advocacy issues. TAS sends individualized communications to submitters when their issues do not become advocacy projects replacing generic auto-generated emails. The more detailed, individualized messages contain specific information concerning the

²⁶³ Pub. L. No. 110-185, Economic Stimulus Act of 2008, 122 Stat. 613 (Feb. 13, 2008).

submitter's issue, including the facts and circumstances supporting a decision to not create a project from the submission.²⁶⁴

H. FY 2009 Systemic Advocacy Operational Priorities

The Systemic Advocacy FY 2009 operational priorities contain important ongoing issues from FY 2008, including:

- ♦ TAS-IRS Rework Studies – Systemic Advocacy will work to complete both the Amended Returns and the CAWR/FUTA TAS-IRS Rework Studies. Success will be measured by a reduction in amended return cases in TAS attributable to the causes of the problems in those programs, as identified by the studies. We will initiate two additional studies – TAS will work with TE/GE to study the determination letter process and with W&I Accounts Management related to LMSB taxpayers.
- ♦ Continued collaboration with the Office of Privacy and Information Protection and its Identity Theft Incident Management office to improve IRS procedures by advocating implementation of the National Taxpayer Advocate's recommendations from the 2007 Annual Report to Congress throughout FY 2009. These recommendations include the development of a dedicated, centralized unit to handle all identity theft cases and a centralized IRM to house all identity theft procedures. Success will be measured by adoption of the National Taxpayer Advocate's recommendations to improve the IRS's processes and a reduction in TAS cases attributable to problematic IRS procedures.
- ♦ Assessment of the impact of the Private Debt Collection initiative. Success will be determined by measuring items identified by the National Taxpayer Advocate, including: transparency of PDC initiative, financial success of the initiative and changes of inventory provided to private collection agencies.
- ♦ Continued tracking of the IRS's responses to the 2006 and 2007 Annual Report to Congress Recommendations using the Department of Treasury's Joint Audit Management Enterprise System. Success will be measured by tracking implementation of all recommendations.

²⁶⁴ For example, 16 percent of submissions received in the first six months of FY 2008 related to existing immediate interventions, advocacy projects or ARC projects. The personalized closing communications explained why a project was not being created from the submission and provided the related project number as well as the project lead and his or her contact information.

- ♦ Improve the satisfaction of TAS employees who submit systemic advocacy issues through an internal survey and use the results to identify ways to improve SAMS.

Systemic Advocacy will adopt operational priorities based on newly established projects, such as engaging the IRS on the customer service problems experienced by taxpayers, practitioners, and IRS employees when requesting copies of tax returns from the IRS contractor responsible for file retrieval. Additional Systemic Advocacy operational priorities are listed in Appendix V of this report.

VII. TAS RESEARCH INITIATIVES

The National Taxpayer Advocate is a strong proponent for the role of theoretical, cognitive, and applied research in effective tax administration. The Office of the Taxpayer Advocate is again sponsoring or participating in a number of research initiatives. As a body of work, these initiatives demonstrate how research can enhance taxpayer service and increase the effectiveness of enforcement initiatives. A primary focus of these research efforts is to determine how best to minimize taxpayer burden, while also assisting the IRS with its efforts to increase *voluntary* compliance.

Following is a discussion of the research initiatives that TAS is sponsoring or participating in for the remainder of FY 2008 and during FY 2009. These important bodies of work are operational priorities for the TAS organization.

A. The Taxpayer Assistance Blueprint

Acknowledging the impact taxpayer service has on compliance, Congress directed the IRS, the IRS Oversight Board, and TAS to develop a five-year plan for taxpayer service called the Taxpayer Assistance Blueprint (TAB). The plan includes long-term goals that are strategic, quantifiable, and that balance enforcement and service. Our goal is to assure that the IRS bases customer service plans on a thorough understanding of the needs and preferences of the diverse taxpayer population.

The IRS previously released the TAB 2, which contained a high-level description of the plan to Congress. TAS Research is working with the IRS Wage and Investment (W&I) Research function and the IRS Research community to develop and implement specific research projects that fulfill the objectives of the five-year plan. These projects will provide the data necessary to determine the IRS's most effective methods of providing

quality customer service, which satisfies taxpayer expectations and promotes voluntary compliance.

TAS is specifically involved in two TAB projects outlined below:

- ♦ *Effect of Notices on Taxpayer Compliance and Responsiveness:* TAS is collaborating with W&I Research on a project to determine which elements of notices prompt taxpayer compliance and foster the desired response. In one instance, we will study the effect of changes to the IRS CP-79 notice, *Earned Income Credit Eligibility Requirement*. In another instance, we will explore IRS notices on the taxable portion of Social Security benefits, using taxpayer focus groups to elicit input on how to make the notices more understandable and effective. The IRS and TAS are developing several measures of notice effectiveness for these two projects.
- ♦ *Migration of Former Telefilers to Alternate Filing Methods:* TAS is also conducting research to determine what filing methods former Telefilers use.²⁶⁵ In addition to determining the migration of Telefile users to different filing methods, this project will explore why these taxpayers chose their new filing method. This study will provide IRS and TAS with a greater understanding of why taxpayers migrate to different service channels, given changes in available options. The study also will explore why taxpayers switch from electronic to paper filing.

B. The Role of Preparers in Facilitating Inadvertent and Intentional Noncompliance

Because commercial preparers complete over 60 percent of individual tax returns, they are the entry point into the tax system for a majority of taxpayers, who hire the preparers to help them navigate complex tax laws.²⁶⁶ Thus, preparers occupy a position of trust and can facilitate compliance with the laws, or alternatively, can influence the taxpayer to take aggressive or even unlawful positions on tax returns. This type of noncompliance is called “brokered” noncompliance.²⁶⁷

A significant tax administration need exists for additional research into the role of preparers in bringing taxpayers into compliance, the types of and

²⁶⁵ Telefile was a filing method implemented by the IRS to allow Form 1040EZ eligible filers to submit their returns by telephone. The IRS abandoned this filing method after Tax Year 2004.

²⁶⁶ See Michael Albert, Kim Bloomquist & Ron Edgerton, *Evaluating Preparation Accuracy of Tax Practitioners: A Bootstrap Approach*, 2007 IRS RESEARCH CONFERENCE 1 (2007).

²⁶⁷ National Taxpayer Advocate 2007 Annual Report to Congress Vol. 2, at 69.

causes for preparer errors, and the role of preparers in facilitating noncompliance.

TAS hired Professor Leslie Book, Director of the Graduate Tax Program at the Villanova University School of Law, to explore these issues through analysis of IRS data to determine the role of preparers in facilitating compliance or noncompliance with the law. The analysis includes the types of errors preparers make, the causes for the errors, and the costs associated with these errors for the taxpayer and the government. Professor Book will develop recommendations for improving accuracy and compliance by tax return preparers, and offer suggestions for further research studies to understand better the role of preparers in fostering tax compliance or noncompliance. This project will result in a final report detailing these recommendations by the end of FY 2008.

C. Agent-Based Modeling Studies

TAS continues to sponsor research conducted by the IRS Office of Program Evaluation and Risk Analysis (OPERA) employing agent-based modeling techniques. Agent based modeling assists with determining the factors that “tip” taxpayers into certain behaviors related to the tax system. OPERA has contracted with researchers from Carnegie Mellon University (CMU) to construct the models. Past modeling allowed the IRS to simulate how taxpayers respond to alternative treatments for abusive tax shelters and to simulate taxpayer behavior in response to media messages relating to a change in IRS procedures.

Researchers at CMU are now applying the agent-based modeling technology to simulate the effectiveness of IRS outreach and services. The goal is to model how taxpayers react so that the IRS can predict the effectiveness of outreach efforts, as well as identify the most effective service channels (phone, internet, walk-in sites, etc.) for different demographic groups. This project is part of an ongoing, multi-year research effort.

D. Federal Payment Levy Program (FPLP) Levies

IRC § 6331(h) authorizes the IRS to issue continuous levies on certain Federal payments. The law allows up to 15 percent of specified payments to be continuously levied. Specified payments include any Federal payment other than a payment for which eligibility is based on the income or assets of a payee. IRC 6331(h) also allows a continuous levy of up to

100 percent of any specified payment due to a vendor of goods or services sold or leased to the federal government.²⁶⁸

The Federal Payment Levy Program (FPLP) was developed as the means to administer this law. The FPLP is an automated system that matches IRS records against those of the government's Financial Management Service (FMS) to locate federal payment recipients who have delinquent income tax debts.²⁶⁹ About 86 percent of these levies involve Social Security payments to the elderly and disabled.²⁷⁰

In January 2002, the IRS began using an income filter to systemically exclude from the FPLP taxpayers with income below a specified threshold. The IRS implemented the filter at the request of the National Taxpayer Advocate and based it on the amount of income reported on the taxpayer's last filed return (known as the Total Positive Income (TPI) indicator).²⁷¹

The Government Accountability Office (GAO) concluded in a 2003 study that the TPI criterion was an inaccurate indicator of a taxpayer's ability to pay. In response, the IRS gradually phased out all TPI levels, and in January 2006 eliminated the filter altogether. As a result, TAS receipts of FPLP related cases increased from 525 cases in FY 2004 to nearly 3,500 cases in FY 2007.²⁷²

TAS Research is collaborating with W&I Research to study FPLP hardship and non-hardship cases. We will determine if the IRS and TAS can develop a reliable filter using systemically available information to identify taxpayers who would experience a hardship, if subjected to an FPLP levy. TAS Research is exploring the development of mathematical models that would use IRS data to filter out those taxpayers unlikely to be able to afford the levy. Initially, TAS expected to complete this project by the end of 2007; however, the need for additional data extended the project duration.

²⁶⁸ See IRC § 6331(h); IRM 5.11.7.2.1 (Aug. 24, 2007).

²⁶⁹ The FMS is the Department of the Treasury agency that processes payments for various federal agencies.

²⁷⁰ IRS, W&I Operating Division spreadsheet titled, "*FPLP Monthly Counts FY 2007.*"

²⁷¹ TPI is calculated by adding the positive values from the following income fields from a taxpayer's most recently filed individual tax return: wages; interest; dividends; distribution from partnerships, small business corporations, estates, or trusts; Schedule C net profits; Schedule F net profits; and other income such as Schedule D profits and capital gains distributions. Losses reported for any of these values are treated as zero.

²⁷² Taxpayer Advocate Management Information System (TAMIS). TAS FPLP cases totaled over 4,100 in FY 2006.

E. Verification of Fraud in the Questionable Refund Program

Once the IRS identifies a taxpayer's refund as questionable, the IRS's Criminal Investigation (CI) Office of Refund Crimes attempts to verify whether the refund claim is actually fraudulent. This manual verification process may include contacting the taxpayer's employer to determine whether the taxpayer actually worked for the employer and accurately reported withholding amounts. In 2007, TAS and CI agreed to conduct a joint study to review the verification process. This joint study is now in progress. We are reviewing a representative sample of cases from the 2007 filing season that the Office of Refund Crimes identified as fraudulent. If the study shows a high error rate, TAS and CI will explore ways to improve the verification process.

F. Awareness of TAS Services

TAS will complete an analysis of survey documents that explore tax return preparer and small business owner awareness of TAS services. TAS designed this research to judge the need for TAS services in these market segments and if these market segments are currently underserved by TAS. We will use the survey results to ascertain the percentage of taxpayers in these market segments who experienced a problem with the IRS within the past two years and the proportion of these taxpayers who were aware of TAS services. The results of this effort will create a baseline of TAS awareness for the tax preparer and small business market segments. TAS can then utilize this baseline as a reference point in designing, conducting, and measuring the effectiveness of its future outreach efforts.

G. FY 2009 Research Operational Priorities

In addition to the operational priorities related to the research initiatives discussed above, TAS Research will also undertake the following activities in FY 2009:

- ♦ Provide research support to the joint IRS-TAS task force exploring issues with IRS allowable expenses, installment agreements, offers in compromise, and collection early intervention;²⁷³ and
- ♦ Review the budget initiatives of each IRS operating division and function to determine the impact on TAS workload.

²⁷³ See Collection Joint Task Forces, *supra*.

VIII. TAXPAYER ADVOCACY PANEL

The Taxpayer Advocacy Panel is another avenue for better understanding taxpayer needs and preferences in the complex tax system. Established in 2002, the TAP is a successor to the Citizens Advocacy Panel (CAP). The TAP operates under the provisions of the Federal Advisory Committee Act, serving as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue, the National Taxpayer Advocate and IRS Division Commissioners.²⁷⁴ The TAP mission is to improve IRS service and customer satisfaction of taxpayers who utilize the services of W&I and SB/SE Divisions and is expressed in the TAP mission statement: *The Taxpayer Advocacy Panel listens to taxpayers, identifies taxpayers' issues, and makes recommendations for improving IRS service and customer satisfaction.*²⁷⁵

The TAP is an independent advisory committee. The Department of the Treasury, the IRS, and the National Taxpayer Advocate provide oversight. TAS provides funding, technological, administrative, staff, and clerical support.²⁷⁶ TAS also provides direct support and oversight of the TAP through the office of the TAP Director and four strategically placed offices across the United States.

TAP volunteers solicit grassroots issues from their communities by actively conducting local outreach and focusing on issues that taxpayers encounter on an ongoing basis. The TAP formulates issues into formal recommendations, and submits them to the IRS for consideration. The Panel also works with IRS program owners and gives pre-decisional feedback on IRS strategic initiatives. The TAP consists of approximately 100 members representing all 50 states, the District of Columbia and Puerto Rico. TAP members are U.S. citizens who volunteer to serve a three-year appointment and are expected to devote 300 to 500 hours per year to panel activities.

TAS uses a variety of outreach mechanisms, created by the Panel, to further develop and expand the focus of the program. The IRS continues to provide support and commitment throughout all layers of the organization. Some activities include:

- ♦ The TAP celebrated its fifth year as a federal advisory committee at its annual conference December 10 -14, 2007, with the theme, "Five Years of Planting Ideas and Growing." Highlights of the session included plenary presentations by Acting IRS Commissioner Linda Stiff, the National Taxpayer Advocate, the

²⁷⁴ Pub. L. No. 92-463 § 1, 86 Stat. 770 (October 6, 1972) (5 U.S.C. App.).

²⁷⁵ TAP, *2006 Annual Report*, i.

²⁷⁶ *Id* at 1.

Deputy Commissioner of SB/SE, and the Director of W&I Field Assistance. The conference provided all TAP members the ability to convene as a unified body to receive training, strategic guidance and objectives for the coming year.

- ♦ The Taxpayer Assistance Center (TAC) Issue Committee members working with the Director, Field Assistance Centers and TAS research have completed a major project for 2007, the TAC customer and employee surveys. This initiative assessed customer service as viewed by TAC customers and employees and was supported by the National Taxpayer Advocate, the acting IRS Commissioner, and W&I executives. TAP delivered a report titled “Customer Service from Both Sides of the Counter” to the Director of Field Assistance on November 30, 2007, and subsequently shared the report with other IRS executives and TAP members during the TAP Annual Meeting in December. Recommendations outlined in the report include:
 - Improving procedures so that all TACs accept cash payments;
 - Improving quality and timeliness of employee training; and
 - Updating reference material timely.
- ♦ As the result of a discussion with the National Taxpayer Advocate and Acting IRS Commissioner Kevin Brown in July 2007 regarding delayed responses to TAP recommendations, the IRS resolved the backlog of pending recommendations under consideration by the IRS and improved the response time on current TAP recommendations. As of March 31, 2008, the IRS was current in responding to all TAP recommendations.
- ♦ The Secretary of Treasury and the Acting Commissioner approved the 2008 TAP Charter on March 17, 2008. This approval allows TAP to continue as a federal advisory committee through March 2010.

During 2007 and the early part of 2008, TAP continued to elevate issues that have received favorable responses from the IRS. TAP enjoys a 26 percent favorable response rate from the IRS on issues that the panel has elevated and a combined rate of 37 percent on issues that the IRS is neutral on or are pending review. Recent issues that TAP has elevated and received a favorable response on include:

- ♦ Tax Treatment of Health Benefits Education;
- ♦ Simplification of Form 1041 Instructions;
- ♦ Outsourcing of Tax Return Preparation;
- ♦ Form 1065 Schedule D Change;

- ♦ Correcting EFTPS Erroneous Payments;
- ♦ Form W-4, *Changes/ Multiple Job Households*;
- ♦ Form 4506, *Request Copy of Tax Returns*; and
- ♦ Household Employees, Clarity of Instructions.

A. TAP Committee Structure

Each TAP member serves on both a *geographic* committee and a *national issue* committee. Geographic committees address area-specific issues and focus on constituents represented by the TAP members. The TAP identifies issues through a variety of sources, including taxpayer input at open meetings, correspondence, telephone contact, website submissions, and direct member outreach.

Geographic committees are:

- ♦ Area 1: Northeast
- ♦ Area 2: Mid-Atlantic
- ♦ Area 3: Southeast
- ♦ Area 4: Mid-States
- ♦ Area 5: Central
- ♦ Area 6: Mountain-Pacific
- ♦ Area 7: West

In addition to the geographic committees, national Issue committees provide direct feedback to IRS operating divisions on current issues affecting taxpayers around the country. TAP issue committees communicate their concerns directly to the IRS through liaison contacts with SB/SE and W&I. These relationships afford members an opportunity to offer comments in various forums including focus groups, forms certification, forms review, website review, and multilingual initiatives. The current Issue Committees are:

- ♦ Ad Hoc Committee (Multi-Lingual / Forms & Publications)
- ♦ Earned Income Tax Credit Committee
- ♦ Notices Committee
- ♦ Taxpayer Burden Reduction-Small Business/Self-Employed Committee
- ♦ Communications Committee
- ♦ Taxpayer Assistance Center Committee
- ♦ Volunteer Income Tax Assistance Committee

B. TAP Recruitment

TAP's 2008 recruitment campaign began on March 17 and continued through April 16, 2008. TAP members serve three-year terms with approximately one-third of the members' terms expiring annually. This year's campaign continues to emphasize a balanced recruitment effort and a diverse pool of applicants. TAP is improving in these areas, but recognizes the need for continued advancement. Volunteer management and recruitment is achieved only through continual change, focus and planning. TAP will focus on recruiting a diverse pool of applicants to address a current lack of diversity on the panel.

During the 2008 recruitment period, TAP received 620 applications to fill 35 vacancies on the panel. Communications outreach has been extremely successful, resulting in recruitment notices in numerous newspapers and publications. Of note are the recruitment successes achieved by placing articles in the *Wall Street Journal* and *El Diario*, the largest Spanish language newspaper in the United States.

C. TAP Performance Measures

TAP continues to make progress in the area of measures by establishing subgroups and conducting various surveys to determine effectiveness and improvement opportunities. Current initiatives include:

- ♦ Exit Member Survey
- ♦ New Member Survey
- ♦ Returning Member Survey
- ♦ Employee Engagement Survey
- ♦ Issue Effectiveness

In conjunction with these initiatives, the TAP Director works directly with a team of TAP members and staff to further explore the issue improvement process from the perspective of TAP members and the IRS. The new measures will be incorporated in TAS's existing suite of performance measures and indicators.²⁷⁷

D. TAP Town Hall Meetings

In keeping with past objectives, the TAP and TAS partnered to conduct three town hall meetings in FY 2008. TAS and the TAP have conducted

²⁷⁷ See Appendix VI, Taxpayer Advocate Service Performance Measures and Indicators, *infra*.

13 of these meetings since the program's inception in FY 2006. The town hall meetings elicit timely feedback from taxpayers about their experience with IRS customer service, and gather suggestions on ways to improve customer service and IRS products. The locations and dates of the FY 2008 meetings were:

- ♦ Durham, North Carolina – March 13, 2008
- ♦ Birmingham, Alabama – April 21, 2008
- ♦ Springfield, Illinois – May 6, 2008

Each venue featured a panel of local TAP members, who acted as hosts and gave presentations on the TAP program and its mission. The National Taxpayer Advocate served as the keynote speaker and led an open dialogue with all attendees. These events are very successful in gaining valuable grassroots feedback on IRS service and raising public awareness about TAS and TAP in local areas. Topics discussed in FY 2008 included:

- ♦ Effectiveness of the Offer in Compromise program
- ♦ Earned Income Tax Credit program
- ♦ Economic Stimulus Package
- ♦ Refund Anticipation Loans
- ♦ Taxpayer Assistance Centers
- ♦ Electronic Free Filing
- ♦ Private Debt Collection Initiative

E. TAP Annual Report

The TAP's Annual Report serves as a compilation of the Panel's efforts during the fiscal year.²⁷⁸ The report consists of an Executive Summary, Area and Issue committee reports, and a list of all recommendations submitted in 2007. The report also provides information about the TAP structure, its procedures, and partnering, marketing, and recruitment activities. The FY 2007 report will feature numerous changes that focus on success stories, committee activities, photos, and input from members on why the TAP is important and the role they play as citizen volunteers. The highlight of the report is an individual self-assessment of each committee including:

- ♦ Recommendations submitted through the TAP Joint Committee to the IRS;
- ♦ Issues currently under consideration; and

²⁷⁸ TAP Annual Reports are available in printed format on the TAP Internet site at <http://www.improveirs.org>.

