2006 Annual Report to Congress:
The Most Serious Problems Encountered By Taxpayers

2006 ARC – MSP Topic #1 – ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS

Problem

The National Taxpayer Advocate believes that the most serious problem facing taxpayers today is the complexity of the Internal Revenue Code, and the poster child for tax-law complexity is the Alternative Minimum Tax for individuals (AMT). The AMT is a parallel and complex tax structure that is imposed on top of the regular tax structure. While the AMT was originally designed to prevent wealthy taxpayers from escaping tax liability through the use of tax-avoidance transactions, most of the significant tax loopholes that enabled taxpayers to escape tax at the time the AMT was written have long since been closed. Today, the AMT is left to punish taxpayers for engaging in such "classic tax-avoidance behavior" as having children or living in a high-tax state. In the first instance, the AMT disallows the personal exemptions that parents are allowed to claim under the regular tax rules to reflect the additional costs they incur in raising children. In the second instance, the AMT disallows the deduction for the payment of state and local income, sales, and property taxes that taxpayers are allowed to claim under the regular tax rules to reduce "double taxation" at the federal and state levels on the same income. This, in a nutshell, is today's AMT.

To be viewed as fair, a tax system must be transparent. Yet the complexity of the AMT is such that many if not most taxpayers who owe the AMT do not realize it until they prepare their returns. It adds insult to injury when many of these taxpayers discover that they also owe a penalty for failure to pay sufficient estimated tax because they did not factor in the AMT when they computed their withholding exemptions or estimated tax payments. Taxpayers subjected to this treatment may wonder whether their government has dealt fairly with them. To say the least, "gotcha" taxation is not good for taxpayers or the tax system. The National Taxpayer Advocate recommends that Congress repeal the provisions of the Internal Revenue Code that pertain to the Alternative Minimum Tax for individuals.

NTA Recommendation

The National Taxpayer Advocate recommends that Congress repeal the provisions of the Internal Revenue Code that pertain to the Alternative Minimum Tax for individuals.

2006 ARC – MSP Topic #2 – THE TAX GAP

Problem

The federal tax gap is one of the most serious problems facing taxpayers today, and it is one of the top two most serious problems facing tax administration. It is a problem for taxpayers because the average compliant taxpayer is paying thousands of dollars in extra tax each year to subsidize noncompliance by others. It is a problem for tax administration because the government is failing to collect an estimated $290 billion in revenue a year that is due (based on 2001 estimates). The National Taxpayer Advocate has long recommended three broad strategies to help close the tax gap: (1) fundamental tax simplification, with an emphasis on making economic transactions more transparent; (2) expanded third-party information reporting and, in certain situations, tax withholding on non-wage income; and (3) improved IRS compliance initiatives that appropriately balance taxpayer service and enforcement.

This year, we reiterate the importance of those broad strategies and emphasize three specific goals that we think warrant particular attention: (1) improving taxpayer service to meet the needs of our nation's taxpayers; (2) ensuring that the IRS's stepped-up enforcement and compliance activity proceeds successfully and without violating taxpayer rights; and (3) revising federal budget procedures to ensure that decisions about IRS funding are made in a way designed to reduce the tax gap by explicitly aiming to maximize compliance with the tax laws, especially voluntary compliance, with due regard for protecting taxpayer rights and minimizing taxpayer burden.

NTA Recommendations

1. As a counterpart to the five-year strategic plan the IRS has developed for taxpayer service, the National Taxpayer Advocate recommends that the IRS, in conjunction with the Advocate and the IRS Oversight Board, develop a five-year strategic plan for tax law enforcement that includes long-term goals that are strategic and quantitative in nature (*e.g.*, an increase in the voluntary compliance rate) and that balances enforcement and taxpayer service, including the protection of taxpayer rights.

NTA Recommendation 1

1. As a counterpart to the five-year strategic plan the IRS has developed for taxpayer service, the National Taxpayer Advocate recommends that the IRS, in conjunction with the Advocate and the IRS Oversight Board, develop a five-year strategic plan for tax law enforcement that includes long-term goals that are strategic and quantitative in nature (*e.g.*, an increase in the voluntary compliance rate) and that balances enforcement and taxpayer service, including the protection of taxpayer rights.

IRS Response to Recommendation 1

While the concept for a strategic plan for enforcement might be a good idea, an objective and reliable method for optimally allocating tax administration resources does not yet exist. Such a methodology would be necessary to support a fully developed strategic plan. A more desirable approach would be to undertake research initiatives to develop a fuller understanding of the link between enforcement and the overall level of voluntary compliance.

The IRS Oversight Board established a long term goal for voluntary compliance of 86 percent by Tax Year 2009, and the IRS is committed to taking steps to meet this goal.

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The IRS Enforcement Committee is the appropriate venue to discuss any resource shifts needed to improve overall voluntary compliance.

NTA Status Update to Recommendation 1

2006 ARC – MSP Topic #3 – TRANSPARENCY OF THE IRS

Problem

Tax administration benefits from transparency, and the Freedom of Information Act (FOIA) requires the IRS to make certain procedures and guidance available to the public. Nonetheless, the IRS sometimes updates its procedures and guidance without timely making them available to the public. For example, it sometimes does not make available to the public: (1) updates to an internal version of the Internal Revenue Manual (IRM), (2) signed or unsigned memos announcing changes in procedures or guidance, (3) procedures or guidance that serve to clarify or expand upon the IRM, and (4) legal advice that contradicts legal analysis that is available to the public. While not all such nondisclosures violate the FOIA, the National Taxpayer Advocate believes that transparency in tax administration is essential to assure taxpayers that the tax laws are being administered fairly. It is also necessary to ensure that IRS employees, taxpayers, and practitioners know which procedures and guidance are the most current. Moreover, the IRS can benefit from the feedback that an increase in transparency might generate. Although the IRS has generally improved its transparency in recent years, further improvements are needed.

NTA Recommendations

1. The Office of Chief Counsel should establish a process to allow for prompt disclosure of legal advice or analysis that is not otherwise required to be made available to the public if it is inconsistent with IRS legal analysis that is available to the public.
2. The Deputy Commissioner for Services and Enforcement should issue a memo directing all IRS business units to take steps to eliminate informal procedures and guidance that are being used but are not formally approved or available to the public. Any such instructions to staff that affect the public must be disclosed under FOIA whether or not they are formally signed and approved.
3. The Commissioner of the IRS should establish a time table with specific and realistic goals for when each business unit will have incorporated all training materials, desk guides, job aids and other documents that contain instructions to staff into the publicly available IRM in accordance with IRS policy. Each business unit should be required to report on its progress in achieving these goals as part of its business performance review.
4. SPDER should work with Modernization & Information Technology Services (MITS) and other IRS business units to establish automated or manual procedures to ensure that updates to the SERP IRM are promptly reflected on the IRM that is posted to IRS.gov, IRM-Online, and the IRM found in the Electronic Publishing Catalog.