- ♦ Other TAP accomplishments.

As with past reports, and in keeping with the TAP Charter requirements, members of the Joint Committee will meet with the Commissioner in late summer of 2008 to highlight important program milestones and to present copies of the FY 2007 report to the National Taxpayer Advocate and the Commissioner.

F. TAP Communications & Outreach

The TAP Communication Issue Committee raises the organizational profile and strengthens its identity as the preeminent national forum for taxpayers to make their voices heard directly at the IRS. Since its creation two years ago, this committee serves as the focal point for the strategic rollout of a centralized consistent approach to TAP outreach needs.

Accomplishments to date include:

- ♦ Creation of three subcommittees focused on the internal communication, external communication and outreach efforts and measuring their effectiveness;
- ♦ Receipt of active input on the improvements needed in two of TAP's biggest website initiatives, TAPSpace and Improveirs.org;
- ♦ Creation and delivery of an Outreach Toolkit, used by all TAP members to aid in the delivery and dissemination of information related to the TAP program;
- ♦ A phased strategic plan that will continue to focus on the TAP profile; and
- ♦ Creation of a TAP vision statement, "Citizen Volunteers Valued for Improving IRS Services."

G. FY 2009 TAP Operational Priorities

In FY 2009, TAP will:

- ♦ Design an effective performance measurement system for TAP by:
 - Creating new efficiency and effectiveness measures for TAP recommendations; and
 - Evaluating the effectiveness of TAP processes in developing and submitting issues as the program continues to mature.
- ♦ Promote initiatives and programs that facilitate a greater understanding of EEO and diversity issues by expanding diversity in the TAP via recruitment and outreach;

- ♦ Convert its database from an Access environment to the SAMS database system; and,
- ♦ Convert its Federal Register filing process from the current paper process to an electronic process.

IX. LOW INCOME TAXPAYER CLINICS

The Low Income Taxpayer Clinic (LITC) program provides an avenue for certain taxpayers to be represented in resolving tax matters. The National Taxpayer Advocate manages this program and views it as an essential component of TAS. In 1998, Congress authorized funding for the LITC grant program, which is now in its tenth year of operation.²⁷⁹ The program is designed to provide access to representation for low income taxpayers, so that achieving a correct outcome in an IRS dispute does not depend on the taxpayer's ability to pay for representation. IRC § 7526 provides for matching grants of up to \$100,000 per year for qualifying organizations that represent low income taxpayers involved in controversies with the IRS²⁸⁰ and that provide tax education and outreach to taxpayers who speak English as a second language (ESL). IRC § 7526 requires clinics to provide services for free or for no more than a nominal fee.²⁸¹

TAS views access to representation as fundamental to universal protection of taxpayer rights. For taxpayers to want to voluntarily comply with their tax obligations and responsibilities, they must have access to information, to representation, and to TAS and its services. Low income taxpayers who cannot afford representation are at a disadvantage in obtaining access to competent assistance in meeting their tax obligations. LITCs help to eliminate taxpayer uncertainty and errors by clarifying taxpayer rights and responsibilities. LITCs resolve issues early in the process and offer effective information and education through their outreach efforts. Finally, LITCs provide a safety net that gives low income taxpayers the assistance and support they need while protecting and preserving their taxpayer rights.

To continue to meet the needs of this group of taxpayers, TAS established the following goals for FY 2009:

- ♦ Make certain that all 50 states, the District of Columbia, Puerto Rico, and Guam continue to be served by at least one clinic;

²⁷⁹ Pub. L. No. 105-206, § 3601(a), 112 Stat. 685, 774 (July 22, 1998).

²⁸⁰ LITCs provide representation to taxpayers in all types of tax controversies, including audits, levies, liens, installment agreements, offers in compromise, and nonfilers re-entering the system.

²⁸¹ IRC § 7526(b)(1)(A)(i).

- ♦ Review all grant applications and conduct in-depth site visits to determine whether grant recipients possess the required technical tax expertise and business management skills;
- ♦ Expand clinic coverage into and within underserved geographic areas around the country;
- ♦ Expand coverage in geographic areas that do not have both controversy representation and ESL education and outreach;
- ♦ Verify that grant recipients serve geographic areas that have sizable populations eligible for and requiring LITC services; and
- ♦ Encourage congressional support for further expansion and publicity of the clinics.

A. Grant Awards

TAS received 191 applications for the 2008 grant cycle and awarded nearly \$9 million in matching grants, ranging from \$10,000 to \$100,000, to 154 nonprofit organizations and accredited academic institutions in 50 states, the District of Columbia, Puerto Rico, and Guam.²⁸² The grants awarded in 2009 represented an increase of \$1 million over FY 2007 funding. On March 24, 2008, the National Taxpayer Advocate announced that the IRS would accept applications for a part-year LITC matching grant from qualified organizations able to provide services to qualified taxpayers in the following areas: Los Angeles, CA; Central Oregon; Boise, ID; Minneapolis, MN; Reno and Las Vegas, NV; St. Louis, MO; Brownsville and Laredo, TX; Southwest Florida; New Mexico; Colorado; Mississippi; and Northeast Pennsylvania. The supplemental period was open from March 24 until April 24, 2008 (the 2008 grant cycle runs January 1, 2008, through December 31, 2008), and successful applicants may be eligible for a regular full-year grant for the 2009 grant cycle.

TAS revised Publication 4134, *Low Income Taxpayer Clinic List*, which provides a list of all LITCs, their locations, languages served, and telephone numbers. Publication 4134 is available in Spanish as well as English. TAS also revised Publication 3319, *Low Income Taxpayer Clinic Grant Application Package and Guidelines*, for the 2009 grant cycle after working with the clinics to make the publication easier to use and understand.

²⁸² Although Congress appropriates funds for the LITC Program on a fiscal year basis, grants are awarded for the period January 1 through December 31 each year. That award period is referred to as the "grant cycle."

B. Low Income Taxpayer Clinic Program: GrantSolution.gov

The LITC Program Office uses the U.S. Department of Health and Human Services' (HHS) Financial Management Service payment management system to distribute grant funds and monitor whether clinics are spending those funds in a timely manner. Other activities surrounding the grant decision-making process, including the grant application review, ranking, selection and notification processes occur outside of the HHS system.

Under the Presidential E-government Initiative, the grants management line of business is implementing government wide solutions to consolidate, streamline, and standardize the various grants management systems.²⁸³ GrantSolution is one such vehicle. By 2010, the LITC Program Office expects to begin utilizing GrantSolution.gov as its grant management system. This system will integrate the HHS processes with the grant decision-making processes so that, for example, it will allow for the review and ranking of electronically submitted applications and the distribution of grant funds can all be completed within one system.

We anticipate that this grant management system will bring a higher level of integration to our grant application and grant funding processes. In addition, we plan to explore how it can address our other processes, such as clinic visit weighted criteria calculations, clinic interim and year-end report input, tracking and analyses, workgroup data, and other LITC report and data tracking tasks.

C. Site Assistance Visits

The LITC staff and the Local Taxpayer Advocate for the geographic area served by the clinic periodically schedule site assistance visits to make sure that LITC grant recipients are fulfilling their grant obligations. The LITC Program Office will conduct site assistance visits for every clinic at least once every three years, and will visit new clinics within six months of awarding grant funds. TAS will also use weighted criteria to determine which clinics may require a visit earlier or more frequently than the regularly scheduled interval of once every three years. During calendar year 2009:

²⁸³ E-Gov, *Presidential Initiatives – Grants Management* at <http://www.whitehouse.gov/omb/egov/c-6-3-grants.html>.

- ♦ The LITC Program Office will conduct a site assistance visit for each new clinic funded in 2009;
- ♦ Each Local Taxpayer Advocate will visit the clinic(s) receiving funding in 2009 in his or her geographic area; and
- ♦ The LITC Program Office will conduct site assistance visits for at least 30 percent of the returning clinics funded in 2009.

D. Interim and Annual LITC Reports

The LITC program has developed and implemented procedures for following up with grantees that have not filed required reports. LITC program analysts and, when needed, management staff, will contact clinics to secure required information. A clinic's timeliness in filing required program and financial reports is an important factor used to make funding decisions for subsequent grant cycles and to determine if current grant funding should be frozen. TAS is working with Office of Chief Counsel to develop procedures for demand letters to clinics that fail to submit required reports. The letter will inform clinics regarding the ramifications of refusing to submit required reports, including the return of grant funds for the period covered by the report. The LITC Program Office is also coordinating with TIGTA's Procurement Fraud Unit to aid in handling any clinic that fails to respond to repeated contact.

E. Performance Measures

In FY 2008, the LITC program office proposed performance measures to determine the effectiveness of the LITC program and, subject to the approval of the National Taxpayer Advocate, will test them during FY 2009. The measures will assist Congress, the IRS, and TAS in evaluating the success of the LITC program.²⁸⁴ The draft measures represent the work of a team of TAS and LITC Program Office employees along with clinic directors. TAS will communicate the proposed measures and expectations to clinics at the 2009 Annual LITC Grantee Conference in December 2008 and will gather feedback during site assistance visits. After final approval by the National Taxpayer Advocate, the new measures will be incorporated in TAS's existing suite of performance measures and indicators.²⁸⁵

²⁸⁴ TAS, *FY 2008 Strategic Objectives and FY 08 Operational Priorities 23* (Oct. 2007).

²⁸⁵ See Appendix VI, Taxpayer Advocate Service Performance Measures and Indicators, *infra*.

F. Annual Conference

TAS held the 2008 Annual LITC Grantee Conference in December 2007 in Washington, DC. This conference provides TAS with the opportunity to educate clinics about clinic operating guidelines and substantive tax issues affecting low income and ESL taxpayers, while giving the clinics an opportunity to network and share best practices. More than 150 of the 2008 grantees participated in this year's conference, with more than 230 individual clinic participants attending. The agenda included technical tax topics on problems faced by low income and ESL taxpayers, including Debt Forgiveness, the EITC, and Identity Theft. One of the highlights was an address by Chief Judge John O. Colvin and Chief Special Trial Judge Peter J. Panuthos from the Tax Court. They spoke on the measures they are taking to ensure that more taxpayers are able to secure representation for their cases and of the role of LITC notices included in Tax Court communications. The National Taxpayer Advocate, IRS employees, TAS employees, and clinic representatives provided the remainder of the training.

TAS is planning the next LITC grantee conference, which will be held in December 2008. This conference will focus on improving the understanding of, and involvement with, the technical components of LITC operations, including annual and interim reporting requirements. The conference will also provide substantive tax training at all levels, as well as training on TAS's newly developed LITC performance measures.

G. Compliance Reviews

TAS established procedures to check for compliance with federal tax obligations before awarding LITC grants. The LITC Program Office verifies that all grantees comply with federal tax responsibilities during the application process and quarterly thereafter. The Program Office monitors all tax compliance issues to make certain they are moving toward resolution. Failure to resolve a tax compliance issue to the satisfaction of the LITC Program Office can lead to the Program Office freezing a clinic's funds and when appropriate, terminating a clinic's grant.

H. LITC Program Annual Report

Beginning in 2008, the LITC Program Office will issue an annual report to Congress. This report will contain a message from the National Taxpayer Advocate and will highlight LITCs across the country that have served

their communities in noteworthy ways. A variety of statistics, including number of taxpayers served, cases presented before the United States Tax Court, taxpayer outreach events, and the geographic and demographic areas served by LITCs will also be included. The report will cover the 2007 grant cycle (*i.e.*, January 1, 2007, through December 31, 2007).

I. LITC Communication and Outreach

Each year around May 1, the LITC Program Office submits a Notice to the Federal Register for publication. The Notice informs the public that the IRS has made available the grant application package and guidelines (IRS Publication 3319, *Low Income Taxpayer Clinic Grant Application Package and Guidelines*) for organizations interested in applying for an LITC matching grant for the upcoming grant cycle. The IRS also issues a press release from the National Taxpayer Advocate announcing the opening of the application period.

After selecting grantees for the 2008 grant cycle, the LITC Program Office publicized a list of those grantees through an IRS press release to local, state, and national media. The Program Office publicized the 2009 grant application period with a press release on May 28, 2008, through articles in IRS publications geared to practitioners, and on the IRS website (www.irs.gov). The LITC Program Office is also aggressively using local media to market the LITC program in select underrepresented areas. The LITC Program Office has improved its communication with the clinics on both substantive and procedural matters by routinely sending messages to grantees via e-mail and through increased day-to-day contact.

J. Support of the Volunteer Income Tax Assistance Grant Program

TAS has provided a significant level of support to the W&I Stakeholder Partnerships, Education and Communication (SPEC) staff during the planning and implementation of the new Volunteer Income Tax Assistance (VITA) grant program. Both the TAS LITC Director and a senior program manager from the LITC staff participate with SPEC management and the VITA grant planning team on a regular basis. We have shared helpful experiences, insights and processes related to grantee recruitment and application ranking, determining geographic areas in need of service through demographic analysis, management controls and tracking related to grant dollars, site assistance visits, and other grantee oversight activities.

K. FY 2009 LITC Operational Priorities for LITCs

In FY 2009, the LITC Program Office will:

- ♦ Provide English as a Second Language (ESL) and Controversy clinic support in every U.S. state and territory by:
 - Performing analysis to determine where to expand coverage in order to provide controversy representation and ESL education and outreach within underserved areas; and
 - Contacting accredited law, business, and accounting schools, legal aid services, and nonprofit community agencies within identified areas to promote the program and explain how it will benefit the low income and ESL populations in those areas.

- ♦ Promote an LITC grant process that is fair and equitable for all applicants and reaches targeted population by:
 - Increasing Site Visits to ensure that grant recipients demonstrate that their geographic areas have sizable populations eligible for and requiring LITC services; and
 - Gauging geographic reach and number of taxpayers assisted by clinics during the ranking process and site visits and using the data to award grants in appropriate amounts to clinics reaching targeted populations and the broadest geographic areas.

- ♦ Finalize an effective performance measurement system for the LITC Program and implement testing of recently developed goals and measures for the LITC Program.

- ♦ Provide continued support to the implementation of the VITA Community Grant Program by working with Wage and Investment staff and through sharing of common challenges, process improvements, and best practices.

X. TAS PERFORMANCE MEASURES AND INDICATORS

The following is a discussion of how TAS uses performance measures and indicators to assess and improve its overall program effectiveness and service delivery.

A. A Balanced Approach to Measuring Performance

In 1998, the IRS developed a plan for modernization that included implementing a system of balanced measures to assist in measuring and improving organizational performance.²⁸⁶ The measures established at that time, which are still in use by TAS, measure performance in three areas: customer satisfaction, employee engagement, and product quality.

TAS uses the Continuous Improvement Cycle (CIC) methodology, a fact-based, data driven improvement methodology, to drive its improvement efforts. This 5-step process follows Define-Measure-Analyze-Improve-Control (DMAIC) approach to process improvement:

- ♦ *Define*: Using performance measures and indicators to identify and define opportunities for improvement;
- ♦ *Measure*: Using performance measures to identify the focus of improvement efforts;
- ♦ *Analyze*: Using data to analyze potential causes of barriers to improved performance;
- ♦ *Improve*: Developing and testing new approaches, procedures, potential solutions and initiatives to address causes and implement new processes; and
- ♦ *Control*: Monitoring the process, including performance measures and indicators, to determine if the improvements have the desired impact and are repeated over time.

This approach is comprehensive, engaging employees and other critical stakeholders in improving processes. Using this methodology, TAS analyzes its performance measures to identify those processes that may require improvement, to develop and implement solutions, and to monitor results and measure the effectiveness of the improvement.

B. Expanded Measures and Continuous Improvement

In FY 2008, TAS developed an expanded suite of measures that enables it to more effectively:

²⁸⁶ IRM 13.5.1.2(1) (Oct. 1, 2001).

- ♦ Identify critical work processes;
- ♦ Identify trends and opportunities for improvement;
- ♦ Establish strategic short-term and long-term organizational goals;
- ♦ Establish management accountability; and
- ♦ Establish organizational resource requirements to meet anticipated workload.

The suite covers a wide-range of measures vital to assessing the quality and timeliness of service we provide to taxpayers, our efficiency and effectiveness in resolving both individual taxpayer cases and systemic issues, and customer satisfaction and employee satisfaction. Appendix VI of this report contains a list of TAS's performance measures and indicators.

C. Engaging Employees and Improving Satisfaction

As shown in Table X-1, overall employee satisfaction results for FY 2007 improved over FY 2006, but were slightly below TAS's FY 2007 goal of 67 percent. To reflect the high priority TAS places on employee satisfaction and engaging its employees in improvement efforts, TAS increased its FY 2008 Employee Satisfaction goal from 67 percent satisfied to 70 percent satisfied. The FY 2008 Employee Satisfaction Survey took place from April 7 - May 9, 2008. Results will be available in the summer of 2008.

Also shown in Table X-1, TAS's overall participation in the 2007 annual employee survey improved 118 percent, with 72 percent of TAS employees expressing their opinions. To encourage participation in 2007, the National Taxpayer Advocate and Deputy National Taxpayer Advocate implemented a yearlong campaign to demonstrate to employees how TAS uses their responses for positive change.²⁸⁷ In addition, the IRS and the National Treasury Employees Union (NTEU) reached a joint agreement to support the survey process.

²⁸⁷ National Taxpayer Advocate Fiscal Year 2008 Objectives Report 70.

TABLE X-1, OVERALL PARTICIPATION & EMPLOYEE SATISFACTION

Year	IRS			TAS		
	Survey Participation	Satisfaction		Survey Participation	Satisfaction	
		Goal	Actual		Goal	Actual
2004	78%	62%	60%	80%	65%	65%
2005	51%	68%	64%	48%	68%	70%
2006	43%	65%	66%	33%	73%	64%
2007	64%	66%	69%	72%	67%	66%
2008 ²⁸⁸	65%	71%	n/a	75%	70%	n/a

TAS employees have a unique role as the voice of taxpayers within the IRS. Employee perspective is vitally important to TAS and the taxpayers TAS serves. During 2008, TAS remains committed to actively seeking employees' opinions to improve our business processes, service to our customers, employee engagement, and the quality of our work life. TAS will develop and use an easily identifiable logo relating to engagement in weekly employee communications. TAS also produced the second annual "Celebrate TAS Employees" video and focused on our FY 2008 theme - ***Reflect...Renew...Strengthen: What We're Doing***. The National Taxpayer Advocate, Deputy National Taxpayer Advocate, and the Executive Directors of Case and Systemic Advocacy discussed what TAS employees have said in surveys, town hall meetings, group meetings, and other forums, and what TAS is doing to address their concerns. The message reinforced how the National Taxpayer Advocate values and acts upon employee ideas and perspectives. Examples included steps TAS is taking to address employees' concerns related to their workload by:

- ♦ Hiring additional case and intake advocates;
- ♦ Improving the case intake, workload distribution, and case assignment processes; and
- ♦ Improving the systems needed to effectively work cases and systemic advocacy projects.

As a result of these efforts, 75 percent of TAS employees participated in the survey, meeting our FY 2008 participation goal and exceeding the overall IRS participation rate of 65 percent.

²⁸⁸ FY 2008 Employee Satisfaction results will be available in late summer of 2008.

D. Assessing and Improving Case Advocacy Customer Satisfaction

TAS uses an independent and confidential telephone survey process to gauge the opinions of taxpayers and their representatives who have recently received TAS assistance in resolving a problem with the IRS. The survey covers a broad range of customer service attributes, including timeliness, fairness, professionalism, and communications. This information helps TAS understand what is important to its customers, how they evaluate TAS services, and how well TAS is meeting the needs of its customers.

Table X-2 reflects customer satisfaction scores from FY 2004 through the first quarter of FY 2008. Beginning in FY 2007, TAS began to transition from a mean score to a frequency score, expressed as a percentage of respondents who either were satisfied or very satisfied overall with TAS’s services. As shown in Table X-2, survey results peaked at 86 percent satisfied in FY 2005.

TABLE X-2, COMPARISON OF PERCENTAGE OF CUSTOMERS SATISFIED VS. DISSATISFIED

FY	GOAL	MEAN SCORE ²⁸⁹	PERCENT SATISFIED	PERCENT DISSATISFIED
2004	N/A	4.30	84	13
2005	4.35	4.39	86	11
2006	4.40	4.34	85	12
2007	4.44	4.29	83	13
2008 ²⁹⁰	85%	4.35	85	12

1. Customer Satisfaction Survey Improvements

TAS has restructured its customer satisfaction survey process by:

- ♦ Reformatting the reports sent to field offices so that the field can more easily understand the reports and take corrective action(s);
- ♦ Developing and delivering supporting products such as a Users’ Handbook and an educational video to aid front-line employees in

²⁸⁹ Customer satisfaction is measured on a scale from 1 to 5, where 1 is “very dissatisfied,” and 5 is “very satisfied.”

²⁹⁰ Second quarter FY 2008 results.

- understanding their reports and developing meaningful action plans; and
- ♦ Providing customized reports to Local Taxpayer Advocates more frequently (quarterly rather than biannually.)

a) TAS Customer Satisfaction Strategies

TAS has taken the first steps to develop long-term strategies for improving customer satisfaction that TAS will embed in its broader strategic plan. A group consisting of case advocates, managers, and analysts from across the country met with the TAS Customer Satisfaction Survey vendor in late February 2008 to begin developing long-term strategies. The objective of this effort is to address both strengths and gaps emerging from the customer survey. This effort will link customer satisfaction with TAS's employee satisfaction, quality, and business results measures to drive organizational changes and improvement. The group used a Customer Satisfaction Touch Points model to drive analysis of the TAS case process from the taxpayer's perspective and identify critical points that occur during case resolution that may substantially affect taxpayers' opinions of TAS and the IRS. The meeting produced a number of proposals for improving customer satisfaction that are presently under consideration.

b) TAS Office Consultation Visits

As part of its process improvement activities, TAS contracted with its Customer Satisfaction Survey vendor to provide office consultation services for TAS offices identified in the TAS Balanced Measures Study.²⁹¹ A team of TAS employees and the vendor will visit the identified offices to provide training on the continuous improvement cycle, share data analysis on customer satisfaction, and help these offices develop action plans for improving customer satisfaction. TAS will consider best practices and uniquely local operational characteristics identified in these visits, as well as the findings from the February 2008 meeting discussed above, to develop its national customer satisfaction strategy. The office consultation process will enable TAS to better identify organizational barriers to continuous improvement in customer satisfaction (especially for offices in large metropolitan areas) and will complement its efforts to develop effective long-term strategies.

²⁹¹ TAS Balanced Measures Study identified high and low performing offices by size based on balanced measures and will benchmark both tangible and intangible factors to improve performance of low performing offices.

c) Leadership Coaching Pilot

The IRS is implementing a Leadership Coaching Pilot Program to continually develop managers servicewide, increase the level of employee engagement in their work environment, and improve employee satisfaction. This program provides personalized coaching support from experts contracted by the Human Capital Office and trained in strengthening collaboration among individuals and groups. TAS identified a number of workgroups and managers at various levels of the organization to participate in the pilot program.

E. Assessing and Improving Product Quality

In addition to measuring customer satisfaction and employee engagement, TAS assesses the quality of both its case and systemic advocacy work.

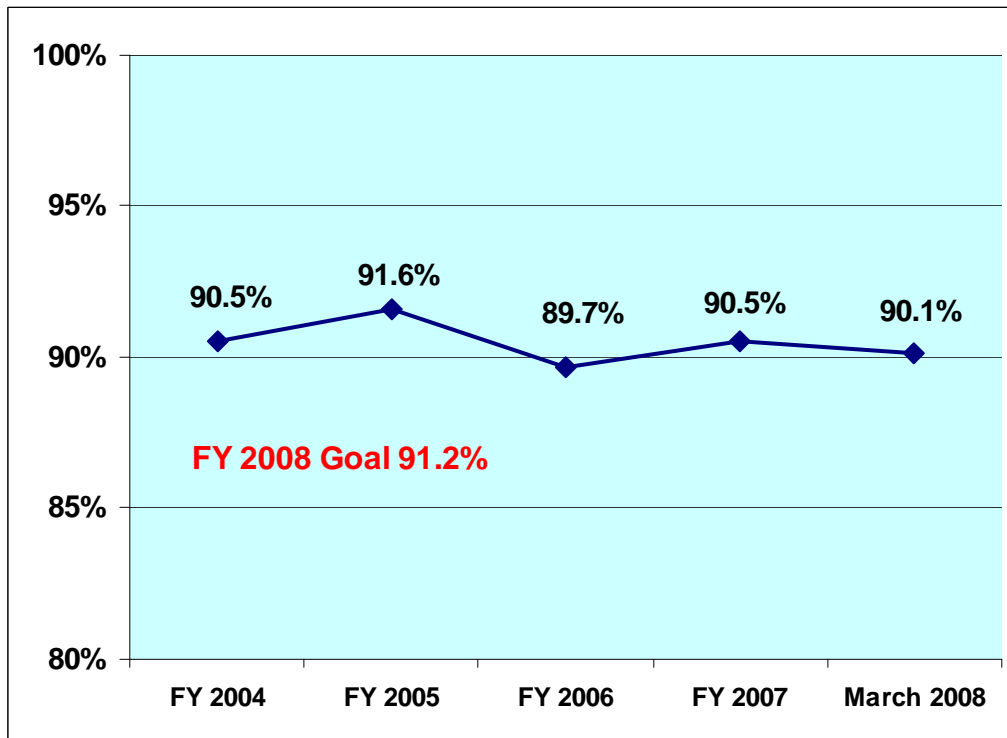
1. *Case Quality*

The case quality measure includes components related to accuracy, timeliness, and communication.²⁹² As shown in Chart X-3, TAS achieved a cumulative quality rate of 90.5 percent for FY 2007. Although below the FY 2007 goal of 91 percent, this quality rate was an increase from the 89.7 percent achieved in FY 2006. The FY 2008 goal is 91.2 percent. Through March 2008, TAS achieved an overall case quality rate of 90.1 percent.

²⁹² TAS Quality Standards are:

1. Did TAS make timely contact with the taxpayer?
2. Did TAS take initial action/request information within the specified timeframe?
3. Did TAS take all subsequent actions timely from the time action could have been taken?
4. Did TAS resolve all taxpayer issues?
5. Did TAS address all related issues?
6. Were all actions taken by TAS and the IRS operations/functional divisions technically and procedurally correct?
7. Did TAS give the taxpayer a clear, complete, correct explanation at closing?
8. Did TAS educate the taxpayer regarding any of his/her actions that contributed to the problem?

CHART X-3, TAS CUMULATIVE CASEWORK QUALITY INDEX FY 2004 THROUGH MARCH FY 2008

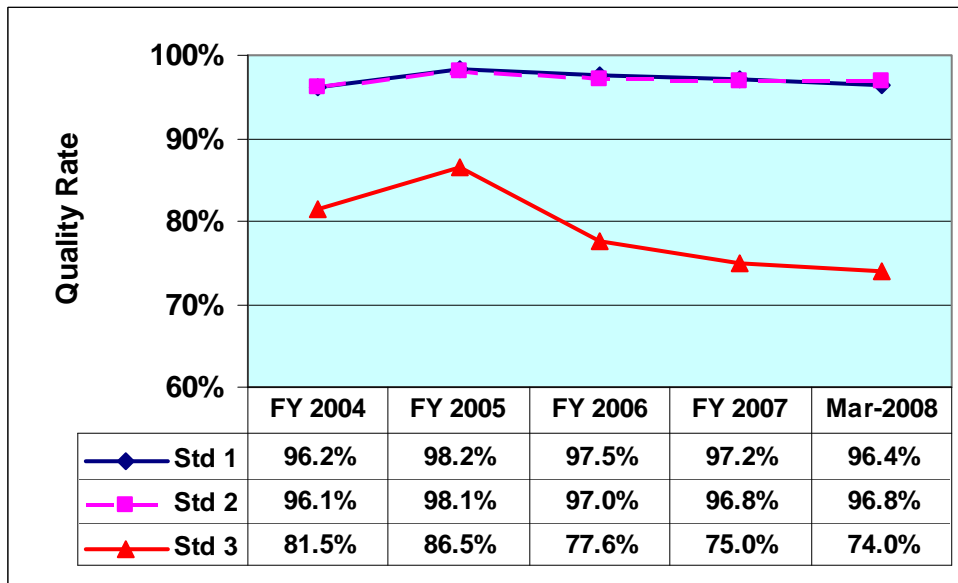


Quality standards 1 through 3 measure the timeliness of case actions and are a significant component of the overall case quality assessment. As shown in Chart X-4, TAS continues to perform well in standard 1 (timely initial contact) and Standard 2 (timely initial actions). Attaining comparable performance for standard 3, timely subsequent actions, has continued to challenge TAS.²⁹³ Through March 2008, TAS realized a quality rate of 74 percent for this standard. As case receipts grow and staffing declines, TAS has taken several steps to manage the challenge of increasing inventories including clarifying case processing guidelines, providing case management training, and hiring additional advocates.²⁹⁴

²⁹³ TAS case processing guidelines contain specific timeframes for initial actions, initial contact and taking subsequent actions on cases. Quality Standards 1 through 3 are pass-fail standards. If an employee misses one of the required timeframes, he or she has failed this standard regardless of how many other timeframes are met. TAS plans to revise these standards when our new quality measurement system is implemented.

²⁹⁴ See *The Need for Effective Recruitment, Hiring, and Retention to Cope with Increasing Case Inventories*, *supra*.

**CHART X-4, TAS CUMULATIVE CASEWORK TIMELINESS SCORES –
FY 2004 THROUGH MARCH FY 2008**



a) Redesigning and Enhancing TAS Quality Measurement Standards

TAS has committed to redesigning and enhancing its quality measurement standards to address the numerous changes in casework and case processing that have occurred since TAS began. Obtaining comments from all levels of the TAS organization for the initial design and refinement of proposed attributes is critical to the redesign. TAS held focus group meetings with employees in March 2007 to obtain feedback on measuring case quality. In February 2008, Local Taxpayer Advocates reviewed the proposed quality attributes for relevance and effectiveness. TAS will introduce the new quality standards at the 2008 TAS Technical Training Symposium and will conduct additional focus group discussions with employees to obtain their feedback on measuring case quality as well as ways to identify improvements in the work we do.

As part of the Taxpayer Advocate Service Integrated Systems (TASIS)²⁹⁵ development, TAS is working with the IRS Modernization and Information Technology Services (MITS) to design a new database to house the new quality attributes. Because it is not clear whether the new database will be funded and delivered by FY 2012, TAS plans to use off-the-shelf software as an interim solution for housing the new attributes. Throughout FY 2009, TAS will develop an application guide, complete testing phases,

²⁹⁵ See Integrating our Systems to Improve our Ability to Advocate for Taxpayers and Improve the Quality of Work Life for Employees, *infra*.

communicate changes to all stakeholders, and train employees prior to implementing the new attributes in FY 2010.

2. *Systemic Advocacy Quality*

TAS began measuring the quality of Systemic Advocacy (SA) projects in FY 2007. TAS measures the quality of SA projects and immediate interventions using criteria from the following categories:

- ♦ Accuracy – Assesses the correctness of TAS actions as defined by statute and administrative guidance.
- ♦ Efficiency – Assesses the cost of producing a quality product, taking into account accuracy, completeness, and timeliness.
- ♦ Timeliness – Assesses the extent to which TAS completes actions within timeframes established by statute and administrative guidance.
- ♦ Customer Satisfaction – Assesses customer opinions of TAS's performance.
- ♦ Employee Satisfaction – Assesses TAS employees' opinions of their work environment.
- ♦ Effectiveness – Assesses TAS's success in resolving taxpayer problems.

As shown in the Chart X-5, the cumulative quality rate for SA has trended upward since TAS began assessing project quality. Through March 2008, SA has achieved a cumulative quality rate of 73.2 percent, a 17 percent increase over the same period in FY 2007.

CHART X-5, SYSTEMIC ADVOCACY QUALITY

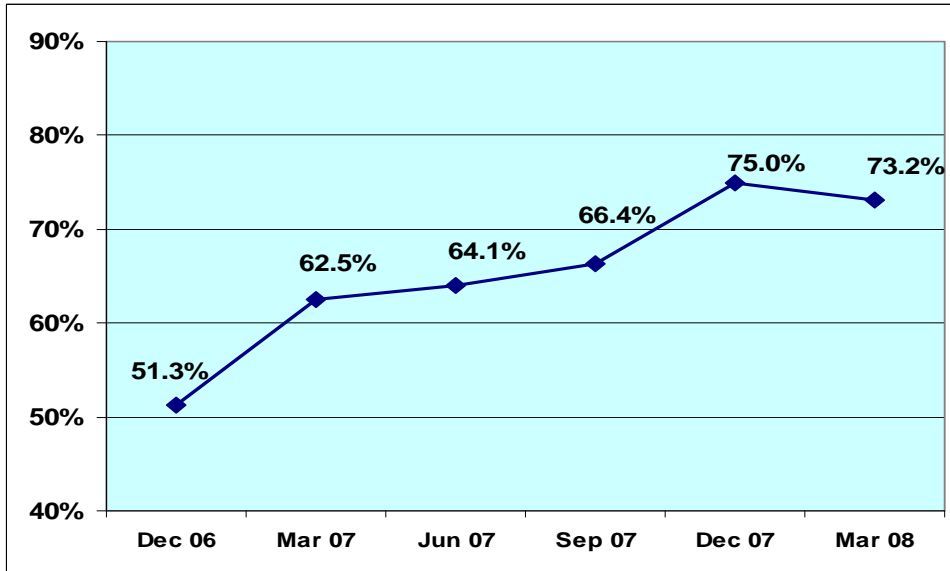
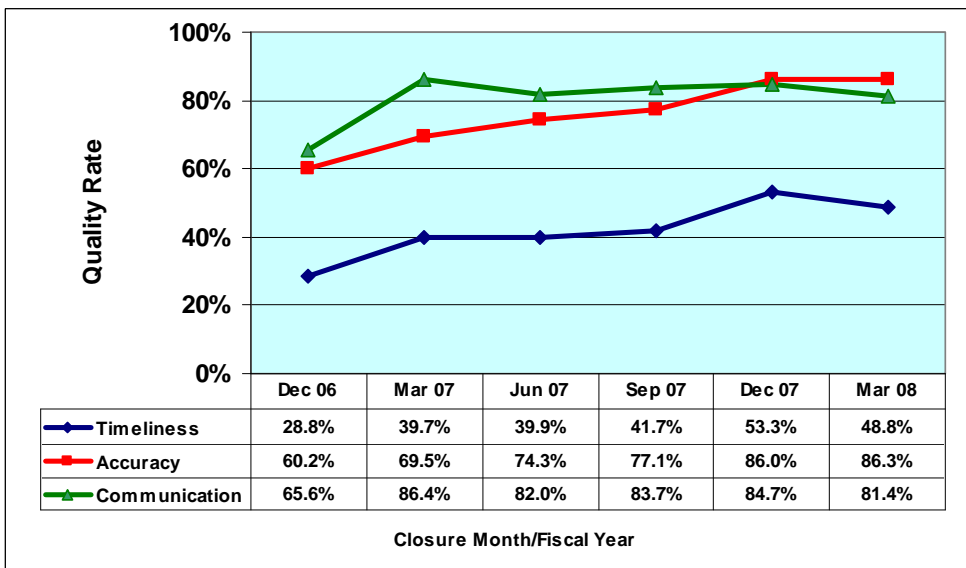


Chart X-6 below documents the increasing quality rate for each of the three broad SA quality components: timeliness, accuracy, and communication. Most notably, from March FY 2007 through March FY 2008, timeliness improved 22.9 percent and accuracy improved 24.2 percent.

CHART X-6, SYSTEMIC ADVOCACY CUMULATIVE QUALITY SCORE BY COMPONENT



F. TAS Efficiency Measure

TAS is developing the cost component of its efficiency measure by first developing the organizational capability to monitor and track the time it takes to work a case. The first phase, implemented in April 2007, allows TAS to track the time employees spend accessing individual cases on the Taxpayer Advocate Management Information System (TAMIS). The final phase, being developed by Modernization and Information Technology Services (MITS) and scheduled for deployment in December 2008, will allow users to enter and edit time spent on cases when TAMIS is not used. TAS expects to complete the total cost component of the efficiency measure by September 2009. In the interim, TAS has established two initial case advocacy cost indicators: Closed Cases per Case Advocacy Full Time Equivalent (FTE); and Closed Cases per Direct FTE.²⁹⁶

G. FY 2009 Balanced Measures Operational Priorities

In FY 2009, TAS will undertake a number of initiatives outlined below to improve its balanced measures. Additional information on TAS's FY 2009 Balanced Measures operational priorities can be found in Appendix V of this report.

1. Employee Satisfaction and Engagement

By December 31, 2008, TAS will develop and implement a communications plan that employs a year-round approach to:

- ♦ Fostering an environment that encourages open communication and the exchange of ideas between managers and employees; and
- ♦ Increasing employees' awareness of the importance of their contribution toward organizational improvement.

TAS will increase organizational awareness of employee engagement activities that further the mission of TAS.

2. Customer Satisfaction

TAS will begin implementation of approved strategies for enhancing customer service. TAS's efforts to institute a long-term customer satisfaction strategy and implement an office consultation process should have measurable impact at the individual office level, as well as nationally, in terms of elevating overall customer satisfaction scores. TAS will analyze end-user product evaluations to foster a better understanding of

²⁹⁶ See Appendix VI, Taxpayer Advocate Service Performance Measures and Indicators, *infra*.

customer satisfaction and action planning processes, and to improve products to better meet end-user needs.

3. *Case Quality*

TAS will take the following steps to prepare for the successful implementation of the new quality attributes in FY 2010:

- ♦ Pilot the new standards;
- ♦ Secure off-the-shelf software to accommodate the new attribute database;
- ♦ Develop an application guide;
- ♦ Conduct dual reviews using both the current and revised attributes; and
- ♦ Share the results with all stakeholders.

4. *Efficiency Measure*

During FY 2009, TAS will monitor Phase II Time Reporting implementation and cost indicators (expected by December 2008) and develop an efficiency measure that includes case complexity, time, quality, and cost.

5. *Continuous Improvement*

TAS will consult with and educate offices to encourage full adoption of the TAS improvement methodology. TAS will also implement a process improvement panel that will manage and track all TAS operational improvement efforts.

XI. PLANNING FOR AND ENABLING EFFECTIVE ADVOCACY

To fulfill its statutory mission, TAS must have a well-trained and diverse workforce with sufficient funding and staffing to help those taxpayers who need our assistance. TAS must also modernize its systems and processes to provide our employees with the tools to effectively advocate for taxpayers and efficiently handle their workload. In this section, we will describe a number of initiatives TAS has undertaken to address these needs.

A. A Strategic Approach to Guide TAS's Future

The IRS Restructuring and Reform Act of 1998 (RRA 98), signed into law on July 22, 1998, renamed the Taxpayer Advocate as the National

Taxpayer Advocate and created the current structure of TAS.²⁹⁷ It seems only fitting that as we approach the tenth year since Congress defined TAS, we reflect on TAS's accomplishments, renew our commitments, and strengthen our plans for the future.

TAS has experienced increasing inventories while the number of case advocates available to work those cases decreased. At the same time, sound tax administration requires that taxpayers receive prompt and thorough action on subsequent attempts to resolve their problems or when they experience an economic burden, all of which make the role of an advocate critical.

To guide our plans for the future, we focused on enhancing our strategic planning process during FY 2008 with a blueprint for TAS's future and a strategic assessment. Each of these products plays an important role in developing a FY 2009 - 2013 TAS Strategic Plan. The FY 2008 TAS Strategic Assessment, the TAS Blueprint, and the Strategic Plan are scheduled for release to employees and stakeholders in FY 2008. These documents set forth TAS's direction over the next five years. The FY 2009 Objectives Report Supplement, posted on <http://www.irs.gov/advocate>, discusses each product in detail.