5. In coordination with the Office of Chief Counsel, SPDER should either eliminate the "local guidance" exception to the requirement to post "instructions to staff" or clarify that it does not apply to any procedures that "affect a member of the public," especially local instructions that may affect taxpayers nationwide.
6. SPDER should work with MITS and other IRS business units to post portions of the IRM and interim guidance that contain Official Use Only information to the electronic reading room in a redacted form.
7. SPDER should also work with MITS and other IRS business units to reduce the period between the time when guidance is issued and when it is made electronically available to the public.
8. Each IRS head of office should have a specific annual performance commitment and goal to achieve greater transparency with respect to instructions to staff.

NTA Recommendation 1

1. The Office of Chief Counsel should establish a process to allow for prompt disclosure of legal advice or analysis that is not otherwise required to be made available to the public if it is inconsistent with IRS legal analysis that is available to the public.

IRS Response to Recommendation 1

The Office of Chief Counsel already has in place processes for the issuance of changes in positions taken; see, for example, see CCDM 36.3.1.10 and for changes in litigation position, see CCDM 36.3.1.11. The Office of Chief Counsel will take action to reinstate the language formerly contained in the CCDM that directed attorneys to use General Counsel Memoranda to revoke or modify positions taken in prior General Counsel Memoranda. Now that the Freedom of Information Act (FOIA) lawsuit involving technical assistance memoranda to IRS national program managers is final, the Office of Chief Counsel has begun the necessary steps to implement its outcome. The Office is presently working towards the development of a process for release of these memos, consistent with the opinions of the D.C. Circuit and district courts, on a going forward basis beginning October 1, 2007. In the meantime, it is also reviewing the memos written subsequent to the time period of the lawsuit (1995-present) on a staggered release schedule between July and December of this year.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. The Deputy Commissioner for Services and Enforcement should issue a memo directing all IRS business units to take steps to eliminate informal procedures and guidance that are being used but are not formally approved or available to the public. Any such instructions to staff that affect the public must be disclosed under FOIA whether or not they are formally signed and approved.

IRS Response to Recommendation 2

On March 14, 2007 the Deputy Commissioners jointly issued a memorandum to all heads of office establishing expectations for senior leadership as to the legal and procedural requirements of instructions to staff, including the FOIA requirement of public disclosure and the agency requirement to use the IRM as its primary source of instructions to staff. These expectations were also incorporated into IRM 1.11.1.5, Headquarters Responsibilities for IMDs. Procedural memoranda meeting FOIA criteria are being posted to IRS.gov.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. The Commissioner of the IRS should establish a time table with specific and realistic goals for when each business unit will have incorporated all training materials, desk guides, job aids and other documents that contain instructions to staff into the publicly available IRM in accordance with IRS policy. Each business unit should be required to report on its progress in achieving these goals as part of its business performance review.

IRS Response to Recommendation 3

Senior leadership is expected to follow the expectations laid out in the March 14, 2007 executive directive. Business units are expected to incorporate instructions to employees into the IRM so they are publicly available and to post other non-IRM materials meeting the FOIA on irs.gov, in accordance with IRM 1.11.1.9, Public Disclosure of Instructions to Staff. This is an ongoing process and no agency level time table or reporting requirement has been established. Most business units have established internal procedures to control and manage their internal directives. The SPDER office will continue to monitor progress and work with the business to address any deficiencies found. At the discretion of business unit senior leadership, the business performance reviews may be used to monitor adherence to these expectations.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. SPDER should work with Modernization & Information Technology Services (MITS) and other IRS business units to establish automated or manual procedures to ensure that updates to the SERP IRM are promptly reflected on the IRM that is posted to IRS.gov, IRM-Online, and the IRM found in the Electronic Publishing Catalog.

IRS Response to Recommendation 4

The responsible officials are working on a process to ensure filing season IRM updates posted on SERP are appropriately published in official IRM (Electronic Publishing Catalog) which then populates the IRM Online and the IRS.gov sites. The goal is to implement a process that does not add additional burden to the filing season process but allows IRS to be compliant with the spirit of FOIA 5 USC § 552 (a)(2)(c). In the interim, updates posted on SERP will continue to be incorporated into the annual publishing of the affected IRM sections.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. In coordination with the Office of Chief Counsel, SPDER should either eliminate the "local guidance" exception to the requirement to post "instructions to staff" or clarify that it does not apply to any procedures that "affect a member of the public," especially local instructions that may affect taxpayers nationwide.

IRS Response to Recommendation 5

Based on clarification from Chief Counsel, revised guidance was incorporated into IRM 1.11.1.9 and into author training to eliminate the "local guidance" exception and to clarify that "local guidance" affecting a member of the public should be disclosed to the public through IRS.gov.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. SPDER should work with MITS and other IRS business units to post portions of the IRM and interim guidance that contain Official Use Only information to the electronic reading room in a redacted form.

IRS Response to Recommendation 6
In January 2007 a process was implemented for posting redacted interim guidance memoranda containing official use only (OUO) content. The posting of redacted versions of OUO IRMs on IRS.gov began in April 2007 and is expected to be completed in July 2007.

NTA Status Update to Recommendation 6

NTA Recommendation 7
7. SPDER should also work with MITS and other IRS business units to reduce the period between the time when guidance is issued and when it is made electronically available to the public.

IRS Response to Recommendation 7
Senior leadership is expected to follow the expectations laid out in the March 14, 2007 executive directive. Guidance effective June 1, 2005, subsequently incorporated into IRM 1.11.1 includes the process of concurrently issuing instructions to employees and posting disclosable instructions through the Electronic Reading Room site on IRS.gov. As a result 127 Delegation Orders, Policy Statements and memoranda have been released to the public (23 of which were posted since the NTA report). SPDER continuously monitors this process and works with the business units to correct any deficiencies identified. A long term IRM Process Redesign initiative led by SPDER will continue to make improvements in the process that address the time period between issuance and publication.

NTA Status Update to Recommendation 7

NTA Recommendation 8
8. Each IRS head of office should have a specific annual performance commitment and goal to achieve greater transparency with respect to instructions to staff.

IRS Response to Recommendation 8
Senior leadership is expected to follow the expectations laid out in the March 14, 2007 executive directive. This directive and IRM 1.11 are the guiding principles for managing instructions to staff and maintaining transparency of procedures. Some business units will use this guidance to establish specific performance commitments. Annual monitoring will continue to be conducted by SPDER.