The following strategic goals and foundations form the basis of the TAS Blueprint and Strategic Plan:

- ♦ *Strategic goals:*
 - Resolve taxpayer problems accurately and timely;
 - Become a known taxpayer advocacy organization; and
 - Protect taxpayer rights and reduce burden;

- ♦ *Strategic Foundations:*
 - Enhance TAS taxpayer accessibility; and
 - Sustain and support a valued and diverse workforce.

B. Sustaining and Supporting an Engaged and Diverse Workforce

TAS recognizes that effective diversity management is critical to an organization's ability to attract, develop, and retain a top-quality workforce. Creating an inclusive workforce leads to mutual trust, respect, candor, teamwork, and integrity. TAS emphasizes leveraging the diversity of the TAS workforce to use all employees' talents in pursuit of our mission. TAS developed all of its Equal Employment Opportunity (EEO) and

²⁹⁷ See IRC § 7803(c).

Diversity related efforts with these objectives in mind. TAS plans to be a leader within the federal government by developing and maintaining an EEO and Diversity program that is truly a model and is based on these objectives:

- ♦ Attract and maintain a highly-qualified and diverse workforce;
- ♦ Effectively manage and leverage the diversity of the workforce; and
- ♦ Promote initiatives and programs that facilitate a greater understanding of EEO and Diversity issues, workplace culture, and a positive work environment.

C. The Need for Effective Recruitment, Hiring, and Retention to Cope with Increasing Case Inventories

TAS case receipts increased 47 percent from FY 2004 through the end of FY 2007, while the number of case advocates available to work those cases decreased by 13 percent.²⁹⁸ TAS projects it will receive approximately 253,000 cases in FY 2008, an increase of two percent over FY 2007 receipts, but this figure does not include the additional cases TAS may receive because of the impact of late-year tax-law changes on the 2008 filing season,²⁹⁹ or the implementation of economic stimulus payments to taxpayers.³⁰⁰

TAS received \$7.7 million above the President's FY 2008 budget request in FY 2008. In response, TAS implemented an ambitious internal and external recruitment initiative to hire and train a highly qualified, motivated, and diverse workforce to meet the challenge of rising inventories and fulfill TAS's statutory mission. As part of this effort, TAS identified a critical need to hire 240 case advocates in FY 2008. The hiring plan will begin to return our staffing to the level necessary to handle the increasing workload.³⁰¹ The National Taxpayer Advocate expanded the recruiting process to include applicants from outside the IRS, presenting TAS with the challenge of hiring and training employees with no prior IRS experience. TAS also expanded the pool of applicants to those with bilingual skills and targeted disabilities. Through May 30, 2008, TAS made significant progress toward its goal by hiring 142 new advocates

²⁹⁸ TAS case receipts rose from 168,856 in FY 2004 to 247,839 in FY 2007. The number of case advocates on rolls decreased from 1,242 to 1,080 during the same time. (Number of case advocates on rolls is as of pay period 19 ending Oct. 2, 2004). See TAS Inventory Levels are Rising While the Number of TAS Employees Available to Work Cases is Declining, *supra*.

²⁹⁹ Pub. L. No. 110-166, Tax Increase Prevention Act of 2007, 121 Stat. 2461 (Dec. 26, 2007).

³⁰⁰ Pub. L. No. 110-185, Economic Stimulus Act of 2008, 122 Stat. 613 (Feb. 13, 2008).

³⁰¹ National Taxpayer Advocate Fiscal Year 2008 Objectives Report ix.

(116 case advocates and 26 intake advocates).³⁰² Approximately ten percent of these new employees came through an initiative to hire externally under Schedule A excepted appointments for individuals with disabilities.³⁰³ The new employees will help fill the void created by employees lost through attrition since FY 2004.³⁰⁴ As of the end of May 2008, TAS lost 70 case advocates and five intake advocates through attrition and projects losing up to an additional 23 case advocates and two intake advocates by the end of FY 2008. In addition to the planned case advocate hiring, TAS also hired 12 new technical advisors³⁰⁵ and plans to hire 46 grade 11 case advocates to address the increasing complexity of many TAS cases. Further, TAS plans to hire 11 student interns this summer, including nine students hired through the Workforce Recruitment Program for College Students with Disabilities.

In the coming fiscal year, TAS will move forward with its hiring and recruitment initiatives to meet our projected workload in FY 2009 and beyond. We plan to hire additional case advocates in FY 2009 and continue to recruit bilingual employees and individuals with targeted disabilities across all occupations. TAS also plans to hire new technical advisors to assist with complex tax, enforcement, and processing issues, as well as new field systemic advocacy analysts to support TAS in identifying and resolving systemic advocacy issues. TAS will also implement a new lead case advocate position that will support the organization by coaching other employees and working our more complex cases.

³⁰² Case advocates work directly with taxpayers to help them resolve problems not resolved through normal IRS channels, assist taxpayers who are facing economic burden, and identify issues that impact taxpayer rights. Intake Advocates expedite the handling of initial case receipts and inquiries from taxpayers and referrals from IRS Operating and Function Divisions to TAS. Intake Advocates perform various functions up front, to ascertain that the taxpayer's case meets TAS criteria and that all necessary documents provided by the taxpayer are associated with the case.

³⁰³ Schedule A appointments are authorized by the Office of Personnel Management and are governed by 5 C.F.R. § 213.3101. Agencies may make appointments under this section to positions which are not of a confidential or policy-determining character, and which are not in the Senior Executive Service. Positions filled under this authority are excepted from the competitive service and constitute Schedule A.

³⁰⁴ See TAS Case Inventory Levels are Rising While the Number of TAS Employees Available to Work Cases is Declining, *supra*.

³⁰⁵ Technical Advisors serve as a technical resource for the entire TAS organization. They are responsible for advising on the resolution of the most technically complex or sensitive issues using effective research, communication, coordination, and negotiating skills. Technical Advisors are Revenue Agents (examiners), Revenue Officers (collection personnel) or employees who are highly skilled and knowledgeable in campus processing activities.

D. Training is Integral to TAS Meeting Its Workforce Goals

TAS's long-term goals include preparing for changes in the workforce and workload by providing employees and managers the necessary tools and training to enhance their skills or participate in developmental programs.

TAS has embarked on a comprehensive training plan to provide employees with the tools and skills needed to handle our complex workload, including:

- ♦ Addressing the needs of both internal and external new hires through updated classroom training, pre- and post-classroom learning, coaching and a structured on- the-job training program;
- ♦ Providing new employees with on-the-job instructors (OJIs) and establishing lead OJI positions to provide a more structured and consistent national approach to on-the-job training activities; and
- ♦ Establishing a cadre of case advocate subject matter experts to help OJIs guide new employees through technical issues.

TAS is also committed to ongoing training of our existing staff. Our employees, their ideas, competencies, and ability to effectively advocate for taxpayers drive TAS's effectiveness. Other training initiatives related to developing and retaining staff and future TAS leaders are described in the FY 2009 Objectives Report Supplement posted on <http://www.irs.gov/advocate>.

E. TAS Contracts with the MITRE Organization to Improve the Case Advocacy Process

Since the National Taxpayer Advocate took office in 2001, TAS has worked to refine its processes, including its approach to case advocacy. However, TAS has not comprehensively reviewed case advocacy since the organization's inception in FY 2000. To accomplish this, TAS contracted with the MITRE Corporation, the IRS's federally funded research and development center, for an independent review of TAS's case advocacy processes and performance measures to identify gaps and opportunities for improvement. TAS believes that such a review will increase efficiency, timeliness, and productivity while maintaining or improving customer and employee satisfaction. The project supports TAS's statutory and strategic mission of helping taxpayers resolve problems with the IRS, and proposing administrative and legislative changes to mitigate those problems.

MITRE will interview various internal stakeholders, including TAS leadership, program owners, Area Directors, Local Taxpayer Advocates in

campus and geographic offices, case advocates, and intake advocates. MITRE will also meet with external stakeholders, such as IRS operating division personnel who interact with TAS through the Operations Assistance Request (OAR) process.³⁰⁶ The project began in May 2008 and is scheduled to continue for 12 months in three phases. TAS is presently funding Phase I only but may move forward with and fund Phases II and III in FY 2009.

F. Integrating our Systems to Improve our Ability to Advocate for Taxpayers and Improve the Quality of Work Life for Our Employees

TAS is working to fill a critical need to modernize and integrate its systems. TAS presently uses a number of systems to distribute workload, document and monitor our efforts to advocate for taxpayers, identify taxpayer needs, and assess business results. During FY 2008, TAS submitted a proposal for the Taxpayer Advocate Service Integrated Systems (TASIS) project. We received initial approval to request funding for the project in fiscal years 2010 and 2011, and continued project preparation efforts with the supplier. Currently, TAS has two principal systems, the Taxpayer Advocate Management Information System (TAMIS) and the Systemic Advocacy Management System (SAMS) to manage our advocacy efforts, as well as several smaller systems that capture Quality Review information, employee training plans, and other information TAS uses to track and assess its programs and processes. TASIS will integrate TAS systems, which will:

- ♦ Improve our ability to share information among TAS operations;
- ♦ Eliminate entering duplicate information into multiple systems;
- ♦ Create a confidential link between TASIS and IRS systems, allowing TAS access to information on those systems and thereby reducing the amount of manual data entry and increasing our efficiency;
- ♦ Reduce costs associated with multiple systems by establishing one common system and set of system tools, which will reduce the number of suppliers currently required to support our systems to one supplier to support TASIS;
- ♦ Implement new IRS standards for electronic document management, data management, and Internet portal strategies;
- ♦ Reduce reliance on paper records and files;
- ♦ Improve controls over document development, including the National Taxpayer Advocate's Annual Reports to Congress;
- ♦ Provide a direct linkage and integration between individual case issues and systemic advocacy projects; and

³⁰⁶ See Operations Assistance Requests, *supra*.

- ♦ Improve TAS's ability to deliver cases and casework to the employees who have the time, training, and skills to most effectively work the cases by integrating our current case inventory management system with our employee training database.

Through a single-system approach, TISIS will allow TAS to implement IRS advancements and new systems requirements in a rapidly changing technology and security climate. In addition, tools for electronic access to work products and customer correspondence will improve TAS service delivery by reducing file transfer and document handling delays. In FY 2009, TAS will continue to refine our requirements for the system in preparation for the 2010 project launch and scheduled deployment in FY 2012.

G. Interim Solutions to Systems Integration

In the interim, TAS has taken a number of actions to deliver systems integration within TAS. As we work towards implementing TISIS, the following interim solutions will provide our organization with the tools we need to effectively manage our workload and enhance our ability to advocate for taxpayers.

1. TAMIS Enhancements

TAS uses TAMIS to record, control, and process taxpayer cases, as well as to analyze the issues that bring taxpayers to TAS. TAMIS is also a critical source of data for the National Taxpayer Advocate's Annual Report to Congress, for providing feedback to the IRS operating divisions, and for recommending changes to the tax laws and IRS processes and procedures.

TAS is working with the IRS's Modernization, Information, and Technology Services (MITS) to enhance the TAMIS application. Due to programming requirements, limited resources, and competing priorities, delivery of enhancements and updates can take MITS up to two years to complete.

FY 2009 will bring more enhancements that will greatly improve TAS's ability to track resources. TAS will implement time reporting and case complexity screens on TAMIS, which will contribute to TAS's development of an efficiency measure. In addition, the data derived from the complexity indicators and the actual time spent working a case will assist in routing and assigning inventory.

2. *TAMIS Time Reporting*

To effectively manage its inventory and case assignment, TAS determined a need to track the amount of time it takes to resolve cases. In FY 2007, TAS implemented the first phase of a new time reporting system designed to automatically capture the amount of time spent on cases, from receipt through closure, when an employee accesses TAMIS with respect to that case. The system allows TAS to report time by case characteristics such as the reason TAS accepts a case, the type of problem the taxpayer is experiencing, and the type of employee assisting the taxpayer (e.g., case advocate, manager, analyst, etc.).

In FY 2009, TAS will implement a second phase of the time reporting system that will allow users to manually modify or add time to cases for work done when not accessing the case on TAMIS (for example, when talking with taxpayers, performing research, or accessing other IRS systems).

3. *TAS Case Complexity*

TAS recognized a need to identify the factors that contribute to the complexity of cases in order to route these cases to the employees who have the necessary time, knowledge, skills, and abilities to work them most effectively. Case complexity factors include:

- ♦ Does the case involve multiple issues?
- ♦ Does the case involve multiple adjustments or other transactions?
- ♦ Does the case involve contacts with multiple operating divisions?
- ♦ Does the case involve financial analysis?
- ♦ Does the case involve research of specialty or emerging issues?
- ♦ Does the case involve contact with, or referral to, a TAS technical advisor, attorney advisor, or the Office of Chief Counsel?

In FY 2009, TAS will implement a user-friendly screen in TAMIS to capture the 22 factors that contribute to the complexity of a case. TAMIS will generate a complexity score for each case, which TAS will use to support staffing needs, identify training issues, and distribute inventory.

4. *TAS Case Intake and Workload Distribution Program*

To serve taxpayers well, TAS must effectively manage its case intake and workload distribution process. TAS took the first step in this process by establishing a separate toll-free line, 1-877-ASK-TAS1, staffed by case intake advocates at three sites. Through targeted publicity and by including the number on certain IRS notices, TAS increased the number of taxpayers who are able to reach us directly on the case intake line and reduced the volume of calls that do not meet TAS case acceptance

criteria.³⁰⁷ TAS is planning to expand the program in FY 2009 (subject to MITS prioritization approval) by adding three sites and hiring additional intake advocates, including bilingual employees to meet the needs of non-English speaking taxpayers. We also plan to consolidate case intake and workload distribution activities at the existing and planned sites.

TAS uses inventory balancing to manage its workload and evenly distribute cases to offices around the country. TAS also recognizes that effective inventory balancing must include the ability to assign cases to the employees with the right knowledge, skills, and time to work each case. Our process must also take into account the needs of taxpayers, including those who need to deal with an advocate face-to-face or whose issues are specific to the area where they reside. The TAMIS Time Reporting and Case Complexity initiatives will integrate our intake process with an effective workload distribution system, which we will ultimately automate on TESIS.

5. *Systemic Advocacy Management System Enhancements*

The Taxpayer Advocate Service tracks problems for groups of taxpayers – systemic problems – on the Systemic Advocacy Management System (SAMS). External stakeholders and IRS employees elevate systemic problems to SAMS for review, analysis, and potential development as projects. The system also provides tools for tracking project development and the IRS's implementation of TAS recommendations.

In FY 2008, TAS plans to implement a substantial improvement to SAMS. The revised application will improve accessibility for users of adaptive screen readers, increase TAS's ability to control data access, provide new tools for retaining project documents electronically, enable us to track unlimited numbers of issues per case, and enhance navigation and workflow tools for greater efficiency. SAMS will also incorporate new IRS standard tools for generating reports. These enhancements support the Government Accountability Office (GAO)³⁰⁸ and the Treasury Inspector General for Tax Administration (TIGTA)³⁰⁹ recommendations to improve tracking of resources and implementation of advocacy proposals. The SAMS enhancements are a component of the TAS's strategy to integrate business systems. The upgrade to SAMS (Version 2) is anticipated in August of 2008. In FY 2009, TAS will review the use of these features

³⁰⁷ See Appendix II, Taxpayer Advocate Service Case Acceptance Criteria, *infra*.

³⁰⁸ General Accounting Office, GAO-07-156, *Caseload has Grown and Taxpayers Report Being Satisfied, but Additional Measures of Efficiency and Effectiveness are Needed*.

³⁰⁹ Treasury Inspector General for Tax Administration, Ref. No. 2003-10-187, *The National Taxpayer Advocate Could Enhance the Management of Systemic Advocacy Resources*.

and conduct additional analysis to develop detailed objectives and requirements in anticipation of the FY 2010 planned integration of TAS systems.

APPENDICES

Appendix I: 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), Pub. L. No. 100-647. In TBOR 1, Congress added IRC § 7811, granting the Ombudsman the statutory authority to issue a Taxpayer Assistance Order (TAO) “if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.”¹ Further, the Taxpayer Ombudsman and the Assistant Commissioner (Taxpayer Services) were directed to jointly provide an annual report to Congress 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.²

In 1996, 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.³ 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

¹ TAMRA, Pub. L. No. 100-647, Title VI, Sec. 6230, 102 Stat. 3342, 3733 (Nov. 10, 1988).

² TAMRA, Pub. L. No. 100-647, Title VI, Sec. 6235 (b), 102 Stat. 3342, 3737 (Nov. 10, 1988).

³ Pub. L. No. 104-168, Sec. 101, 110 Stat. 1452, 1453 (July 30, 1996).

and responsibility to make independent reports to the Congress in order to advise the tax-writing committees of those areas.⁴

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

1. To assist taxpayers in resolving problems with the IRS;
2. To identify areas in which taxpayers have problems in dealings with the IRS;
3. To the extent possible, propose changes in the administrative practices of the IRS to mitigate those identified problems; and
4. To identify potential legislative changes which may be appropriate to mitigate such problems.⁵

Congress did not provide the Taxpayer Advocate with direct line authority over the regional and local Problem Resolution Officers (PROs) who handled cases under the Problem Resolution Program. 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.”⁶

TBOR 2 also replaced the joint Assistant Commissioner/Taxpayer Advocate Report to Congress with two annual reports to Congress issued directly and independently by the Taxpayer Advocate. The first report 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 is on the activities of the Taxpayer Advocate during the fiscal year ending during that calendar year. The report must 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, describe in detail the progress made in implementing these recommendations, contain a summary of at least 20

⁴ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress* JCS-12-96, 20 (Dec. 18, 1996).

⁵ Pub. L. No. 104-168, Sec. 101, 110 Stat. 1452, 1453-54 (July 30, 1996).

⁶ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress* JCS-12-96, 21 (Dec. 18, 1996).

of the Most Serious Problems (MSPs) which taxpayers have in dealing with the IRS, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and include other such information as the Taxpayer Advocate may deem advisable. The stated objective of these 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. 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.”⁷

Finally, TBOR 2 amended IRC § 7811, extending the scope of the 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.”⁸ 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.

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, in both perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the national Taxpayer Advocate is not viewed as independent by many in Congress. This view is based in part on

⁷ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress* JCS-12-96, 21 (Dec. 18, 1996).

⁸ *Id.* at 23.

the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position.⁹

In response to these concerns, in the IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, 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).¹⁰

RRA 98 provided for Local Taxpayer Advocates to be located in each state, and mandated a reporting structure for Local Taxpayer Advocates to report directly to the National Taxpayer Advocate. As indicated in IRC § 7803(c)(4)(B), each Local Taxpayer Advocate must have a phone, fax, electronic communication, and mailing address separate from those of the IRS. The Local Taxpayer Advocate 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.”¹¹ Congress also granted the Local Taxpayer Advocates discretion to not disclose the fact that the taxpayer contacted the Office of the Taxpayer Advocate or any information provided by the taxpayer to that office.¹²

The definition of “significant hardship” in IRC § 7811 was expanded in 1998 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 taxpayer’s incurring of significant costs (including fees for professional representation) if relief is not granted; and (4) the taxpayer will suffer irreparable injury or a long-term adverse impact. The committee reports make clear that this list is a non-exclusive list of what constitutes significant hardship.¹³

⁹ Report of the Commission on Restructuring the Internal Revenue Service: *A Vision for a New IRS* 48 (June 25, 1997).

¹⁰ Pub. L. No. 105-206, Sec. 1102, 112 Stat. 685, 697 (July 22, 1998).

¹¹ IRC § 7803(c)(4)(A)(iii).

¹² IRC § 7803(c)(4)(A)(iv).

¹³ H.R. Conf. Rep. No. 105-599, at 215 (1998).

Appendix II: TAS Case Acceptance Criteria

As an independent organization within the IRS, TAS helps taxpayers resolve problems with the IRS and recommends changes to prevent the problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.³²³ TAS case acceptance criteria fall into four main categories:

1. 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.

2. 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.

- **Criteria 5:** The taxpayer has experienced a delay of more than 30 calendar days to resolve a tax account problem.
- **Criteria 6:** The taxpayer has not received a response or resolution to their 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.