NTA Status Update to Recommendation 8

2006 ARC – MSP Topic #4 – TRUE COSTS AND BENEFITS OF PRIVATE DEBT COLLECTION

Problem

After two years of monitoring the implementation of the IRS's Private Debt Collection (PDC) initiative, the National Taxpayer Advocate is recommending that Congress repeal the IRS's authority to enter into contracts with private collection agencies (PCAs) to collect delinquent federal tax debts. The PDC initiative was premised on three concepts: (1) the initiative would be cost effective, (2) private agencies would only work easy cases, and (3) the IRS is similar to other federal agencies that have used PCAs successfully. The IRS now acknowledges that it can collect these delinquent accounts more efficiently than PCAs. Additionally, the Taxpayer Advocate Service (TAS), which has assisted in monitoring the program, has observed a significant amount of complexity in the cases assigned to PCAs (including unresolved delinquent return investigations) for which PCA employees are not adequately trained. Further, the analogy of the IRS to other federal agencies is a poor one. Unlike other federal agencies, the IRS has a nearly $2 billion collection budget with thousands of collection employees. In contrast, PCAs at this stage of the initiative are using 75 employees to collect on these accounts, and the IRS is using 65 employees to monitor them. The IRS with its vast resources can do what 75 PCA employees can do.

The initiative also carries hidden costs to customer service, to the transparency of IRS operations, to the principle of consistent treatment for similarly situated taxpayers, and to the IRS's long-term goal of tax compliance. TAS has observed examples of these costs, including poor customer service to multilingual taxpayers, PCA operational plans being withheld from public disclosure, and PCA collection scripts through which PCA employees attempt to manipulate taxpayers. The impact to tax compliance is uncertain. However, the National Taxpayer Advocate believes the IRS has risked much for a small return, if any, on its investment.

NTA Recommendations

1. If Congress does not terminate the initiative, the IRS should be required as part of its biennial reporting process[1] to take steps that will assist decision makers in determining who should be working these cases, *i.e.*, the IRS or the private sector, rather than simply assuming that private collectors should be working these cases since they are "unproductive" for the IRS. To answer this question, the IRS should compare the performance of its own employees with private collectors on the same types of cases. The IRS should also utilize the cost analysis procedures used by its Office of Competitive Sourcing to see how such determinations are made by professionals trained in that area.
2. If Congress does not terminate the initiative, the IRS should revise its second Request for Quotations (RFQ) process to incorporate some of the important lessons learned in the first RFQ. For example:
   - The IRS should mandate public disclosure of operational plans, scripts and training materials of contractors as a condition of competing in the process.
   - The IRS should require that the contractors contain operational plans for dealing with taxpayers who speak English as a second language.
   - The IRS should require that Fair Debt Collection Practice Act warnings be given at the beginning of each contact and prohibit the use of trickery or device.
   - The IRS should hence forth provide direct training on issues relating to taxpayer rights, the Office of Appeals, levies and other topics essential to the collection process, as well as training as to who has an obligation to file tax returns.

NTA Recommendation 1

1. If Congress does not terminate the initiative, the IRS should be required as part of its biennial reporting process[2] to take steps that will assist decision makers in determining who should be working these cases, *i.e.*, the IRS or the private sector, rather than simply assuming that private collectors should be working these cases since they are "unproductive" for the IRS. To answer this question, the IRS should compare the performance of its own employees with private collectors on the same types of cases. The IRS should also utilize the cost analysis procedures used by its Office of Competitive Sourcing to see how such determinations are made by professionals trained in that area.

[1] The American Jobs Creation Act of 2004, Pub. L. No. 108-357 § 881(e), 118 Stat. 1418 (2004).
[2] *Id.*

IRS Response to Recommendation 1
The PDC project has started off well, due in no small part to the involvement of a full spectrum of stakeholders. Based on conservative projections for revenue, the PDC program is projected to recoup all costs, including sunk costs, in April 2008. For funds allocated in FY2007, it is anticipated that all costs will be recouped by April 2007.

The PCA Task Orders were issued for an initial 12-month period to give the IRS an opportunity to hold the PCAs accountable and to make an informed decision about moving forward with another 12-month option on a firm-by-firm basis. As we approached the time to make this decision on the contract extensions, we conducted a risk assessment and concluded that two of the three firms met our needs and held the most accountability going forward. In February 2007, IRS chose to extend the contracts of two PCAs through March 2008 but declined extending the contract of one PCA, which expired March 7, 2007. This decision demonstrates the PDC initiative is working successfully as intended, with the IRS following through on oversight responsibility and holding the PCAs accountable throughout the process.

In response to a GAO recommendation, the IRS has undertaken a Cost Effectiveness Study, with input on study design from GAO and TAS. The study intends to analyze the cost effectiveness of the PDC program vs. the use of IRS resources in working the "next best case" and compare performance between IRS and PDC using the same types of cases currently placed with PCAs. Early results will be available in September 2007, with a final report in August 2008. Data resulting from the PDC cost effectiveness study will be used to support IRS' response to the GAO's recommendations, as well as the Biennial Report to Congress in late 2007.

Work to gather information for the Biennial Report is ongoing. The report is due at the end of 2007 and will contain the following: cost/benefit analysis, impact of PDC on IRS staffing, impact of PDC on unpaid and collected assessments, IRS collection costs, evaluation of contractor performance, disclosure safeguard report, best practices report.

We considered the methodology used by the Office of Competitive Sourcing (OCS) for our cost analysis, but that methodology was not suitable for the PDC Initiative. OCS is responsible for oversight of work covered by the Circular A-76 process; it covers highly commercial work that has been competitively out-sourced. The PDC initiative does not fall under the umbrella of OCS. The PDC initiative is not a competitive outsourcing of highly commercial work, but rather contracting for supplemental assistance in delivering a small portion of the overall collection function. The IRS is not replacing government workers with the PDC initiative and the American Jobs Creation Act of 2004 (AJCA) specifically exempted the PDC initiative from the A-76 process.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. If Congress does not terminate the initiative, the IRS should revise its second Request for Quotations (RFQ) process to incorporate some of the important lessons learned in the first RFQ. For example:
   - The IRS should mandate public disclosure of operational plans, scripts and training materials of contractors as a condition of competing in the process.
   - The IRS should require that the contractors contain operational plans for dealing with taxpayers who speak English as a second language.
   - The IRS should require that Fair Debt Collection Practice Act warnings be given at the beginning of each contact and prohibit the use of trickery or device.
   - The IRS should hence forth provide direct training on issues relating to taxpayer rights, the Office of Appeals, levies and other topics essential to the collection process, as well as training as to who has an obligation to file tax returns.

IRS Response to Recommendation 2

Recommendation one concerned requiring public disclosure of operational plans, scripts and training materials of contractors as a condition of competing in the process. Much of these materials are already being made public—but under procurement regulations, their operational plans are proprietary and can be made public only when permitted by the PCA. Following NTA's recommendation, we re-evaluated publishing the PCA proprietary information including operational plans but are currently limited to contractual obligations. However, in the next RFQ scheduled to be released in July 2007, portions of Contractor deliverables relating to IRS Policies and Procedures, such as Operational Plans, Training Plans, and Telephone Scripts, will be subject to public disclosure by the IRS under the Freedom of Information Act. In such deliverables, the Contractor shall clearly identify and segregate proprietary information not meant for public distribution. As part of IRS review of Contractor deliverables for approval, the IRS will indicate to the Contractor which information should be subject to public disclosure.

Concerning recommendation two, all PCAs have taken actions to provide service for non-English speaking taxpayers. These experienced firms all service non-English speaking customers as part of their normal business and have bilingual staff to handle non-English calls. When the language spoken by the taxpayer prevents the PCA employee from assisting

the taxpayer, IRS Referral Unit employees provide the necessary assistance. This allows us to provide the same level of service to all taxpayers. The next RFQ will (also) include a requirement to provide services to taxpayers with Limited English Proficiency (LEP). The primary vehicle for this will be multilingual contractor employees. If the multilingual collector is not available, an appointment will be made for the taxpayer within a reasonable amount of time. Taxpayers will be able to use their own interpreter when working with the PCA. LEP taxpayers will also be informed of assistance available at Low Income Tax Clinics.

Recommendation three concerned a Fair Debt Collection Practice Act warning at the beginning of each contact. The phone scripts used by the two PCAs now have the FDCPA notice in the third sentence and the second sentence, respectively, following verification of identity. In the next RFQ, PCAs will be required to submit for approval all telephone scripts prior to contacting taxpayers. This will ensure that all PCAs include the recommended language.

Concerning recommendation four, the IRS does not directly provide the training, but does and will continue to provide a significant amount of oversight in the development of the training materials and PCA guidelines and procedures. The training the PCA procedures for collecting financial information directly align with IRS procedures and ensure protection of taxpayer rights. The PCA Policy and Procedures Guide, which the PCAs are contractually required to follow, prohibits the PCAs from obtaining financial information from a taxpayer unless directed to do so by the Guide. The instructions provided to the PCAs in the Policy and Procedures Guide on securing financial information do not differ from the procedures used by the IRS when collecting balance due accounts. No PCA is permitted to supersede IRS procedures; they are precluded from doing so by task order. The PCA Policy and Procedure Guide emphasize the appropriate time to collect financial information and we verified the PCAs' understanding of this requirement in face-to-face meetings.

We have completed comprehensive procedural and legal reviews on talking scripts used by the PCAs. All taxpayer rights and protections are in force throughout all PCA scripts. We also have a rigorous process in place to ensure PCA employees working on this program are fully trained in critical topics such as taxpayer rights, privacy, disclosure, and TAS-related procedures. PCA employees working on this program are also required to execute the same certifications of training required by IRS employees on critical topics.

NTA Status Update to Recommendation 2

2006 ARC – MSP Topic #5 – EARLY INTERVENTION IN IRS COLLECTION CASES

Problem

The lack of early, meaningful interventions by the IRS on delinquent tax accounts contributes to long-term financial problems for many taxpayers and costs the government billions of dollars in lost revenue. It appears that far too many IRS collection accounts are relegated to "currently not collectible (CNC)" status, or remain in "open" status for prolonged periods, even when taxpayers have attempted to resolve the debts through installment agreements or offers in compromise. The National Taxpayer Advocate recommends the IRS revise its methods of prioritizing and assigning collection cases. The IRS should also do more to initiate meaningful, personal contacts with taxpayers and offer more flexibility in providing realistic payment options to taxpayers trying to resolve their problems.

NTA Recommendations

1. The IRS needs to revise the methods used to prioritize and assign collection cases to fully recognize the impact of elapsed time on collectibility and taxpayer service. In particular, top priority should be placed on initiating personal contacts on *current* accounts, *i.e.*, tax delinquencies on recently due tax periods involving taxpayers who have not resolved their tax delinquencies through the collection notice process.
2. The IRS needs to tailor the delivery of collection inventory to recognize the differing needs and characteristics of different types of taxpayer cases. The IRS should conduct additional studies to identify opportunities to expedite personal contacts on collection cases, where it is evident such actions are needed for mutually successful resolutions. Are there common characteristics for taxpayers who do not self-correct during the collection notice process? Does it make sense to repeat the collection notice cycle for taxpayers who have had prior delinquencies assigned to ACS or the Collection Field operation? The IRS needs to ask and answer such questions to ensure that collection resources are used in the most efficient and effective manner.
3. The IRS should expand the practice in employment tax cases of making prompt, face-to-face contact as early in the collection delinquency cycle as possible. This contact will ensure the maximum collection of revenue, prevent future delinquencies, and engage business taxpayers at a point when they have the best opportunity to resolve their tax problems while salvaging their businesses.
4. The IRS needs to more actively incorporate the reality of the "collectibility curve" into the consideration of reasonable collection alternatives, particularly installment agreements (IA) and offers in compromise (OIC), in the resolution of collection cases. IRS data indicate that most tax collection cases age because the lack of meaningful, early IRS interventions allow them to age. While this unfortunate condition continues in collection cases involving tax

delinquencies in excess of 24 months, the IRS should establish liberal and flexible IA and OIC acceptance policies.[3] The IRS not only needs to recognize that any recovery of revenue on these accounts "beats the odds" recognized by most business authorities in the area of collection, but must also acknowledge that reasonable payment arrangements are the best opportunity to bring these taxpayers back into the ranks of those who comply with the tax laws.

5. The IRS needs to revise or develop collection program measures that accurately reflect the true age of its accounts receivable. These measures should reflect the age of collection accounts from the taxpayer's perspective, *i.e.*, the due date of the tax return.
6. The IRS needs to develop a more realistic measure of collection "yield" that accurately reflects the recovery of potentially lost revenue. This measure should provide the net revenue collected on accounts that were not resolved through the routine collection notice process, *i.e.*, Taxpayer Delinquent Accounts (TDAs). A measure that reflects TDA dollars collected (including offsets) minus revenue dollars reported as not collectible (CNC) and revenue dollars abated would provide a more accurate assessment of the effectiveness of the IRS collection program, as well as promote case dispositions that provide resolution and closure to taxpayers seeking to resolve their tax debts.
7. The IRS should improve its communications with delinquent taxpayers regarding the accruals of penalties and interest on collection cases. Better communication regarding this issue, delivered early in the IRS collection notice process, may not only reduce the element of surprise for the typical taxpayer regarding the rapid accumulation of penalties and interest on IRS collection accounts, but might also encourage many taxpayers to more vigorously pursue other financing alternatives, with substantially more favorable finance charges.[4]
8. The National Taxpayer Advocate acknowledges and supports the IRS's efforts to review and revise its collection inventory delivery systems, *i.e.*, the Consolidated Decision Analytics (CDA) and the Corporate Approach to Collection Inventory (CACI) projects. In order to ensure that taxpayer interests and rights are fully incorporated into future plans materializing from these efforts, we recommend that the IRS include the National Taxpayer Advocate in the planning and analysis stages of these projects as soon as possible. We recommend that the issues and suggestions made in this report be incorporated into the development of these projects in a timely and meaningful manner.