³²³ IRC § 7803(c)(2)(A)(i).

3. Equitable Treatment or Taxpayer Rights Issues

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

- **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.

4. Public Policy

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

- **Criteria 9:** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

Appendix III: Collaborative Efforts Between TAS and IRS

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
IRC § 3401 (Collection Due Process (CDP)) Working Group	Appeals, Counsel, SB/SE and W&I	The CDP team is a cross-functional group of IRS stakeholders who collectively work to resolve issues and improve the process. As an example, in 2007 the group revised Form 12153, Request for Collection Due Process or Equivalent Hearing, and Publication 1660, Collection Appeal Rights.	Continued protection of taxpayer rights in CDP situations.
TAS/Collection Levy Task Force	SB/SE and W&I	The team is tasked with addressing pre- and post-levy related issues, including levy releases and the application of levy proceeds.	Develop consistent levy release procedures for IRS employees.
TAS/Collection Allowable Living Expenses Task Force	SB/SE and W&I	The team is tasked with developing standards that will better reflect taxpayers' actual living expenses (ALE). The team also will determine the most appropriate collection alternative for taxpayers unable to fully pay their tax delinquency (installment agreement, offer in compromise, or currently not collectible).	Establish accurate and reasonable ALE standards. Educate IRS employees and taxpayers regarding application of the standards.
TAS/Collection Installment Agreement Task Force	SB/SE and W&I	The team is tasked with examining the installment agreement process. They plan to conduct research regarding default rates.	Modify the IA process to allow for more effective resolution of cases.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
TAS/Collection Offer in Compromise Task Force	SB/SE and Counsel	The team is examining existing offer in compromise policies and procedures to determine if they deter taxpayers from submitting an offer that represents a good faith attempt by a taxpayer to resolve the tax debt.	Establish clear guidelines and procedures for OICs. Encourage flexibility in OIC negotiations. Enhance IRS understanding of taxpayers' specific circumstances in considering OICs.
TAS/Collection Early Intervention Task Force	SB/SE and W&I	The team is exploring IRS's current Collection notice process with emphasis on existing address and telephone research procedures.	Develop procedures for reasonable attempts at personal contact before initiating enforcement actions.
Nonfiler Strategy	All Service and Enforcement	The team plans to expand the use of third-party information and research tools to improve identification, selection and resolution of Nonfiler cases. The group also will encourage development and submission of legislative proposals to increase filing compliance.	Develop action plans to increase filing compliance. Develop long term strategies to increase filing compliance.
Servicewide Exam Plan	All Service and Enforcement	The team is developing an examination plan based on priorities in Tier I, Tier II, and Tier III work.	Deliver the examination plan to leadership.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
Customer Satisfaction Improvement Team- Correspondence Examinations	SB/SE and W&I	The team is tasked with managing customer expectations so they are informed about their case, shaping customer and employee behavior so they respond quickly and completely to reduce overall case cycle time, and streamlining processes and procedures.	Develop an action plan and establish strategic goals.
Amended returns	W&I Submission Processing, Accounts Management, and Compliance	The team is identifying systemic problems, recommending improvements, and developing outcome measures to document progress toward reducing the volume of amended returns, which require TAS assistance.	Recommend and test improvements to the process. Use the test results to measure the downstream impact on TAS caseload. Recommend more testing or implementation of the results.
CAWR and FUTA Document Matching Programs	SB/SE Campus Compliance Services Campus Reporting Compliance	The team is identifying systemic problems, recommending improvements, and developing outcome measures to document progress toward reducing the volume of CAWR/FUTA cases that require TAS assistance.	Develop a process map of the programs. Determine underlying systemic problems based on a sample of cases. Recommend preliminary improvements and future testing methodologies.
Internal PCA Planning Committee	SB/SE, W&I, OPERA and BAH	The team will plan an internal test comparing tax collection issues between IRS employees and Private Collection Agencies (PCAs).	Deliver the plan by April 28, 2008.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
Pre-Refund Concept of Operations (Conops)	Exam, W&I AM/Compliance, SB/SE ETA, MITS, CI, BAH Contractor,	The team is tasked with developing a concept of operations for the new pre-refund office.	Complete the concept of operations along with identification of improvement opportunities.
CI Transition	CI, W&I AM, Examination, BAH Contractor	CI and W&I executives along with team members are developing a plan that recommends QRP functionality that can be moved to the civil side by January 2009. The team has completed alternative analysis and will recommend placement in either Compliance or Accounts Management.	Present alternative analysis and recommendations to top leadership. Provide approved recommendations to an implementation team.
W&I Geographic Coverage Initiative "Your Opinion Counts"	Field Assistance, W&I Research and OPERA	The team is examining the geographic footprint of Taxpayer Assistance Centers described in the Taxpayer Assistance Blueprint.	Submit an optimal geographic footprint tool by May 29, 2008.
Task Force on Aging	Taxpayer Burden Reduction	The task force is exploring methods that will make tax compliance easier for an aging population.	Improve IRS services and tax procedures for an aging population.
Injured Spouse Task Force	W&I	W&I and TAS team members are investigating processes and procedures for working Forms 8379, Injured Spouse Allocation	Deliver the final report to the National Taxpayer Advocate.
Return Preparer Strategy Working Team on Alternative Treatments	SB/SE Exam, W&I Pre-refund Office, Appeals, Counsel, CI, and OPR	The team is establishing guidelines for alternative treatments of return preparers.	Goals will be set by the team by July 1, 2008.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
Return Preparer Strategy Working Team on Penalty Application	SB/SE Exam, LMSB, TE/GE, W&I, Counsel, Appeals, MITS, and OPR	The team is establishing guidelines for appropriate and consistent treatment of penalty cases.	Goals will be set by the team by July 1, 2008
Pre-Refund Program (PRP) – Advisor on Executive Steering Committee	CI, SB/SE, and W&I	The team is tasked with developing processes for the IRS’s PRP office, which will coordinate or govern IRS pre-refund activities.	Move closer to the official final CI transfer of responsibility to PRP office.
PRP – Fraud Detection Center (FDC) Transition	CI and W&I	The team is developing procedures to transfer of most of the FDC work from CI to W&I personnel.	Finalize plans and implement transfer.
Questionable Refund Program (QRP) – Sample of 400 Cases	CI	The team is sampling 400 cases of refund requests that CI determined were questionable (fraudulent) to assess the accuracy of that determination and to make process recommendations.	Begin evaluation of cases.
Service Team IRS 5-Year Strategic Plan	All ODs	The team will begin drafting a new 5-year plan for IRS.	Implement the 5-year plan.
International Toll Free Customer Call Initiative	CAS, W&I and LMSB	The team is creating options for international taxpayers to contact IRS.	Define how the service will appear functionally to an international customer. Define what the service will entail for the business operation (AM/ LMSB / NTA). Define the potential number of customers’ services.
National Research Program	LMSB, TE/GE, SB/SE and Counsel	The team is examining Employment Tax Gap Research and Data Collection Project.	Define and calculate the employment tax gap.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
CSX Decision Coordination Team	SB/SE, LMSB, TE/GE, W&I, Appeals, and Chief Counsel	A cross-functional team meets regularly to coordinate and develop strategies to respond to claims for refunds related to the recent US Court of Appeals decision stating that severance paid to an involuntarily displaced worker is taxable wages under FICA, and any subsequent appeals.	Coordinate and develop a strategy describing how to resolve claims for refund and how to communicate the results to taxpayers.
Enterprise-Wide Employment Tax Program (EWETP)	All BODs, Counsel, and OTBR	An enterprise wide team that meets to develop the best approaches to address non-compliance, to plan for FY 09 and to develop a FY09 Program Letter, to ensure consistent treatment of employment taxes, and to work cases in the manner that they need to be worked.	Complete process check of FY08 EWETP initiatives. Develop FY 2009 Enterprise-Wide Employment Tax Work plan. Develop FY 2009 Enterprise-Wide Employment Tax Program Letter to include an Enterprise-Wide Communications Plan to address employment taxes. Recommend a governance structure for the EWETP.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
EWETP Worker Classification Sub-Team	All BODs, Counsel, and OTBR	The group is a sub-team of the EWETP that meets to identify employment tax abuses and develop measures to address the misclassification of employees by their employers.	Develop solutions to address the worker misclassification problem in the absence of a legislative change.
Home Care Service Recipients OTBR Task Force	SB/SE, TE/GE, W&I, CC and OTBR	The team addresses burdens that the filing of individual Forms 940 causes HCSR taxpayers and their designated agents. The team is led by the Office of Taxpayer Burden Reduction and TAS has been involved in working with affected HCSRs and resolving filing problems that result in unwarranted collection activity.	Create guidance to prevent unwarranted collection activity against elderly and disabled home care service recipients. Implement appropriate computer programming to prevent generation of 6020B notices.
Third Party Payers – Collection Policy Team	SB/SE Collection Function	The team creates a consistent bucket approach to the application of effective tax administration Offers in Compromise to the victims of third party payer failures.	Create a Collection Policy consistently approaching third party payer failures and create appropriate remedies.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
Form 944 Employers Annual Employment Tax Program	SB/SE, TE/GE, W&I, MITS and Chief Counsel	The IRS implemented the Form 944 program as a customer-friendly initiative to reduce burden and simplify employment tax reporting, filing and payment requirements for taxpayers, and to reduce administrative cost to the IRS. Employers selected to participate in the program can file employment tax returns once a year instead of quarterly.	Determine if the program reduced burden for taxpayers and administrative costs to the IRS by reviewing data from the 2006, 2007, and 2008 tax years.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
Adjusted Employment Tax Return Program	SB/SE, TE/GE, W&I, MITS and Chief Counsel	The IRS launched the Adjusted Employment Tax Returns Project to reduce burden for employers and the IRS by implementing a new set of user-friendly forms and improving the process for making adjustments. The current Form 941c is complex and does not correspond directly to any of the employment tax returns. This can cause, taxpayers to make mistakes when using Form 941c, resulting in processing errors and delays. Also, because the employer files Form 941c with the current return, the IRS adjusts the current tax period instead of the period requiring the correction, making it difficult for employers and the IRS to track taxpayers' account activity. The new, easier-to-complete forms will replace complex Form 941c and will correspond to employment tax forms 941, 943, 944, 945, and CT-1.	Analyze taxpayer responses and use of the new forms. Measure results to determine whether the initiative reduced burden and improved the process for making adjustments.

Name of Task Force	IRS Functions Participating	Brief Description	FY 2009 Goals
<p>Technical Working Group (TWG) for the "Implementation of Transaction Code 971 and Identity Theft Victim Assistance"</p>	<p>Identity Theft Incident Management Office, Accounts Management, Automated Underreporter, Automated Collection System, Automated Substitute for Return, and Examination.</p>	<p>The objectives of the working group are to provide a medium for cross-functional discussion and data gathering on identity theft issues; analyze identity theft cases where the victim has been significantly burdened; determine if any procedures exist to address key issues; discuss ideas on how related procedures can be developed or improved; and develop recommendations for process improvements.</p>	<p>Gain a better understanding of identity theft case processing to improve correction procedures. Implement Transaction Code 971 identity theft indicator. Create a centralized Identity Theft IRM.</p>
<p>Multi Lingual Initiative</p>	<p>All IRS Operations</p>	<p>Making certain the IRS complies with Executive Order (EO) 13166 that mandates Federal agencies provide meaningful access for Limited English Proficiency (LEP) persons to products and services. The order defines "meaningful access" as <i>"...ensuring that the language assistance provided results in accurate and effective communication between the agency and the customer about the types of service and benefits available."</i></p>	<p>The MLI Executive Council serves as the Executive Oversight Board that establishes the MLI strategic vision. This includes establishing policy and major areas of focus about MLI and defining service wide improvement initiatives related to LEP taxpayers.</p>

Appendix IV: List of Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent low income taxpayers before the Internal Revenue Service, assist taxpayers in audits, appeals and collection disputes, and can help taxpayers respond to IRS notices and correct account problems.

If you are a low income taxpayer who cannot afford professional tax assistance or if you speak English as a second language (ESL) and need help understanding your taxpayer rights and responsibilities, you may qualify for help from a LTC that provides free or nominal cost assistance. Although LITCs receive partial funding from the IRS, LITCs, their employees, and their volunteers are completely independent of, and are not associated with, the federal government. These clinics are generally operated by nonprofit organizations or academic institutions.

Clinics receiving federal funding for the 2008 calendar year are listed below. Each clinic independently decides if you meet the income guidelines and other criteria before it agrees to represent you.

Low income taxpayers also may be able to receive assistance from an attorney referral system operated by state bar associations, state or local societies of accountants and other nonprofit tax professional organizations.

This publication is not a recommendation by the IRS that you retain a Low Income Taxpayer Clinic or other similar organization to represent you before the IRS.

The department of Health and Human Services (HHS) publishes poverty guidelines each year. A controversy clinic receiving federal funding must have at least 90% of the taxpayers served with incomes that do not exceed 250% of the poverty guidelines. For the 2008 calendar year, the income ceilings for low income representation for the 48 contiguous States, the District of Columbia, and Puerto Rico are as follows:

Size of Family Unit	Income Ceiling (250% of Poverty Guidelines)
1	\$26,000
2	\$35,000
3	\$44,000
4	\$53,000
5	\$62,000

For family units with more than five members, add \$9,000 for each additional member.

Note: HHS publishes separate poverty guidelines for Alaska and Hawaii. See: <http://aspe.hhs.gov/poverty/08poverty.shtml>. The poverty guidelines for Guam follow those for Hawaii.

Type of Clinic: C = Controversy Clinic E = ESL Clinic B = Both Controversy and ESL Clinic

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
AK	Anchorage	Taxpayer Education Services	907-272-5432	B	Yupik/ Korean/ Samoan/ German/ Spanish
AK	Anchorage	ABDC's Volunteer Tax and Loan Program	972-562-0335	B	All Alaskan Native Languages
AL	Birmingham	Lawson State Community College LITC	205-925-1039	E	Spanish
	Tuskegee	Legal Services Alabama	334-724-4525	B	Spanish
AR	West Memphis	Delta Economic Education Resource Service	870-733-1704 1-877-733-1704	B	Spanish
	Jonesboro	Legal Aid of Arkansas	1-800-234-3544	E	Spanish
	Little Rock	William H Bowen School of Law LITC	501-324-9441 501-324-9948	B	Spanish
AZ	Phoenix	CLS LITC Controversy and Outreach Program	602-258-3434	B	Spanish
	Window Rock	DNA-People's Legal Services, Inc.	1-800-789-7287 928-871-4151	B	Navajo/Hopi
	Tucson	Catholic Community Services of Southern AZ	520-388-9153	B	Spanish
	Fresno	Central California Legal Services LITC	559-570-1200 1-800-675-8001	B	Spanish/Hmong
	San Francisco	Asian Pacific Islanders Legal Outreach	415-567-6255	B	Cantonese/ Mandarin/ Vietnamese/ Japanese/ Tagalog/ Korean
	Orange	Chapman University Tax Law Clinic	714-628-2535	C	Spanish/Vietnamese

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
CA	San Francisco	Chinese Newcomers Service Center	415-421-2111 ext. 691	B	Cantonese/Mandarin/Chinese
	Los Angeles	HIV/AIDS Legal Services Alliance (HALSA)	213-637-1690	C	Spanish
	San Diego	Legal Aid Society of San Diego, Inc. LITC	619-471-2674 1-877-534-2524	B	Spanish/Russian/French/German/ Farsi/Arabic/Tagalog/Korean/ Vietnamese/Chinese/Laotian
	Northridge	The Bookstein Tax Clinic	818-677-3600	B	Spanish
	San Diego	University of San Diego Tax Clinic	619-260-7470	B	Spanish
	South Pasadena	Tax Clinic and Education Outreach of San Gabriel Valley	626-407-2945	B	Chinese
	Santa Ana	Legal Aid Society of Orange County	714-571-5258 1-800-834-5001	B	Farsi/Spanish/Vietnamese
CO	San Luis	Southern Colorado LRC Tax Clinic	719-672-1002 1-866-607-8462	B	Spanish
CO	Denver	Graduate Tax Program	303-871-6331 800-426-8802	C	English
CT	Hamden	Quinnipiac University School of Law LITC	203-582-3238	C	Spanish
	Hartford	University of Connecticut School of Law Tax Clinic	860-570-5165	C	Spanish
DC	Washington	Janet R. Spragens Federal Tax Clinic	202-274-4144	C	Spanish
	Washington	CARECEN's ESL LITC	202-328-9799	E	Spanish
	Washington	UDC David A. Clarke School of Law LITC	202-274-7400	B	Spanish
DE	Wilmington	Delaware Community Reinvestment Action Council (DCRAC) LITC	1-877-825-0750	B	Spanish
FL	Plant City	Bay Area LITC	813-752-1335	B	Spanish
	Palatka	Community Legal Services of Mid-Florida (CLSMF) LITC	1-866-886-1799	B	Spanish
	St. Petersburg	Gulfcoast Legal Services LITC	727-821-0726 1-800-230-5920	B	Spanish
	Miami	Sant La LITC	305-573-4871	E	Spanish/Haitian
	Plantation	Legal Aid Service of Broward County LITC	954-765-8950	C	Spanish/Creole
	West Palm Beach	Legal Aid Society of Palm Beach County LITC.	561-655-8944 ext. 287	B	Spanish/Creole
	Miami	Legal Services of Greater Miami, LITC	305-576-0080	B	Creole/Haitian/Spanish
	Tallahassee	Legal Services of North Florida	850-385-9007 ext. 55	B	Spanish
	Jacksonville	Three Rivers Legal Services LITC	904-394-7450	B	Spanish/Bosnian
GA	Atlanta	Georgia State University College of Law Tax Clinic	404-413-9230	C	Spanish
	Hinesville	JC Vision and Associates LITC.	912-877-4243 1-866-902-4266	B	Spanish
	Atlanta	Women's Economic Development	678-904-2201	E	Spanish

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
GU	Mangilao	School of Business and Public Admin.	671-735-2501	B	Chamorro/Tagalog
HI	Honolulu	Community Tax Education & Tax Assistance LITC	808-522-0674	B	Chuukese/Filipino/Italian/Hawaiian/Japanese/Korean/Marshallese/Samoan/Vietnamese
	Honolulu	Legal Aid Society of Hawaii	808-536-4302	B	Japanese/Filipino
IA	Des Moines	Legal Services Corporation of Iowa	515-243-2151 1-800-532-1275	B	Spanish Interpretation available for other languages
ID	Moscow	College of Law Legal Aid Clinic	208-885-6541 1-877-200-4455	B	Spanish
IL	East Dundee	Administer Justice	847-844-1100	B	Spanish
	Chicago	Midwest Tax Clinic	312-630-0284 1-888-827-8511	B	Spanish
	Chicago	Korean American Community Services	773-583-5501	E	Korean/Spanish
	Chicago	Chicago Kent College of Law LITC	312-906-5050 312-906-5041	C	Spanish
	Chicago	Loyola University Chicago School of Law Federal Tax Clinic	312-915-7176	C	English
IN	Valparaiso	Valparaiso University Law Clinic	219-465-7903 1-888-729-1064	C	Spanish
	Indianapolis	Neighborhood Christian Legal Clinic	317-415-5337	B	Spanish
	Bloomington	LITC at ILS Bloomington	1-800-822-4774	C	English
KS	Lawrence	Legal Services for Students	785-864-5665	B	Spanish/Additional Languages
	Wichita	South Central Kansas LITC	316-688-1888 1-800-550-5804	C	English
KY	Richmond	LITC of Appalred	1-800-477-1394	B	Spanish
	Louisville	Legal Aid Society LITC	502-584-1254 1-800-292-1862	B	Spanish
	Covington	Northern Kentucky University LITC	859-572-6124 859-572-5781	B	Spanish
LA	New Orleans	New Orleans Legal Assistance	504-529-1000 1-877-521-6242	C	Spanish/Vietnamese
	Baton Rouge	Southern University Law Center LITC	225-771-3333	C	English
MA	Waltham	Bentley College Multi-Lingual Tax Information Program	781-891-2083	B	Haitian/Creole/Arabic/Italian/Russian/Spanish/Armenian
	Boston	Greater Boston Legal Services LITC	617-371-1234	B	Chinese/Creole/Haitian Spanish
	Springfield	Springfield Partners for Community Action	413-263-6500	E	Spanish/Vietnamese
MD	Baltimore	University of Baltimore	410-837-5727	C	English
	Baltimore	Maryland Volunteer Lawyers Service LITC	1-800-510-0050 410-547-6537	C	English
ME	Bangor	Pine Tree Legal Assistance	207-942-8241	C	English