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[3] Congress has already made this observation. The conference committee report for the IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206 (1998); H.R. Conf. Rep. 599, 105th Cong., 2d Sess., 288-289 (1998) states,

> the Committee believes that the IRS should be flexible in finding ways to work with taxpayers who are sincerely trying to meet their obligations and remain in the tax system. Accordingly, the Committee believes that the IRS should make it easier for taxpayers to enter into offer-in-compromise agreements, and should do more to educate the taxpaying public about the availability of such agreements.

[4] *See also* Additional Legislative Recommendation, *Amend* IRC 6511 to *Allow Refund Claims Past the RSED When Excess Collection Is Due to IRS Error, infra.*

NTA Recommendation 1

1. The IRS needs to revise the methods used to prioritize and assign collection cases to fully recognize the impact of elapsed time on collectibility and taxpayer service. In particular, top priority should be placed on initiating personal contacts on *current* accounts, *i.e.*, tax delinquencies on recently due tax periods involving taxpayers who have not resolved their tax delinquencies through the collection notice process.

IRS Response to Recommendation 1

As stated in our original response included in the annual report, we agree that early intervention in collection cases is critical and personal contact is an important tool for helping taxpayers return to compliance. In striving to contact the greatest number of taxpayers as early as possible in the collection process, we consider the entire Collection system, including our notice process and our campus operations. We have designed our treatments to direct as many taxpayers as possible to the least invasive and least burdensome option possible. We believe that a balance between prompt attention and appropriate treatment streams will ultimately secure payment of as much of the delinquent tax as possible.

Age and type of tax (such as employment tax) are the primary determinates of priority for case selection and assignment—and, as Taxpayer Advocate recommends, younger/more current age do currently have higher priority. The CACI and CDA are also expected to accomplish many of the same results that Taxpayer Advocate is recommending. The CACI (Corporate Approach to Collection Inventory) will match cases to the appropriate treatment stream by routing the cases to the appropriate IRS function. The CDA (Consolidated Decision Analytics) will use internal and external data on taxpayer characteristics to better match taxpayer to appropriate treatment stream.

Once the CACI sub-teams have completed their work and the CGC (Collection Governance Council) has identified which recommendations will go forward for testing and implementation, a briefing will be conducted with the Director, Systemic Advocacy. We expect that briefing to occur in August as part of the planned meeting between TAS, Collection Policy, and Campus Compliance Services.

CDA is a Non-Major Project with a November 2008 deployment schedule. Before exiting Milestone 2/3 (currently scheduled for September 30, 2007), we will conduct a briefing on the project with the Director, Systemic Advocacy.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. The IRS needs to tailor the delivery of collection inventory to recognize the differing needs and characteristics of different types of taxpayer cases. The IRS should conduct additional studies to identify opportunities to expedite personal contacts on collection cases, where it is evident such actions are needed for mutually successful resolutions. Are there common characteristics for taxpayers who do not self-correct during the collection notice process? Does it make sense to repeat the collection notice cycle for taxpayers who have had prior delinquencies assigned to ACS or the Collection Field operation? The IRS needs to ask and answer such questions to ensure that collection resources are used in the most efficient and effective manner.

IRS Response to Recommendation 2

The IRS will never have sufficient resources to work every balance due case. Therefore, there must be a process to select and prioritize cases. The three major components of our selection process are business rules, compliance risk codes, and modeling. Business rules are used to identify areas of special emphasis or policy decisions. The practice of prioritizing or scoring cases by compliance risk began in 1999 and was substantially modified in 2001. The reengineering effort placed additional emphasis on the type of tax and dollar values to stress earlier intervention, especially for employment tax liabilities. The third component uses computer modeling to determine the cases with the highest potential yield—of which age and tax type are the primary determinates of priority.

While we contend that our current process strikes an appropriate balance, we agree that further refinement of this process based on improved technology and better data is a desirable goal. We are currently engaged in an IRS-wide effort to revisit these rules so as to better route cases to the appropriate IRS function. The CACI project expects to match cases to the appropriate treatment stream by supplementing the aforementioned rules with information on the source of assessment (*i.e.*, self-reported or compliance assessments) and the various functions' historical success in resolving different types of cases. Ultimately, we hope this project will result in routing cases in a manner that achieves a better match between case characteristics and employee skill set.

The CACI project is somewhat limited in its potential effect because it continues to focus on the characteristics of the tax liabilities. The next, more sophisticated level of analysis is to make case selection decisions based on the characteristics of the taxpayer. The long-term effort to achieve this next level has already begun in the form of Consolidated Decision

Analytics (CDA). This will use internal and external data on taxpayer characteristics to better match taxpayers to the treatment stream that will most likely result in meaningful contact and timely resolution of the case.

In the mean time, the Collection Field Function has periodically conducted projects to identify cases for assignment based on taxpayer characteristics. For example, in FY 2006 cases were pulled from the queue for assignment based on indications that the taxpayer owned real property but no notice of federal tax lien had been filed.

Our current programming does not allow us to perform decision analytics prior to the notice stream. Accordingly, Collection notices are issued regardless of the whether a taxpayer has had prior delinquencies. In the long term, we do intend to submit a Work Request to enable our systems to perform decision analytics based on taxpayer characteristics prior to the notice stream.

While these initiatives should have a significant impact on ensuring that our resources are directed to the highest risk cases, we do acknowledge that more could be done to improve our coverage rates in other categories and upfront identification of taxpayers who have none or limited ability to pay. To this end, we intend to conduct a study on the income levels within our accounts receivable and consider the use of public benefit databases (i.e. federal food and housing subsidy programs) or additional upfront indications of limited or inability to pay.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. The IRS should expand the practice in employment tax cases of making prompt, face-to-face contact as early in the collection delinquency cycle as possible. This contact will ensure the maximum collection of revenue, prevent future delinquencies, and engage business taxpayers at a point when they have the best opportunity to resolve their tax problems while salvaging their businesses.

IRS Response to Recommendation 3

Also see discussion under recommendation #2 above.

All of our processes are designed to direct taxpayers to the right treatment at the fastest possible time. We continue to examine our business rules and are committed to ongoing improvement in our ability to intervene early in collection cases.

Recent reengineering efforts placed additional emphasis on the type of tax and dollar values to stress earlier intervention, especially for employment tax liabilities. Age and tax type are the primary determinates of priority, not the amount of the liability. A new employment tax liability is generally more likely to be selected for assignment than an older income tax liability regardless of the amount owed.

Specific to employment taxes, we also have an FTD (Federal Tax Deposit) Alerts system, as described in IRM 5.7.1, which identifies, at an early stage (i.e. before the return is due), taxpayers who have fallen behind in their deposits. FTD Alerts are issued on taxpayers who are classified as semiweekly depositors and who have not made FTDs during the current quarter or who have made them in substantially reduced amounts. Master File conducts the analysis cycle for FTD Alerts in the twelfth week of each calendar quarter. FTD Alerts are sent directly from Master File to the Integrated Collection System (ICS) for direct assignment to the field. Contact with the taxpayer is generally made within 15 calendar days of receipt of the Alert. FTD Alerts are used to determine an employer's compliance with employment tax deposit requirements for the quarter of Alert issuance, and for subsequent quarters until the taxpayer is brought into full compliance. FTD Alerts on delinquent taxpayers provide an early opportunity to assist taxpayers before their liability pyramids and the growing debt becomes more difficult to resolve.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. The IRS needs to more actively incorporate the reality of the "collectibility curve" into the consideration of reasonable collection alternatives, particularly installment agreements (IA) and offers in compromise (OIC), in the resolution of collection cases. IRS data indicate that most tax collection cases age because the lack of meaningful, early IRS interventions allow them to age. While this unfortunate condition continues in collection cases involving tax delinquencies in excess of 24 months, the IRS should establish liberal and flexible IA and OIC acceptance policies.[5] The IRS not only needs to recognize that any recovery of revenue on these accounts "beats the odds" recognized by

[5] Congress has already made this observation. The conference committee report for the IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206 (1998); H.R. Conf. Rep. 599, 105th Cong., 2d Sess., 288-289 (1998) states,

> the Committee believes that the IRS should be flexible in finding ways to work with taxpayers who are sincerely trying to meet their obligations and remain in the tax system. Accordingly, the Committee believes that the IRS should make it easier for taxpayers to enter into offer-in-compromise agreements, and should do more to educate the taxpaying public about the availability of such agreements.

most business authorities in the area of collection, but must also acknowledge that reasonable payment arrangements are the best opportunity to bring these taxpayers back into the ranks of those who comply with the tax laws.

IRS Response to Recommendation 4

IRS currently has flexible policies for granting installment agreements (IA) and offers in compromise (OIC) regardless of the age of the account. In FY06, over 96 percent of the IAs granted were streamlined agreements requiring no financial documentation. We agree that the "collectibility curve" supports our goal of working cases a soon as possible, but believe that the decision to grant an IA or OIC in a particular case—and the terms agreed to—is better made based on actual financial data than on the age of the account.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. The IRS needs to revise or develop collection program measures that accurately reflect the true age of its accounts receivable. These measures should reflect the age of collection accounts from the taxpayer's perspective, *i.e.*, the due date of the tax return.

IRS Response to Recommendation 5

Our current processes do take the age of the account into factor in determining priority—and younger/more current age do currently have high priority. However, in instances were there has been prior activity on an account, desktop integration allows the employee to view prior case activity records to ensure it is taken into account and the full spectrum and age considered rather than starting from scratch.

Collection has enterprise level measures from a revenue accounting perspective that provide some level of detail. Potentially Collectible Inventory (PCI) is a corporate level indicator that tracks the subset of the Unpaid Assessment Inventory that is either actively being worked in Automated Collection, Field, or Notice, or backlogged in the queue. This report provides more of a holistic view than case by case view. Analysis of active PCI shows that corporate inventory is declining in overall age. The proportion of the inventory that is less than two years old has increased from 43 percent at the close of FY05 to 51 percent at the close of FY06.

The majority of our reports are tactical in nature—they reflect the age of the account within each function, not the total age of the account since date of assessment. Since not all accounts flow through all parts of the process, these reports are specifically designed to reflect the efficiency of each discrete process and are not considered IRS-wide indicators.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. The IRS needs to develop a more realistic measure of collection "yield" that accurately reflects the recovery of potentially lost revenue. This measure should provide the net revenue collected on accounts that were not resolved through the routine collection notice process, *i.e.*, Taxpayer Delinquent Accounts (TDAs). A measure that reflects TDA dollars collected (including offsets) minus revenue dollars reported as not collectible (CNC) and revenue dollars abated would provide a more accurate assessment of the effectiveness of the IRS collection program, as well as promote case dispositions that provide resolution and closure to taxpayers seeking to resolve their tax debts.

IRS Response to Recommendation 6

This proposal recommends the IRS measure more direct dollar ($) results from dispositions from direct collection activities and resolutions as opposed to mixing the measures/results with correspondence activities. We agree that this may provide a more diagnostic tool for efficiency and return on investment.

Collection currently has measures reflecting the efficiency of each discrete process, such as CSCO, ACS and CFF. Research projects for developing additional measures, such as TDI Compliance Risk and the Collection Return on Investment, are underway.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. The IRS should improve its communications with delinquent taxpayers regarding the accruals of penalties and interest on collection cases. Better communication regarding this issue, delivered early in the IRS collection notice process, may not only reduce the element of surprise for the typical taxpayer regarding the rapid accumulation of penalties and

interest on IRS collection accounts, but might also encourage many taxpayers to more vigorously pursue other financing alternatives, with substantially more favorable finance charges.[6]

IRS Response to Recommendation 7

Communication regarding accruals of penalties and interest during the collection process is already included in collection notices. Current balance due notices contain explanations concerning the penalties and interest, and provide a phone number for the taxpayer to call for further explanation. While the Failure to Pay Penalty does accrue there is a cap of 25 percent so informing the taxpayer that this penalty accrues until the liability is full paid would be incorrect. The language in the notices explains that interest accrues until the date of full payment. However, we are open to working with TAS on developing language that better explains the costs of protracted payment arrangements so that taxpayers can make informed decisions regarding repayment. We will include this topic in our upcoming meeting with TAS to establish work groups and set priorities.