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
MI	East Lansing	Michigan State University College of Law - LITC	517-336-8084	B	Arabic/Bahasa/Chinese/French/German/Greek/Hindi/Indonesian/Malay//Polish/Spanish/Urdu/Thai/Korean/Japanese/Italian/Russian/Vietnamese
	Flint	Legal Services of Eastern Michigan LITC	1-800-322-4512 810-234-2621	B	Spanish
	Ann Arbor	University of Michigan Law School Tax Clinic	734-936-3535	B	Spanish
	Detroit	Accounting Aid Society LITC	313-647-9620	B	Arabic/Spanish
MN	Minneapolis	Mid-Minnesota Legal Assistance LITC	612-332-1441	B	Spanish/Somali/Russian/Arabic/Hmong/Oromo/Amharic
	Minneapolis	University of Minnesota Tax Clinic	612-625-5515	B	Somali/Hmong/Spanish
MO	Kansas City	LITC at Legal Aid of Western Missouri	816-474-6750	E	Spanish
	Springfield	Missouri State University LITC	417-836-3007 417-836-5414	B	Chinese/Korean/Spanish/Thai/Vietnamese
	Kansas City	Kansas City Tax Clinic	816-235-6201	C	English
MS	Oxford	Mississippi Taxpayer Assistance Project	1-888-808-8049	B	Spanish
MT	Missoula	Montana Legal Services Association LITC	1-800-666-6899 406-543-8343	C	English
NC	Durham	Duke University School of Law	919-613-7169 1-888-600-7274	C	Spanish
	Greenville	Northeastern NC Low Income Taxpayer Assistance Project	252-758-0113 1-800-682-4592	B	Spanish
	Charlotte	Western North Carolina LITC	704-971-2622 1-800-438-1254	B	Spanish
	Camden	Northeastern Community Development Corporation	252-338-5466 ext 21 252-331-1601	B	Spanish
ND	New Town	Legal Services of North Dakota LITC	1-877-639-8695 1-800-634-5263	B	Arikara/Hidatsa/Mandan
NE	Omaha	Legal Aid of Nebraska LITC	402-438-1060 1-877-250-2016	B	Spanish
NH	Concord	Legal Advice & Referral Center	603-224-3333 ext. 619 1-800-639-5290 ext. 619	E	Spanish
	Concord	NH Pro Bono LITC	603-228-6028	C	English
NJ	Newark	Rutgers Law School Federal Tax Clinic	973-353-1685	C	Spanish
	Edison	Tax Legal Assistance Project	1-888-576-5529	B	Spanish/French/Creole/19 other languages
	Camden	South Jersey Legal Services	1-800-496-4570	B	Spanish
NM	Albuquerque	University of New Mexico School of Law Clinical Law Programs	505-277-5265	C	English
NV	Las Vegas	Nevada Legal Services LITC	1-866-432-0404	B	Spanish

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
NY	Albany	Albany Law School Clinic & Justice Center LITC	518-445-2328	C	English
	Brooklyn	Bedford-Stuyvesant LITC	718-636-1155	C	Spanish
	Buffalo	Erie County Bar Association Volunteer Lawyers Project LITC	716-847-0662 ext.13	C	English
	New York	Fordham Law School Tax Litigation Clinic	212-636-7353	C	English
	New York	Legal Aid Society LITC (NY)	212-426-3013	B	Spanish/Chinese
	Rochester	Volunteer Legal Services Project LITC	585-232-3051	E	Spanish/Interpretype for Hearing Impaired
	Bronx	Legal Services for New York City-Bronx LITC (LSNY Bronx)	718-928-3700	C	English
	Jamaica	Queens Legal Services Corporation	718-657-8611	B	Chinese/Creole/Hindi/Korean/Russian/Spanish/Urdu
	Rochester	Rural Opportunities, Inc.	585-340-3342 1-800-888-6770	E	Spanish
	Brooklyn	Brooklyn Low Income Taxpayer Clinic	718-237-5528	B	Spanish/140 other languages
	Syracuse	Syracuse University College of Law LITC	315-443-4582	C	Spanish/Vietnamese
	Elmsford	WestCOP Taxpayer Education Services	914-592-5600 ext. 163	E	Spanish
Flushing	Young Korean American Service & Education Center LITC	718-460-5600	E	Korean	
OH	Toledo	Advocates for Basic Legal Equality LITC	1-800-837-0814	B	Spanish
	Akron	Community Legal Aid Services LITC	1-800-998-9454	B	Spanish
	Columbus	Ohio State Legal Services Association LITC	1-800-589-5888	C	Spanish
	Piketon	Community Action Committee of Piketon County	740-289-2371	C	English
	Cleveland	Friendship Foundation of American-Vietnamese LITC	216-961-6005	E	Cambodian/Laotian/Spanish/Arabic /Vietnamese
	Columbus	Legal Aid Society of Columbus LITC	614-241-2001 1-888-246-4420	C	Spanish
	Cleveland	Legal Aid Society of Cleveland LITC	216-687-1900	C	English
OK	Oklahoma City	Oklahoma Indian Legal Services LITC	405-943-6457 1-800-658-1497	B	Navajo
OR	Gresham	El Programa Hispano	503-669-8350	B	Spanish
	Portland	Legal Aid Services of Oregon LITC	503-648-7163 503-640-8228 ext. 115	B	Spanish/200 other languages
	Portland	Lewis & Clark College Legal Clinic	503-768-6500	C	English
PA	Pittsburgh	LITC Tax Practicum	412-396-5877	C	English

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
	Pittsburgh	Jewish Family & Children's Service LITC	412-422-7200	E	Russian/Spanish/Serbo-Croatian/Chinese
	Philadelphia	FFP/VIP LITC	215-981-3800 1-888-541-1544	B	Spanish
	Pittsburgh	University of Pittsburgh School of Law LITC	412-648-1300	C	English
	Philadelphia	Villanova University School of Law Federal Tax Clinic	610-519-4123 1-888-829-546 (English) 1-866-655-419 (Spanish)	C	Spanish
PR	Adjuntas	Rural Opportunities Puerto Rico	787-829-6024 1-800-888-6770	B	Spanish
RI	Providence	Rhode Island Legal Services LITC	401-274-2652 1-800-637-4529	B	Spanish/Portuguese
	Providence	Rhode Island Tax Clinic LITC	401-421-1040	B	Spanish
SC	Greenville	South Carolina Legal Services	1-888-346-5592	B	Spanish
	Florence	CRLS LITC	843-667-1896	E	Spanish
	Columbia	South Carolina Association of Community Action Partnerships LITC	803-771-1524	E	Spanish
SD	Spearfish	South Dakota LITC	605-642-6002	B	Lakota
SD	Vermillion	USD School of Law	1-800-747-1895	C	English
TN	Nashville	Conexion Americas LITC	615-269-6900	E	Spanish
	Oak Ridge	Legal Aid Society Tennessee Taxpayer Project	865-483-8454 1-866-481-3669	B	Spanish
TX	Sugarland	Centro Familiar Cristiano, Inc. LITC	281-340-2400	E	Spanish/German
	Midland	Federal Tax Clinic	432-682-5200	B	Spanish
	San Antonio	Project Quest	210-270-4690	B	Spanish
	Houston	Houston Volunteer Lawyers Program LITC	713-228-0732	C	English
	El Paso	El Paso Affordable Housing LITC	915-838-9608	E	Spanish
	Ft. Worth	Legal Aid of Northwest Texas	214-748-1234	B	Spanish
	Austin	Texas Rio Grande Texas Taxpayer Assistance Project	1-888-988-9996	B	Spanish
	Lubbock	Texas Tech University School of Law LITC	806-742-4312 1-800-420-8037	B	Spanish
UT	Provo	Action Contra La Pobeza Inc. Centro Hispano	801-655-0258 801-655-0657	B	Spanish
	Salt Lake City	University of Utah LITC	801-236-8053	B	Spanish
VA	Richmond	Community Tax Law Project LITC	804-358-5855 800-295-0110	B	Spanish
	Lexington	Washington & Lee LITC	540-458-8258	B	Spanish
	Portsmouth	House of Hope Foundation LITC	757-558-4673	E	Spanish
VT	Barre	Central Vermont LITC	802-479-1053 1-800-639-1053	B	Bosnian/Spanish/French/Russian

Low Income Taxpayer Clinics (LITCs)					
State	City	Organization	Public Phone Numbers	Type of Clinic	Languages Served in Addition to English
	Montpelier	Vermont Low Income Taxpayer Project	1-800-889-2047	C	English
WA	Spokane	Gonzaga University LITC	509-323-5791	B	Spanish/Russian
	Seattle	University of Washington School of Law LITC	206-685-6805 1-866-866-0158	B	Spanish/Russian/Somali/Chinese/Japanese
	Vancouver	National Youth Support & Development LITC	360-253-3001	E	Russian/Ukrainian
WI	Milwaukee	University of Wisconsin-Milwaukee LITC	414-229-3232	C	English
	Milwaukee	Taxpayer Advocacy and Counseling Services	414-727-5300	C	Spanish
	Whitewater	University of Wisconsin-Whitewater LITC	262-472-1956	B	Spanish
	Wausau	Wisconsin Judicare LITC	1-800-472-1638	B	Spanish
WV	Morgantown	Clinical Law Program LITC	304-293-7249	C	English
WV	Martinsburg	Legal Aid of West Virginia	304-343-4481	E	Spanish
WY	Jackson	Teton County LITC	307-734-0333	E	Spanish

Appendix V: FY 2009 TAS Operational Priorities

The TAS mission statement is, *“As an independent organization within the IRS, we help taxpayers resolve problems with the IRS and recommend changes that will prevent the problems”*.³²⁴ We will accomplish our mission by:

- Resolving taxpayer problems accurately and timely;
- Protecting taxpayer rights;
- Reducing taxpayer burden;
- Becoming a known taxpayer advocacy organization;
- Enhancing taxpayer access to TAS; and
- Sustaining and supporting a fully engaged and diverse workforce.

The table below outlines areas we identified as operational priorities for FY 2009 and the initiatives, projects, and tasks that support these priorities. We will strategically utilize our resources to effectively and efficiently accomplish our mission and improve all balanced measures by engaging employees in the Continuous Improvement Cycle and action plans to improve processes. TAS’s collaborative efforts with the IRS, and the FY 2009 goals of these initiatives, are contained in Appendix III of this report.

Taxpayer Advocate Service FY 2009 Operational Priorities by Report Section

AREAS OF EMPHASIS

Operational Priority	How Success will be measured	Beginning at Page
<p>Assist the IRS with protection of Personally Identifiable Information (PII) and improvements to Identity Theft Procedures.</p> <ul style="list-style-type: none"> • Advocate with the IRS Business Operating Divisions to improve procedures and consolidate all Stolen Identity case processing into one function. Consolidation will facilitate the use of a standardized set of procedures and documentation requirements throughout the IRS. 	<ul style="list-style-type: none"> • Systemic Advocacy Effectiveness 	<p style="text-align: center;">xix</p>

³²⁴ TAS Mission Statement.

CASE ADVOCACY

Operational Priority	How Success will be measured	Beginning at Page
<p>Continue defining the role of the Internal Technical Advisor Program (ITAP), Field Systemic Advocacy (FSA) organizations and integrate their services into field activities.</p> <ul style="list-style-type: none"> • Communicate the roles of Internal Technical Advisor Program (ITAP), Field Systemic Advocacy (FSA), and the Office of the Executive Director, Case Advocacy (EDCA) and the services they provide to employees. • Implement the Taxpayer Advocate Management Information System (TAMIS) Technical Guidance Referral Button. 	<ul style="list-style-type: none"> • Employee Satisfaction • Customer Satisfaction 	26
<p>Promote efficiency and advocacy within TAS.</p> <ul style="list-style-type: none"> • Evaluate the effectiveness of the organizational alignment of the Office of EDCA and resources for reaching TAS goals. • Support advocacy integration by creating processes and improved guidance to coordinate Portfolio Advisor activities. • Assess the viability of the Technical Advisor Training Initiative. Develop and deliver additional modules, if necessary. • Expand the Case Advocacy web portal to meet identified needs of TAS field employees. 	<ul style="list-style-type: none"> • Employee Satisfaction • TAS Suite of Performance Measures 	26
<p>Improve TAS case referrals.</p> <ul style="list-style-type: none"> • Provide ongoing feedback to IRS operations on referrals that do not meet TAS criteria. 	<ul style="list-style-type: none"> • Monitor 	27
<p>Enhance the TAS performance measurement system.</p> <ul style="list-style-type: none"> • Develop and execute an action plan to improve the overall quality and cycle time of advocacy projects. • Evaluate effectiveness of managerial reviews. • Coordinate implementation of approved strategies for enhancing customer satisfaction. • Complete the Customer Satisfaction office consultations. • Prepare guidance and training on case complexity screen. • Develop necessary guidance and training for the TAMIS time tracking process. • Provide case coding training to case advocates, management, and intake personnel for appropriate use of Primary Core Issue Codes (PCIC). 	<ul style="list-style-type: none"> • Customer Satisfaction • Employee Satisfaction • TAS Suite of Performance Measures 	26

Operational Priority	How Success will be measured	Beginning at Page
<p>Increase awareness of TAS, its role and services, through grassroots outreach efforts.</p> <ul style="list-style-type: none"> • Target grassroots outreach activities to reach taxpayers in new underserved market segments. • Monitor TAMIS “How You Heard about TAS” data. 	<ul style="list-style-type: none"> • Customer Satisfaction • Annual Outreach Plan • TAMIS Outreach Field 2 Data 	<p>Supplement p. 20</p>
<p>Continue delivery of the Quality of Work Life Initiative.</p> <ul style="list-style-type: none"> • Address organizational factors that contribute to employee stress. • Provide tools and techniques for employees use in establishing a healthy work life balance. 	<ul style="list-style-type: none"> • Employee Satisfaction • Attrition Data 	<p>26</p>

<p>Develop and implement procedures to address all case issues and detect on-line adjustment errors.</p> <ul style="list-style-type: none"> • Provide clarified guidance on monitoring manual refunds. • Reinforce updated delegated authorities to TAS employees, if necessary. • Develop and execute an action plan to improve the overall quality and cycle time of advocacy projects. • Evaluate effectiveness of managerial reviews. • Coordinate implementation of approved strategies for enhancing customer satisfaction. • Expand management pre-closure reviews and incorporate into the IRM. • Prepare guidance and incorporate into the IRM provisions for on-line adjustment reviews. 	<ul style="list-style-type: none"> • Case Accuracy 	<p>27</p>
<p>Utilize TAS statutory and delegated authorities effectively.</p> <ul style="list-style-type: none"> • Update Form 911, <i>Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)</i>, to include a detailed description of the taxpayer’s situation, the circumstances that are creating an economic burden, and adverse impact, if the assistance is not provided. • Monitor the usage of the E-9102, <i>Electronic Taxpayer Assistance Order (TAO)</i>, to determine if it improves the processing time for TAOs. 	<ul style="list-style-type: none"> • Case Accuracy 	<p>27</p>

<p>Improve the Operations Assistance Request (OAR) process to shorten the time to resolve the taxpayer's problem.</p> <ul style="list-style-type: none"> • Revise the Form 12412, Operations Assistance Request, to clearly define completion dates; require the most expeditious method to submit an OAR; and clarify the "Action Taken" and "Reason Rejected" sections. • Work with the IRS to identify areas to centralize OAR processing. 	<ul style="list-style-type: none"> • Case Accuracy • OAR Reject Rate 	<p>27 Supplement p. 15</p>
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SYSTEMIC ADVOCACY

Operational Priority	How Success will be measured	Beginning at Page
<p>Work with the IRS to include TAS in policy decisions, and new initiatives and work processes.</p> <ul style="list-style-type: none"> • Complete the Amended Return TAS/IRS rework study and provide results to the IRS Oversight Board. • Complete the Combined Annual Wage Reporting/Federal Unemployment Tax Act (CAWR/FUTA) TAS/IRS rework study and provide results to IRS Oversight Board. • Meet regularly with IRS executives. • Assess the impact of the Private Debt Collection initiative. 	<ul style="list-style-type: none"> • Systemic Advocacy Effectiveness 	<p>48</p>
<p>Support advocacy integration by improving processes and guidance.</p> <ul style="list-style-type: none"> • Track Status of Annual Report to Congress recommendations via Joint Audit Management Enterprise System (JAMES). 	<ul style="list-style-type: none"> • Systemic Advocacy Effectiveness 	<p>48</p>
<p>Improve the satisfaction rate of internal systemic issue submitters.</p> <ul style="list-style-type: none"> • Use survey results to identify areas of improvement and implement changes to systems and processes. • Work with TAS Research, C&L, and other stakeholders to improve the survey mechanism. • Continue to identify ways to improve the Systemic Advocacy Management System (SAMS). 	<ul style="list-style-type: none"> • Survey Internal Customer Satisfaction 	<p>48</p>

Operational Priority	How Success will be measured	Beginning at Page
<p>Prepare legislative recommendations to resolve problems encountered by taxpayers and publish in the Annual Report to Congress prescribed by IRC §7803(c)(2)(B)(ii)(VIII).</p>	<ul style="list-style-type: none"> Percent of legislative recommendations in the National Taxpayer Advocate's Annual Reports to Congress addressed (e.g., through a proposed bill or enactment of law) within four years of publication. 	<p>27</p>

TAS RESEARCH INITIATIVES

Operational Priority	How Success will be measured	Beginning at Page
<p>Conduct research independently of and collaboratively with the IRS to assess taxpayer impact resulting from IRS programs and procedures and from implementation of tax legislation.</p> <ul style="list-style-type: none"> Determine whether the IRS can develop a filter to identify taxpayers experiencing a hardship when subjected to the Federal Payment Levy Program (FPLP). Monitor IRS service efforts to identify and evaluate concerns if taxpayers need face-to-face service and it is not being provided because the delivery of the services has been moved to the Internet. Conduct a joint study with Criminal Investigation (CI) to review the verification process of fraudulent cases identified by the Office of Refund Crimes from the 2007 filing season. Provide research support to a joint Small Business Self Employed-TAS Collection team exploring issues with IRS allowable expenses, installment agreements, offers in compromise, levies, and early intervention. Sponsor research by the IRS Office of Program Evaluation and Risk Analysis (OPERA) that will use agent-based modeling techniques to determine the best method, or combination of methods, for delivering education messages to specific taxpayer segments. 	<ul style="list-style-type: none"> Completion of Research studies. 	<p>49</p>

Operational Priority	How Success will be measured	Beginning at Page
<ul style="list-style-type: none"> • Explore the role of preparers in bringing taxpayers into compliance, the types of and causes of preparer errors, and the role of preparers in facilitating noncompliance. • Support Wage & Investment (W&I) Research in the development and implementation of a five-year research plan for taxpayer service. • Review the budget initiatives of each IRS operating division and determine which ones impact the TAS workload. • Determine baseline of the awareness of TAS services in tax return preparers and small business market segments. 		
<p>Develop material and tools to increase awareness of TAS, its role and services, through enhanced communications and marketing.</p> <ul style="list-style-type: none"> • Continue to refine and target outreach and education to taxpayers (e.g., practitioners and small businesses) through focus groups, marketing studies, etc. • Develop and deploy key messages to targeted audiences regarding issues identified in the Annual Report to Congress. 	<p>Marketing Surveys</p> <ul style="list-style-type: none"> • Employee Satisfaction • Customer Satisfaction 	<p>Supplement p. 20</p>

TAXPAYER ADVOCACY PANEL (TAP)

Operational Priority	How Success will be measured	Beginning at Page
<p>Design an effective performance measurement system for TAP.</p> <ul style="list-style-type: none"> • Create new efficiency and effectiveness measures for TAP recommendations. 	<ul style="list-style-type: none"> • In development 	<p>59</p>
<p>Promote initiatives and programs within the TAP that facilitate a greater understanding of EEO and Diversity issues.</p> <ul style="list-style-type: none"> • Expand diversity in the TAP via recruitment, outreach mechanisms. 	<ul style="list-style-type: none"> • Customer Satisfaction (as measured by the TAP new member survey) 	<p>59</p>