NTA Status Update to Recommendation 7

NTA Recommendation 8

8. The National Taxpayer Advocate acknowledges and supports the IRS's efforts to review and revise its collection inventory delivery systems, *i.e.*, the Consolidated Decision Analytics (CDA) and the Corporate Approach to Collection Inventory (CACI) projects. In order to ensure that taxpayer interests and rights are fully incorporated into future plans materializing from these efforts, we recommend that the IRS include the National Taxpayer Advocate in the planning and analysis stages of these projects as soon as possible. We recommend that the issues and suggestions made in this report be incorporated into the development of these projects in a timely and meaningful manner.

IRS Response to Recommendation 8

Recommendation 8 is on-going and we continue to partner with Taxpayer Advocate concerning program changes and initiatives. The Taxpayer Advocate also has a representative on the F&PC (Filing and Payment Compliance) Advisory Council, which discusses collection program changes and initiatives, and the Private Debt Collection initiative in particular.

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[6] *See also* Additional Legislative Recommendation, *Amend* IRC 6511 to *Allow Refund Claims Past the RSED When Excess Collection Is Due to IRS Error, infra.*

NTA Status Update to Recommendation 8

2006 ARC – MSP Topic #6 – IRS COLLECTION PAYMENT ALTERNATIVES

Problem

The IRS does not fully utilize the available collection payment alternatives, such as installment agreements and offers in compromise, to resolve delinquent tax accounts. This approach means many account problems are not addressed timely, fostering additional liabilities for the taxpayer and substantial amounts of lost revenue for the government. Virtually any debt-collection operation will acknowledge that as delinquent accounts receivable age, their collection potential declines. Yet it appears that as IRS collection cases age, IRS policies and procedures make it very difficult for taxpayers to obtain reasonable collection alternatives, with the result that the IRS often collects nothing. The National Taxpayer Advocate recommends the IRS revise its policies to ensure that determinations of reasonable collection potential used in case decisions are actually reasonable and realistic. The IRS should establish more flexible installment agreement and offer in compromise acceptance policies to improve revenue collection and help bring taxpayers back into the ranks of the voluntarily compliant.

NTA Recommendations

1. The IRS should revise its current policies regarding the use of reasonable payment alternatives, *i.e.*, installment agreements, partial payment installment agreements, and offers in compromise. Policy guidance should clearly set expectations that in situations involving interactions with taxpayers seeking payment resolutions for tax delinquencies, the IRS will approve a payment option that is reasonable and realistic, unless the taxpayer represents a "won't pay" situation where enforcement actions are necessary to collect the appropriate amount of revenue. Moreover, taxpayers who are engaging in discussions of payment options should be viewed as individuals who are "trying to pay," but need the assistance of their government to return to the ranks of the compliant.
2. IRS policy should clearly state that a determination of reasonable collection potential (RCP) in any given collection case represents the amount the IRS actually and realistically expects to collect. IRS program results, including quality reviews of collection casework, should be evaluated on a regular basis to validate that case outcomes are based on reasonable and realistic RCP determinations.

3. In recognition of the negative impact of elapsed time on the collectibility of delinquent accounts receivable, the IRS should establish liberal and flexible installment agreement and offer in compromise acceptance policies for collection cases involving tax delinquencies that have aged more than 24 months from the due date of the tax liabilities.
4. The IRS needs to review and revise Part V of the Internal Revenue Manual and collection training materials to ensure that IRM procedural direction clearly reflects and supports IRS policy regarding reasonable payment alternatives, with particular emphasis on the sections involving offers in compromise (IRM 5.8), installment agreements (IRM 5.14), and financial analysis (IRM 5.15).
5. In consideration of OICs, the IRS should redefine "protracted installment agreement" as one that extends beyond five years, or the time remaining on the CSED, whichever is shorter. The IRS should reinstitute prior IRM direction regarding the "current value of future payments" in considering the reasonable collection potential of future installment payments for cash OICs.
6. The IRM should provide revised guidance involving the consideration of equity in assets in determining reasonable collection potential. The consideration of equity should realistically reflect the true potential for the taxpayer to secure funds based on available equity, without creating undue economic hardship. The new IRM should provide sufficient guidance to ensure the determination of a taxpayer's realizable equity in assets is realistic, and address such issues as the taxpayer's credit history, the relative percentage of equity in the property, and the taxpayer's financial capability to qualify for and repay a loan.
7. The IRS needs to provide more clarity and direction in IRM procedures and collection training materials regarding the use of the allowable living expense (ALE) allowances as guidelines to be used as the starting point for determining a taxpayer's reasonable living expenses, and that deviations from the ALE allowances will commonly be required to reflect a realistic determination of individual taxpayer's ability to full pay a tax liability or to qualify for a collection payment alternative.
8. The IRS should develop reliable, systemic indicators for collection cases that more accurately identify "repeat delinquent" taxpayers who repeatedly seek to resolve delinquent tax accounts via collection alternatives such as offers in compromise and partial payment installment agreements, or who repeatedly default on installment agreements. IRS concerns about misuse of collection payment alternatives would be better addressed through more reliable methods of identifying taxpayers who have actually demonstrated these "high risk" tendencies.
9. The IRS should develop and implement a new "compliance" measure that routinely and accurately tracks taxpayer filing and paying compliance behaviors subsequent to entering into collection payment alternative agreements. Particularly in situations where the agreements will not result in the full payment of the outstanding tax liabilities, *e.g.*, OICs and PPIAs, the post-treatment compliance behavior of these taxpayers is a critically important component of the

agreement. Any meaningful discussion regarding the use of OICs and PPIAs is incomplete without addressing the impact these agreements have on future taxpayer filing and payment compliance.

10. The IRS should reevaluate its current policies and procedures governing the use of collateral agreements in conjunction with accepted OICs. Properly designed collateral agreements can mitigate concerns that the IRS may have in entering into collection payment alternative agreements that will not result in full payment of the outstanding tax liabilities. We understand that the IRS has resisted the idea of expanded use of collateral agreements primarily due to costs associated with monitoring the agreements. In consideration of the large number of delinquent tax accounts currently reported as not collectible, which could potentially be resolved through improved utilization of the OIC, we believe these concerns are "penny wise and dollar foolish." However, we believe the costs associated with monitoring collateral agreements could be at least partially offset by implementing an additional OIC user fee for accepted offers that include collateral agreements.

NTA Recommendation 1

1. The IRS should revise its current policies regarding the use of reasonable payment alternatives, *i.e.*, installment agreements, partial payment installment agreements, and offers in compromise. Policy guidance should clearly set expectations that in situations involving interactions with taxpayers seeking payment resolutions for tax delinquencies, the IRS will approve a payment option that is reasonable and realistic, unless the taxpayer represents a "won't pay" situation where enforcement actions are necessary to collect the appropriate amount of revenue. Moreover, taxpayers who are engaging in discussions of payment options should be viewed as individuals who are "trying to pay," but need the assistance of their government to return to the ranks of the compliant.