Operational Priority	How Success will be measured	Beginning at Page
<p>Convert TAP's current paper Federal Register notification process to an electronic approval system.</p> <ul style="list-style-type: none"> Establish key individuals to create and approve federal registers remotely. Utilize electronic encryption and digital signature technologies. 	<ul style="list-style-type: none"> Monitor Implementation 	59

LOW INCOME TAXPAYER CLINICS (LITC)

Operational Priority	How Success will be measured	Beginning at Page
<p>Provide English as a Second Language (ESL) and Controversy clinic support in every U.S. state and territory.</p> <ul style="list-style-type: none"> Perform analysis to determine where to expand coverage in order to provide controversy representation and ESL education and outreach within underserved areas. Contact law schools, legal aid services, and non-profit community agencies within identified areas to promote the program and explain how it will benefit the area low income and ESL population. 	<ul style="list-style-type: none"> In development 	66
<p>Promote a LITC grant process that is fair and equitable for all applicants and reaches the targeted population.</p> <ul style="list-style-type: none"> Increase Site Visits to see that grant recipients demonstrate that their geographic areas have sizable populations eligible for and requiring LITC services. Gauge geographic reach and number of taxpayers assisted by clinics during the ranking process and site visits; use data to award grant dollars to clinics reaching targeted populations and broadest geographic areas. 	<ul style="list-style-type: none"> In development 	66
<p>Finalize the design of an effective performance measurement system for LITC.</p> <ul style="list-style-type: none"> Implement testing of recently developed goals and measures for the LITC Program. 	<ul style="list-style-type: none"> In development 	66

Operational Priority	How Success will be measured	Beginning at Page
Provide continued support to the implementation of the VITA Community Grant Program by working with Wage and Investment staff and through sharing of common challenges, process improvements, and best practices.	<ul style="list-style-type: none"> In development 	66

TAS PERFORMANCE MEASURES AND INDICATORS

Operational Priority	How Success will be measured	Beginning at Page
<p>Increase organizational awareness of the value of employee and manager participation in <i>engagement</i> activities that further the mission of TAS.</p> <ul style="list-style-type: none"> Implement a communication plan that employs a year round approach towards: <ul style="list-style-type: none"> Fostering an environment that encourages open communication and the exchange of ideas between managers and employees. Increasing employees' awareness of the importance of their contribution towards organizational improvement to further TAS's mission. 	<ul style="list-style-type: none"> Employee Satisfaction Increased Survey Participation 	77
<p>Finalize a revised Quality Review Measurement System that more closely aligns Quality standards and attributes with customer and organizational needs.</p> <ul style="list-style-type: none"> Pilot new standards using interim software dual reviews with new and old standards. Deliver communication and training package. 	<ul style="list-style-type: none"> Employee Satisfaction Customer Satisfaction 	78
<p>Provide a framework for customer satisfaction organizational improvement utilizing customer data consistent with the TAS Customer Satisfaction strategies.</p> <ul style="list-style-type: none"> Measure end user evaluations of customer satisfaction planning products and processes, and revise the products and processes based upon the feedback. Implement the TAS Customer Satisfaction strategies. 	<ul style="list-style-type: none"> Customer Satisfaction Employee Satisfaction 	77

Operational Priority	How Success will be measured	Beginning at Page
Implement the Continuous Improvement Cycle and Action Plan throughout TAS to drive organizational improvement. <ul style="list-style-type: none"> Educate and consult with offices to fully adopt TAS process improvement methodology. 	<ul style="list-style-type: none"> TAS Suite of Performance Measures 	78
Improve engagement/satisfaction rates of TAS personnel. <ul style="list-style-type: none"> Improve survey participation rates of TAS employees. Use FY 2008 Survey feedback to develop and implement employee engagement initiatives. Provide opportunities for employee development. Recognize employees for contributions improving TAS products and procedures. 	<ul style="list-style-type: none"> Employee Satisfaction 	77

PLANNING FOR AND ENABLING EFFECTIVE ADVOCACY

Operational Priority	How Success will be measured	Beginning at Page
Create a TAS Improvement Panel to effectively manage and track all TAS operational improvement initiatives.	<ul style="list-style-type: none"> TAS Suite of Performance Measures 	78
Develop and release a TAS FY 2009-2013 Strategic Plan to aid TAS in making organizational progress by meeting goals and strategies.	<ul style="list-style-type: none"> TAS Suite of Performance Measures 	78

Operational Priority	How Success will be measured	Beginning at Page
<p>Promote initiatives and programs that facilitate a greater understanding of EEO and Diversity issues, workplace culture and a positive work environment.</p> <ul style="list-style-type: none"> Promote the Alternative Dispute Resolution (ADR) program and encourage TAS managers and employees to participate as an alternative to the EEO complaint process. Develop a diversity management strategy plan that aligns with TAS's strategic goals. Engage the National Taxpayer Advocate EEO & Diversity Advisory Committee in promoting diversity initiatives that support an environment where employees feel respected and valued, and where they can contribute to accomplishing TAS' mission. Develop and implement EEO and diversity training initiatives and programs that will provide TAS managers the direction and tools they need to effectively manage diverse employees, including employees with disabilities. 	<ul style="list-style-type: none"> Employee Satisfaction 	<p>79</p>
<p>Continue to attract a highly-qualified and diverse applicant pool for TAS vacancies.</p> <ul style="list-style-type: none"> Develop and implement internal and external recruitment plans to hire Case Advocates, Intake Advocates, Technical Advisors, and Field Systemic Advocacy Analysts including applicants with bilingual skills. Develop and implement a recruitment plan to hire Lead Case Advocates. 	<ul style="list-style-type: none"> Monitor Recruitment Plans 	<p>80</p>
<p>Evaluate the usability and viability of the existing Four-Year Training Plan used by TAS employees.</p> <ul style="list-style-type: none"> Conduct usability testing on the functionality of the system as well as explore the idea of moving contents of the system permanently to a more robust, user-friendly learning platform. 	<ul style="list-style-type: none"> Employee Satisfaction Quality 	<p>Supplement p. 12</p>

Operational Priority	How Success will be measured	Beginning at Page
<p>Create a high performing workforce using various training techniques.</p> <ul style="list-style-type: none"> Provide blended training to new Case Advocates and Intake Advocates hired both internally and externally, including pre- and post-classroom activities, classroom training and on the job training and coaching. 	<ul style="list-style-type: none"> Ratings on Training Level 1 evaluations. 	<p>82 Supplement p. 12</p>
<p>Improve the career path for the support staff.</p> <ul style="list-style-type: none"> Determine administrative and technical training needs for support personnel and develop training plans for each support position. Provide TAS leadership recommendations for developmental opportunities designed to enhance support staffs' career path. 	<ul style="list-style-type: none"> Employee Satisfaction 	<p>Supplement p. 12</p>
<p>Establish and execute a viable Leadership Succession Plan for TAS.</p> <ul style="list-style-type: none"> Institute a Leadership Succession Review (LSR) process at all management levels, supported by documented individual Career Learning Plans and developmental experiences. 	<ul style="list-style-type: none"> Monitor Implementation 	<p>Supplement p. 11</p>
<p>Develop a Labor Relations strategy that identifies trends in conduct and performance-based actions, grievances, and third party appeals, and other issues of interest.</p> <ul style="list-style-type: none"> Analyze data such as arbitration and Merit Systems Protection Board decisions, overage case information, and IRS policies, in order to make recommendations, advice, and/or intervene in ongoing issues, as necessary. 	<ul style="list-style-type: none"> Employee Satisfaction 	<p>Supplement p. 12</p>
<p>Fully utilize the Service Wide Analyst Training (SWAT) program to train TAS Analysts and formulate recommendations for additional training based upon the TAS Training Needs Assessment.</p> <ul style="list-style-type: none"> Make certain that TAS analysts attend SWAT offerings consistent with our training budget and prepare an analysis of the analyst portion of the needs assessment to include recommendations for additional training development and delivery. 	<ul style="list-style-type: none"> Employee Satisfaction 	<p>Supplement p. 12</p>

Operational Priority	How Success will be measured	Beginning at Page
<p>Design training courses and coaching programs to enhance employees' current skills and prepare employees for career advancement.</p> <ul style="list-style-type: none"> Utilize just-in-time electronic training techniques to develop more TAS-specific online learning modules for use as refresher or gap training. Create an organizational focus around increased usage of online learning by TAS employees by building a readily accessible online repository of e-learning offerings. Update TAS electronic systems to meet accessibility requirements outlined in § 508 of the Rehabilitation Act.³²⁵ 	<ul style="list-style-type: none"> Employee Satisfaction 	<p>Supplement p. 11</p>
<p>Design and implement an interactive Web-site with IRS's Core C&L to provide employees with information and tools necessary for effective advocacy.</p> <ul style="list-style-type: none"> Deploy and maintain TAS's new intranet site, including the continued maintenance, linkage, and migration of data from the old TAS website. 	<ul style="list-style-type: none"> Implementation 	<p>Supplement p. 23</p>
<p>Design and implement the TAS Integrated System (TASIS) in coordination with all TAS functions.</p>	<ul style="list-style-type: none"> Monitor Implementation 	<p>83</p>

³²⁵ 29 U.S.C. ' 794d.

Operational Priority	How Success will be measured	Beginning at Page
<p>Enhance the current TAS information systems to maximize TAS's ability to effectively advocate for taxpayers.</p> <ul style="list-style-type: none"> • Implement a user-friendly screen to capture factors that contribute to the complexity of a case, generate a complexity score for each case and utilize the complexity score to support resource needs, identify training issues, and distribute inventory. • Deploy the Accounts Management System (AMS) release 2.1. • Implement Phase II of the time reporting system to allow users to manually modify or add time to cases for work done when not accessing the case via TAMIS (for example, when talking with taxpayers, performing research, or accessing other IRS systems). • Implement new LITC database to comply with Treasury mandate for a uniform Grant Management System. 	<ul style="list-style-type: none"> • TAS Suite of Performance Measures 	<p>62 84 Supplement p. 13</p>
<p>Design a centralized intake function to integrate workload distribution aspects such as estimated time needed to work the case; employee availability; case complexity; knowledge, skills, and abilities (KSAs) required to work the case; the KSAs of employees; and business rules including considering where the taxpayer resides and transfer guidelines.</p> <ul style="list-style-type: none"> • Develop a centralized intake function that incorporates TAS work streams consisting of phone, IRS referrals, fax and correspondence. • Define new work streams for the three Ask-TAS-1 sites scheduled to be rolled out November 2008. 	<ul style="list-style-type: none"> • Complete the high-level design and obtain approval 	<p>85</p>

Appendix VI: TAS Performance Measures and Indicators
Case Advocacy Results

March FY 2008 Performance Results

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Case Accuracy - The Correctness of Actions as Defined by Statute and Guidance					
Accuracy of Closed Cases ³²⁶	91.5%	Percent of cases where the taxpayer's problems are resolved completely and correctly. This is a composite score of the next four measures.	Centralized Closed Case Review QS 4-7	91.6%	91.0%
Resolved All Taxpayer Issues	94.9%	Percent of all cases where TAS has taken all actions necessary to resolve all taxpayer issues, including the underlying root-causes (such as a missing payment causing the non-receipt of a refund), and all transactions have posted.	Centralized Closed Case Review QS 4	94.3%	94.7%
Related Issues Addressed	90.4%	Percent of all applicable cases where TAS accurately and completely addressed all related issues. This includes such items as advising a taxpayer about an unfiled return where the initial problem was non-receipt of requested IRS publications or updating a taxpayer's address in conjunction with resolving the taxpayer's primary issue.	Centralized Closed Case Review QS 5	91.9%	88.5%

³²⁶ The current design of the TAS Quality Review Database (QRDB) does not compute this measure and it is not feasible to modify it. TAS is currently working with SOI to manually compute this until a new database is developed.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Procedurally Correct	86%	Percent of all cases where all the actions taken by TAS and the IRS are worked in accordance with IRM technical and procedural requirements (such as IDRS actions input correctly or proper holds placed on collection activity).	Centralized Closed Case Review QS 6	89.8%	87.5%
Correct Closing Explanation	91.3%	Percent of all cases where TAS provides the taxpayer a clear, complete, and correct explanation of the resolution of the problems at closing (such as providing an updated balance due or complete refund information to the taxpayer).	Centralized Closed Case Review QS 7	89.7%	89.4%
OAR Reject Rate	11.4%	Percent of rejected requests for action to be taken by the Operating function (<i>i.e.</i> , Operations Assistance Request, or OAR).	TAMIS BPMS	9.0%	10.2%
Error-Free Cases ³²⁷	57.3%	Percent of cases with no errors on any of the quality standards that comprise the TAS case quality index.	Centralized Closed Case Review	56.7%	54.1%
Case Efficiency - The Cost of Producing a Quality Product [Accurate, Complete, Timely]					
Closed Cases per Case Advocacy FTE	140 cases per FTE	Number of closed cases divided by total Case Advocacy FTEs realized. (This includes all hours reported to Case Advocacy organization except Field Systemic Advocacy).	TAMIS, BPMS, WP&C, PC-40, IFS	133.7 Cases per FTE (2nd Quarter)	131.0 Cases per FTE

³²⁷ The current design of the TAS Quality Review Database (QRDB) does not compute this measure and it is not feasible to modify it. TAS is currently working with SOI to manually compute this until a new database is developed.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Closed Cases per Direct FTE	300 cases per FTE	Number of closed cases divided by direct Case Advocate FTEs realized.	TAMIS, BPMS, WP&C, IFS	301.1 Cases per FTE (2nd Quarter)	305.9 Cases per FTE
Timeliness of Actions ³²⁸	89%	Percent of the overall timeliness rate (initial case actions, initial taxpayer contact and timely subsequent actions). This is a composite score of the next three measures.	Centralized Closed Case Review QS 1-3	91.5%	88.5%
Timely Initial Contacts	97.2%	Percent of all cases with timely initial contacts – within 3 workdays of receipt for economic burden cases and 5 workdays of receipt for all other cases.	Centralized Closed Case Review QS 1	97.5%	96.4%
Timely Initial Case Actions	96.8%	Percent of all cases with timely initial case actions – within 3 workdays from receipt for an economic burden case and within five workdays for all other cases.	Centralized Closed Case Review QS 2	98.2%	96.8%
Timely Subsequent Actions	77.6%	Percent of all cases with timely subsequent actions and contacts – By the date provided to the taxpayer and by the follow-up dates set by TAS procedural requirements.	Centralized Closed Case Review QS 3	81.3%	74.0%

³²⁸ The current design of the TAS Quality Review Database (QRDB) does not compute this measure and it is not feasible to modify it. TAS is currently working with SOI to manually compute this until a new database is developed.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Issues Resolved	94.9%	Percent of all cases where TAS has taken all actions necessary to resolve all of the taxpayer's issues, including the underlying root-causes (such as a missing payment causing the non-receipt of a refund), and all transactions have posted.	Centralized Closed Case Review QS 4	94.3%	94.7%
Related Issues Addressed	90.4%	Percent of all applicable cases where TAS accurately and completely addressed all related issues. This includes such items as advising a taxpayer about an unfiled return where the initial problem was non-receipt of requested IRS publications or updating a taxpayer's address in conjunction with resolving the taxpayer's primary issue.	Centralized Closed Case Review QS 5	91.9%	88.5%
Case Timeliness - Completing Actions within Established Timeframes in Statutes and Guidelines					
Timeliness of Actions ³²⁹	89%	Percent of the overall timeliness rate (initial case actions, initial taxpayer contact and timely subsequent actions). This is a composite score of the next three measures.	Centralized Closed Case Review QS 1-3	91.5%	88.5%
Timely Initial Contacts	97.2%	Percent of all cases with timely initial contacts – within 3 workdays of receipt for economic burden cases and 5 workdays of receipt for all other cases.	Centralized Closed Case Review QS 1	97.5%	96.4%

³²⁹ The current design of the TAS Quality Review Database (QRDB) does not compute this measure and it is not feasible to modify it. TAS is currently working with SOI to manually compute this until a new database is developed.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Timely Initial Case Actions	96.8%	Percent of all cases with timely initial case actions – within 3 workdays from receipt for an economic burden case and within five workdays for all other cases.	Centralized Closed Case Review QS 2	98.2%	96.8%
Timely Subsequent Actions	77.6%	Percent of all cases with timely subsequent actions and contacts – By the date provided to the taxpayer and by the follow-up dates set by TAS procedural requirements.	Centralized Closed Case Review QS 3	81.3%	74.0%
Median – Closed Case Cycle Time ³³⁰	Indicator	Median time taken to close TAS cases.	TAMIS	44 days	55 days
Mean – Closed Case Cycle Time	Indicator	Mean time taken to close TAS cases.	TAMIS BPMS	70.7 days	80.6 days
Case Customer Satisfaction - Customer View of the Product Provided					
Customer Satisfaction	None	Mean score of taxpayers' satisfaction with service provided by TAS – transitioning to % satisfied & dissatisfied measures (below) with new vendor and new questions (Question 12).	CSS (Quarterly)	4.35 1st Quarter FY 2008	4.35
Customers Satisfied	85%	Percent of taxpayers who indicate they are very satisfied or somewhat satisfied with the service provided by TAS (Question 12).	CSS (Quarterly)	84% 2nd Quarter FY 2008	85%

³³⁰ This indicator does not currently include the number of days of the small number of reopened cases. We are reviewing alternative computations that may permit inclusion of these cases.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Customers Dissatisfied	12%	Percent of taxpayers who indicate they are somewhat dissatisfied or very dissatisfied with the service provided by TAS (Question 12).	CSS (Quarterly)	12% 2nd Quarter FY 2008	12%
Case Effectiveness - TAS' Success in Resolving Taxpayers' Problems					
Relief Granted ³³¹	Indicator	Percent of closed cases in which full or partial relief was provided.	TAMIS BPMS	69.5%	72.1%
Overall Quality of Closed Cases	91.2%	Overall percent of sampled closed cases meeting timeliness, accuracy, and communication standards. This is a composite of all eight TAS case quality standards.	Centralized Closed Case Review QS 1-8	91.6%	90.1%
Solved Taxpayer Problem	84%	Percent of taxpayers who indicate the Taxpayer Advocate employee did their best to solve their problems.	Customer Satisfaction Survey Q 7B (Quarterly)	87% 2nd Quarter FY 2008	88%
Educated Taxpayer	98.6%	Percent of all cases where TAS correctly educated the taxpayer.	Centralized Closed Case Review QS 8	98.0%	95.9%
Number of TAOs Issued ³³²	Indicator	The number of Taxpayer Assistance Orders (TAOs) issued by TAS. 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.	TAMIS	4 TAOs	37 TAOs

³³¹ Relief Determinations are made on those cases where the IRC §7811 determinations are "Yes" or an assistance code is provided (TAMIS Relief Codes 60, 61, 70, and 71, with TAMIS Assistance Codes 97 and 98).

³³² The TAO count includes 12 TAS cases that were still open at the end of March 2008.

Systemic Advocacy Results

March FY 2008 Performance Results

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Systemic Advocacy Accuracy - The Correctness of Actions as Defined by Statute and Guidance					
Accuracy of Closed Advocacy Projects	75.6%	Percent of correct actions overall in accordance with statute and IRM guidance. This includes accurate identification of the systemic issue and proposed remedy.	Centralized Closed Project Review QA A1-A10	88.2%	88.6%
Accuracy of Closed Immediate Interventions	85%	Percent of correct actions overall in accordance with statute and IRM guidance. This includes accurate identification of the systemic issue and proposed remedy.	Centralized Closed Project Review QA A1 – A10	77.8%	80.3%
Systemic Advocacy Efficiency - The Cost of Producing a Quality Product [Accurate, Complete, Timely]					
Advocacy Projects Closed per Advocacy Projects FTE	Base-line Year	Advocacy Projects FTE includes direct hours spent on Advocacy Projects by all TAS personnel with added overhead based on TAS O/H ratio.	SAMS, WP&C, IFS (Quarterly)	11.8 2nd Quarter FY 2008	10.7
Immediate Interventions (II) Closed per Immediate Intervention FTE	Base-line Year	Immediate Intervention FTE includes direct hours spent on II Projects by all TAS personnel with added overhead based on TAS O/H ratio.	SAMS, WP&C, IFS (Quarterly)	24.8 2nd Quarter FY 2008	31.2
Timeliness of ARC Deliverables ³³³	Base-line Year	Percent of milestones met on NTA's Annual Report to Congress.	Project Planner	N/A	N/A

³³³ Tracking and reporting on the timeliness of key actions and deliverables for the 2008 ARC will commence during the first quarter FY 2008 and extend through the end of the first quarter FY 2009.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Timeliness of Actions on Advocacy Projects	37.1%	Percent of all projects with timely actions in accordance with IRM guidance, including contacting the submitter within three business days from assignment, issuing an action plan within 30 calendar days, and working the project with no unnecessary delays or periods of inactivity.	Centralized Closed Project Review QA T1 – T6	52.5%	50.1%
Timeliness of Actions on Immediate Interventions	70%	Percent of all projects with timely actions in accordance with IRM guidance, including contacting the submitter within one business day, issuing an action plan within five business days, and working the Immediate Intervention with no unnecessary delays or periods of inactivity.	Centralized Closed Project Review QA T1 – T6	43.6%	45.5%
Related Issues Resolved	93.9%	Percent of all projects where related issues were addressed. When such issues arise during the course of working a project, the analyst/team will resolve if possible or forward to the office who can address them.	Centralized Closed Project Review A10	100%	100%
Systemic Advocacy Timeliness - Completing Actions within Established Timeframes in Statutes and Guidelines					
Timeliness of ARC Deliverables ³³⁴	Base-line Year	Percent of milestones met on NTA's Annual Report to Congress	Project Planner	N/A	N/A

³³⁴ Tracking and reporting on the timeliness of key actions and deliverables for the 2008 ARC will commence during the third quarter FY 2008 and extend through the end of the first quarter FY 2009.

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Timeliness of Actions on Advocacy Projects	37.1%	Percent of all projects with timely actions in accordance with IRM guidance. This includes contacting the submitter within three business days from assignment, issuing an action plan within 30 calendar days, and working the project with no unnecessary delays or periods of inactivity.	Centralized Closed Project Review QA T1 – T6	52.5%	50.1%
Timeliness of Actions on Immediate Interventions	70%	Percent of all projects with timely actions in accordance with IRM guidance. This includes contacting the submitter within one business day, issuing an action plan within five business days, and working the Immediate Intervention with no unnecessary delays or periods of inactivity.	Centralized Closed Project Review QA T1 – T6	43.6%	45.5%
Systemic Advocacy Customer Satisfaction - Customer View of the Product Provided					
Internal Customer Satisfaction Survey Baseline Improvements (TBD)	Base-line Year	Implement an internal customer satisfaction survey.	Internal CSS (Annual) Q10		40% FY 2007
Quality of Communications on Advocacy Projects	83.2%	Percent of projects where substantive updates were provided to the submitter on the initial contact and subsequent contacts, appropriate coordination and communication took place with internal and external stakeholders, written communications follow established guidelines, and outreach and education action taken when appropriate.	Centralized Closed Project Review QA C1 – C4	80.7%	83.9%

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Quality of Communications on Immediate Interventions	86%	Percent of projects where substantive updates were provided to the submitter on the initial contact and subsequent contacts, appropriate coordination and communication took place with internal and external stakeholders, written communications follow established guidelines, and outreach and education action taken when appropriate.	Centralized Closed Project Review QA C1 – C4	71.4%	75.0%
Systemic Advocacy Effectiveness - TAS's Success in Resolving Taxpayers' Problems					
Percent of NTA Annual Report Recommendations Addressed by Congress, IRS, Treasury, or External Stakeholders or Further Pursued by TAS for Adoption Within 4 Years	Base-line Year	Percent of recommendations in NTA Annual Reports to Congress addressed (<i>e.g.</i> , through hearings, enactment, implementation of policy, etc.) or further pursued by TAS within four years of publication. For recommendations made in NTA Annual Report delivered on December 31, 2006, TAS will measure percentage of recommendations addressed by Congress or further pursued by TAS as of December 31, 2010. Thus, results will be available in early 2011.	Monitoring of MSP Recommendations JAMES Database (Quarterly)		Being developed
Number of Policy Issues Influenced Via IMD Reviews	Base-line Year	Policy issues influenced due to TAS's IMD review and feedback.	SAMS	28 2nd Quarter FY 2008	53

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
Percent of Immediate Interventions Acted Upon by IRS.	Base-line Year	The percentage of immediate intervention recommendations acted upon by the IRS within one year of the immediate intervention closure date. The calculation is immediate intervention recommendations acted upon by the IRS (numerator) over the total number of recommendations made (denominator). The result is the percentage of recommendations implemented. Systemic Advocacy will deliver the measure on a quarterly basis beginning one year after the closure of the immediate interventions. The first value, produced in the first quarter of FY 2008, will reflect effectiveness of recommendations made from October 1, 2006 through December 31, 2006.	SAMS	77.8% 2nd Quarter FY 2008	77.8%
Percent of Advocacy Projects Addressed by IRS Within 2 Years	Base-line Year	The percentage of advocacy project recommendations, (excluding issues also raised in the Annual Report to Congress) acted upon by the IRS within two years of the Advocacy Project closure date. The calculation is advocacy project recommendations acted upon by the IRS (numerator) over the total number of recommendations made (denominator). The result is the percentage of Advocacy Project recommendations implemented. Systemic Advocacy will deliver the measure on a quarterly basis beginning two years after the closure of the advocacy projects. The first value, produced in the first quarter of FY 2009, will reflect effectiveness of recommendations made from October 1, 2006 through December 31, 2006.	SAMS	N/A	N/A

TAS Wide Results

March FY 2008 Performance Results

MEASURES	TARGET	DESCRIPTION	SOURCE	Monthly	FY Cum
TAS Wide – Employee Satisfaction - Employees' View of Their Work Life					
Employee Satisfaction ³³⁵	70%	Percent of employees who are satisfied or very satisfied with their job (Question 39).	ESS (Annual)		
Employee Participation ³³⁶	75%	Percent of employees who take the survey.	ESS (Annual)		75%
Symposium (CPE) Evaluation ³³⁷	90.1%	Percent of employees who are satisfied or very satisfied with annual Symposium.	Trainee Survey (Annual)		

³³⁵ Employee participation in the Employee Satisfaction Survey is measured annually. Percent shown is FY 2008 participation rate.

³³⁶ Employee participation in the Employee Satisfaction Survey is measured annually. The FY 2008 results are expected in August 2008.

³³⁷ The results are for the FY 2007 TAS Technical Symposium. The FY 2008 Symposium is scheduled for the weeks beginning July 28 and August 4.

Appendix VII: List of Advocacy Portfolios

Portfolio	Local Taxpayer Advocate	State/Office	Phone Number
Abusive Schemes	Sheely, K	Indiana	317-685-7840
Accessing Taxpayer Files	Benedetti, E	Rhode Island	401-525-4170
Allowable Living Expenses	Spisak, J	New York (Manhattan)	212-436-1010
Alternative Minimum Tax (AMT)	McDonnel, T	Washington	206-220-6037
Amended Returns/Claims	Thompson, T	Montana	406-441-1022
Appeals: Nondocketed Inventory, Alternate Dispute Resolution (ADR) Collection Due Process (CDP)	Leith, J	District of Columbia	202-874-7203
ASFR (620) automated substitute for return	Unassigned	Memphis Campus	901-395-1914
Audit Reconsiderations, Reconsideration of Automated Substitute for Return Program (ASFR)and IRC § 6020B Assessments)	Carey, W	Atlanta Campus	770-936-4500
AUR Exam	Boucher, D	Maine	207-622-8528
Automated Collection System (ACS)	McDermitt, M	Texas (Austin)	512-460-4652
Bankruptcy Processing Issues	Mettlen, A	Pennsylvania (Pittsburgh)	412-395-5987
Corporate Accounts Data Engine (CADE)	Logan, A	Wyoming	307-633-0881
Cancellation of Debt	Hensley, D	Oklahoma	405-297-4139
Carryback/Carryforward Claims	Hawkins, D	Alabama	205-912-5631
Cash Economy	Jones, D	Delaware	302-286-1655
Combined Annual Wage Reporting/ Federal Unemployment Tax Act (CAWR/FUTA)	Polson, R	Ogden Campus	801-620-3000
Centralized Lien Filing and Releases	Diehl, J	Cincinnati Campus	859-669-5405
Congressional District Stats	Sheely, K	Indiana	317-685-7840
Communications Liaison Group	Campbell, M	Virginia	804-916-3500
	Finnesand, M	South Dakota	605-377-1596
	Hickey, M	Nebraska	402-221-7240
	James, G	Hawaii	808-539-2855
	Martin, B	Tennessee	615-250-6015
	Sawyer, M	Fresno Campus	559-442-6419
	Simmons, M	New Hampshire	603-433-0571
Washington, J	Mississippi	601-292-4800	
Correspondence Exam	Blinn, F	Philadelphia Campus	215-516-2525

Criminal Investigation (CI)/CI Freezes	Wess, D	Memphis Campus	901-395-1900
Collection Statute Expiration Dates (CSEDs)	Sherwood, T	Colorado	303-446-1012
Disaster Response and Recovery	Washington, J	Mississippi	601-292-4810
Economic Stimulus Package	Mings, L	Kansas City Campus	816-291-9001
Earned Income Tax Credit (EITC) Compliance (re-engineering, pre-certification/certification, revenue protection, audit reconsideration, notice redesign)	Taylor, S	Illinois (Chicago)	312-566-3801
EITC: Outreach, Education, Financial Literacy low income	Campbell, D Blount, P	Kentucky Michigan	502-572-2201 313-628-3670
Exempt Organization (EO) Education and Outreach	Finnesand, M.	South Dakota	605-377-1596
E-Services	McQuin, S	Wisconsin	414-231-2361
Electronic Tax Administration ETA/Electronic Filing and Return Originators	Martin, B	Tennessee	615-250-6015
Examination Strategy	Revel-Addis, B	Florida (Jacksonville)	904-665-1000
Excise Tax	Diehl, J	Cincinnati Campus	859-669-5405
Failure to Deposit Penalty	Seeley, S	Andover Campus	978-474-9560
Federal Payment Levy Program	Sanders, W	Texas (Dallas)	214-413-6520
Federal Payment Levy Program Communications	Simmons, M	New Hampshire	603-433-0753
Government Entities: Tribal Government Issues	Wirth, B	New York (Buffalo)	716-686-4850
Health Care Tax Credit (HCTC)	Browne, R	Georgia	404-338-8085
Identify Theft	Fuentes, B	Brookhaven Campus	631-654-6687
Injured Spouse	Post, T	West Virginia	304-420-8695
Innocent Spouse Relief: IRC § 6015	Knowles, J	Idaho	208-387-2827
Installment Agreements: Processing	Tam, J	California (Oakland)	510-637-2703
Interest Computations: Abatement of Interest	Romano, F	Connecticut	860-756-4555
International Taxpayers	Vargas, C	Puerto Rico	787-759-4532
IRS Training on Taxpayers Rights	Hickey, M	Nebraska	402-221-4181
Individual Taxpayer Identification Number (ITIN) Outreach	Blount, P	Michigan	313-628-3670
ITIN Processing	Caballero, A	Austin Campus	512-460-4652
Levy [Hardship determination linked to release of levy]	Wilde, B	Arizona	501-396-5820

Lien Release, Lien Withdrawal, Lien Subordination, Lien Discharge	Lauterbach, L	New Jersey	973-921-4376
Low Income Taxpayer Clinics (LITC)	Lewis, C	Louisiana	504-558-3001
Military Issues	Douts, K	Alaska	907-271-6297
Mixed and Scrambled Taxpayer Identification Numbers (TINs) (Multiple/Mixed TINs)	Murphy, M	Arizona	602-207-8240
Multilingual Initiative/Outreach to English as a Second Language (ESL) Taxpayers	Puig, J	Florida (Plantation)	954-423-7676
Nonfiler Strategy	Warren, J	Minnesota	253-428-3554
Notice Clarity	Juncewicz, T	North Carolina	336-378-2141
Office of Professional Responsibility	Juarez, V	Illinois (Springfield)	217-862-6348
Offer in Compromise (OIC) (Field, Effective Tax Administration (ETA), Centralized OIC (COIC))	Sonnack, B	Texas (Houston)	713-209-3660
Penalties: e.g. failure to pay, abatements, adjustments, estimated tax	Keating, J	Oregon	503-326-7816
Practitioner Priority Services	Curran, D	California (Los Angeles)	949-389-4808
Preparer Penalties	Greene, S	New York (Albany)	518-427-5412
Private Debt Collection	Votta, P	Maryland	410-962-9065
Processing: Documents / Payments	Miller, A	Ohio (Cleveland)	216-522-2946
Processing: Returns/Claims	Foard, L	North Dakota	701-239-5400
Returned/Stopped Refunds	Owens, S	South Carolina	803-765-5300
Schedule K-1 Matching	Sheely, K	Indiana	317-685-7799
Seizure and Sale (730)	Fallacaro, B	Massachusetts	617-316-2690
Taxpayer Assistance Centers (TACs)	Fett, B	Vermont	802-859-1056
TAS Confidentiality/ IRC § 6103	Rolon, J	New Mexico	505-837-5522
Tax Exempt Entities: Employee Plans (EP) Penalties/returns (Form 5500)	Esrig, B	Ohio (Cincinnati)	513-263-3249
Tax Forums	Adams, C; Sawyer, M	CA	949-389-4788 559-442-6419
Tip Reporting	Grant, D	Nevada	702-868-5179
Transcript Delivery System (returns/transcripts/reports/FOIA)	Cooper-Aquilar, S	Utah	801-799-6958
Trust Fund Recovery Penalty	Campbell, M	Virginia	804-916-3501
US Territories and Possessions	James, G	Hawaii	808-539-2855
User Fees	Lombardo, L	Philadelphia Campus	215-861-1237
Withholding Compliance	Adams, M	Kansas	316-352-7506

Glossary of Acronyms

Acronym	Definition
4YTP	Four Year Training Plan
- A -	
ABA	American Bar Association
ACS	Automated Collection System
ADR	Alternative Dispute Resolution
ALE	Allowable Living Expenses
AMS	Account Management Services
ARC	Annual Report to Congress
ASFR	Automated Substitute for Return
ATK	Advocate Toolkit
AUR	Automated Under Reporter
- B -	
BA	Business Assessment
BCAST	Bilingual Case Advocate Study Team
BMF	Business Master File
BOD	Business Operating Division
BRP	Business Resumption Plan
- C -	
C&L	Communications & Liaison
CAP	Citizens Advocacy Panel
CAP	Congressional Affairs Program
CARE	Customer Assistance, Relationships and Education
CAS	Customer Account Services
CAWR	Combined Annual Wage Reporting
CCDM	Chief Counsel Directives Manual
CDP	Collection Due Process
CI	Criminal Investigation
CIC	Continuous Improvement Cycle
CID	Criminal Investigation Division
COD	Cancellation of Debt
CPTA	Campus Processing Technical Advisor
CSED	Collection Statute Expiration Date
- D -	
DAP	Director Advocacy Projects

Acronym	Definition
Del Order	Delegation Order
DDb	Dependent Database
DI	Desktop Integration
DII	Director Immediate Interventions
DMAIC	Define, Measure, Analyze, Improve and Control
DNTA	Deputy National Taxpayer Advocate
DPT	Dynamic Project Team
DRP	Director Readiness Program
- E -	
E-911	Electronic Form 911
E-OAR	Electronic Operations Assistance Request
EDCA	Executive Director Case Advocacy
EDSA	Executive Director Systemic Advocacy
E-FOIA	Electronic Freedom of Information Act
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EEOD	Equal Employment Opportunity and Diversity
EITC	Earned Income Tax Credit
ELMS	Enterprise Learning Management System
EO	Exempt Organization
EPK	Electronic Press Kit
ESL	English as a Second Language
ESP	Economic Stimulus Payment
ETA	Effective Tax Administration
- F -	
FACA	Federal Advisory Committee Act
FEMA	Federal Emergency Management Agency
FLRP	Front Line Readiness Program
FMLA	Family Medical Leave Act
FMS	Financial Management Service
FOIA	Freedom of Information Act
FPLP	Federal Payment Levy Program
FPS	Federal Protection Service
FSA	Field Systemic Advocacy
FTC	Federal Trade Commission
FTD	Failure to Deposit

Acronym	Definition
FTE	Full-time Equivalent
FTF	Failure to File Penalty
FTP	Failure to Pay Penalty
FTS	Fast Track Settlement
FUTA	Federal Unemployment Tax Act
FY	Fiscal Year
- G -	
GAO	Government Accountability Office
- H -	
HCTC	Health Care Tax Credit
HR	Human Resources
- I -	
IDRS	Integrated Data Retrieval System
II	Immediate Intervention
IMD	Internal Management Document
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
IRSN	Internal Revenue Service Number
ITAP	Internal Technical Advisor Program
ITTP	Information Technology Testing Program
ITIM	Identity Theft Incident Management Office
ITIN	Individual Taxpayer Identification Number
IVT	Interactive Video Teleconference
- J -	
JCT	Joint Committee on Taxation
- K -	
KSA	Knowledge, Skill and Ability
- L -	
LITC	Low Income Taxpayer Clinic
LMSB	Large & Mid Size Business
LSP	Leadership Succession Plan
LSR	Leadership Succession Review
LTA	Local Taxpayer Advocate
LVDC	Las Vegas Development Center

- M -	
MA&SS	Mission Assurance and Security Services
MEG	MIT Enterprise Governance
MD	Management Directive
MIT	Modernization and Information Technology Services
MLI	Multilingual Strategy Initiative
MSP	Most Serious Problem
- N -	
NCAG	Notice Communication and Advisory Group
NDI	National Disability Institute
NR	No Relief
NRP	National Research Program
NTA	National Taxpayer Advocate
NTFL	Notice of Federal Tax Lien
NTEU	National Treasury Employees Union
- O -	
OAR	Operations Assistance Request
OASDI	Old Age, Survivors and Disability Insurance
OD	Operating Division
OIC	Offer in Compromise
OJI	On-the-Job Instructor
OMB	Office of Management and Budget
OPERA	Office of Program Evaluation and Risk Analysis
OPI	Office of Penalty and Interest
OPIP	Office of Privacy and Information Protection
- P -	
PCA	Private Collection Agency
PCIC	Primary Core Issue Code
PDC	Private Debt Collection
PIPDS	Privacy, Information Protection, and Data Security Office
POA	Power of Attorney
PSA	Public Service Announcement
PSP	Payroll Service Provider
Pub. L.	Public Law
- Q -	
QLITC	Qualified Low Income Taxpayer Clinic
QRP	Questionable Refund Program

- R -	
RAL	Refund Anticipation Loan
Rev. Rul.	Revenue Ruling
RIS	Request for Information Services
ROI	Return on Investment
RPS	Revenue Protection Strategy
RRA 98	Internal Revenue Service Restructuring and Reform Act of 1998
- S -	
SA	Office of Systemic Advocacy
SAMS	Systemic Advocacy Management System
SB/SE	Small Business/Self-Employed
SERP	Servicewide Electronic Research Program
SFR	Substitute for Return
SLA	Service Level Agreement
SMRP	Senior Manager Readiness Program
SPDR	Servicewide Policy, Directives, and Electronic Research
SPEC	Stakeholder Partnership Education and Communication
SPOC	Single Point of Contact
SSA	Social Security Administration
SSN	Social Security Number
STCP	Student Tax Clinic Program
- T -	
TA	Technical Advisor
TAB	Taxpayer Assistance Blueprint
TAC	Taxpayer Assistance Center
TAD	Taxpayer Advocate Directive
TAG	Technical Analysis and Guidance
TAMIS	Taxpayer Advocate Management Information System
TAMRA	Technical and Miscellaneous Revenue Act of 1988
TAO	Taxpayer Assistance Order
TAP	Taxpayer Advocacy Panel
TAS	Taxpayer Advocate Service
TASIS	Taxpayer Advocate Service Integrated System
TBOR 1	Taxpayer Bill of Rights 1
TBOR 2	Taxpayer Bill of Rights 2
TDI	Taxpayer Delinquency Investigation
TE/GE	Tax Exempt/Government Entities

TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TIPRA	Tax Increase Prevention & Reconciliation Act of 2005
TPI	Total Positive Income
Treas. Reg.	Treasury Regulation
TRA 97	Tax Relief Act of 1997
TTRS	TAS Training Registration System
- V -	
VITA	Volunteer Income Tax Assistance
- W -	
W&I	Wage and Investment
WRP	Workforce Recruitment Program



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