IRS Response to Recommendation 1

This recommendation largely concerned consideration of more flexible policies for determining reasonable collection potential. When attempting to resolve a tax delinquency, the IRS works with taxpayers to achieve full payment of all tax, penalty, and interest owed. Where payment in full cannot immediately be achieved, the IRS may, and often does, allow taxpayers to pay over time through an installment agreement. If full payment cannot be achieved even over time, or would cause the taxpayer economic hardship, the IRS agrees that it is both sound business practice and good tax policy to resolve some cases for less than the total amount due. The IRS actively continues to increase taxpayer access to appropriate alternative payment options such as installment agreements and offers in compromise.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. IRS policy should clearly state that a determination of reasonable collection potential (RCP) in any given collection case represents the amount the IRS actually and realistically expects to collect. IRS program results, including quality reviews of collection casework, should be evaluated on a regular basis to validate that case outcomes are based on reasonable and realistic RCP determinations.

IRS Response to Recommendation 2

The IRS agrees that it is important to accurately analyze individuals' ability to pay delinquent tax debts. We have some indication that collection results following the rejection of proposed payment alternatives have improved over those found in earlier studies, supporting our view that current guidelines are appropriate. We have asked SB/SE Research to perform a statistically valid study of collection results in such cases and will use those results to re-evaluate our guidance for determining collection potential.

To address those cases where an offer is rejected because more can be collected than offered, we piloted a Special Case Unit or "Hand-off " unit in the Brookhaven COIC site. The unit was designed to evaluate and recommend a process that will help the IRS maximize the financial information gained during the offer in compromise process. The Hand-Off test has concluded and the results of the test indicate that creation of a "Special Case Unit" or "Hand-Off Unit" is not the most efficient way to address collection of offers that are rejected or withdrawn. The results of the test indicate that the same outcome can be achieved by establishing procedures to have the account worked in ACS or the field where more resources are available to address collectibility. The IRS is in the process of developing procedures to ensure these cases are immediately worked and the financial information is shared with ACS and the field.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. In recognition of the negative impact of elapsed time on the collectibility of delinquent accounts receivable, the IRS should establish liberal and flexible installment agreement and offer in compromise acceptance policies for collection cases involving tax delinquencies that have aged more than 24 months from the due date of the tax liabilities.

IRS Response to Recommendation 3

This recommendation is a duplicate—see response to recommendation #4, MSP5.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. The IRS needs to review and revise Part V of the Internal Revenue Manual and collection training materials to ensure that IRM procedural direction clearly reflects and supports IRS policy regarding reasonable payment alternatives, with particular emphasis on the sections involving offers in compromise (IRM 5.8), installment agreements (IRM 5.14), and financial analysis (IRM 5.15).

IRS Response to Recommendation 4

This recommendation is an ongoing practice, as any changes are made to policies or procedures. We agree that the Internal Revenue Manual should be keep current and continue to work toward that end.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. In consideration of OICs, the IRS should redefine "protracted installment agreement" as one that extends beyond five years, or the time remaining on the CSED, whichever is shorter. The IRS should reinstitute prior IRM direction regarding the "current value of future payments" in considering the reasonable collection potential of future installment payments for cash OICs.

IRS Response to Recommendation 5

We do not have a strict definition of the term "protracted installment agreement". While we generally attempt to achieve full payment whenever the financial analysis supports that determination, an offer in compromise is considered as an alternative where warranted due to the circumstances of the case.

The current value of future income is already used to establish collection potential. The multiplier depends upon the payment terms of the offer, and already accounts for the need to discount future income to present value if the taxpayer proposes payment within 90 days. The 48 month term was adopted as an approximation of the present value of 60 months income which avoids the need to perform complex or time consuming calculations.

As part of our plan to work with TAS going forward, we have agreed to prioritize the issues surrounding analysis of future income and the payment terms of deferred payment offers for further consideration and discussion.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. The IRM should provide revised guidance involving the consideration of equity in assets in determining reasonable collection potential. The consideration of equity should realistically reflect the true potential for the taxpayer to secure funds based on available equity, without creating undue economic hardship. The new IRM should provide sufficient guidance to ensure the determination of a taxpayer's realizable equity in assets is realistic, and address such issues as the taxpayer's credit history, the relative percentage of equity in the property, and the taxpayer's financial capability to qualify for and repay a loan.

IRS Response to Recommendation 6

We believe our current guidelines are realistic in their evaluation of the collection potential of cases. We hope that the study of rejected offers (discussed in recommendation #2) will help to validate this or to assist us in making appropriate adjustments.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. The IRS needs to provide more clarity and direction in IRM procedures and collection training materials regarding the use of the allowable living expense (ALE) allowances as guidelines to be used as the starting point for determining a taxpayer's reasonable living expenses, and that deviations from the ALE allowances will commonly be required to reflect a realistic determination of individual taxpayer's ability to full pay a tax liability or to qualify for a collection payment alternative.

IRS Response to Recommendation 7

In determining the ability to pay in a consistent manner, the IRS uses a calculation based on what average citizens in a given income bracket spend on basic necessary living expenses, established using government survey data. While no set

of standards can be expected to fit every individual circumstance, our procedures allow employees the flexibility to deviate from the standards to provide taxpayers adequate means to meet living expenses. Research conducted into application of the standards found that IRS employees will deviate from the standards when considering necessary living expenses. For example, IRS employees allowed housing and utility expenses that exceeded the applicable standard in 41 percent of 10,864 cases sampled. In fact, 50 percent of the taxpayers in this sample actually claimed less than the current allowable housing standard.

We continue to focus our efforts on both improving the accuracy of the standards themselves and improving use of the standards so that they are not applied in an overly rigid manner. We recently undertook a research project to explore whether the methodology used to develop allowable living expenses should be changed. We have drafted revisions to the standards and are currently soliciting feedback from practitioners and stakeholder groups. The IRM and training materials will be updated as any changes are made to practices, polices or procedures. We also intend to update the IRM to include more specific examples of appropriate deviations to the standards.

Our current standards are based on Bureau of Labor Statistics and attempt to account for inflation factors and geographic differences. We plan to continue to pursue alternatives and make improvements in the standards. We are considering approaching BLS to discuss the possibility of developing customized standards for determining allowable living expenses.

NTA Status Update to Recommendation 7

NTA Recommendation 8

8. The IRS should develop reliable, systemic indicators for collection cases that more accurately identify "repeat delinquent" taxpayers who repeatedly seek to resolve delinquent tax accounts via collection alternatives such as offers in compromise and partial payment installment agreements, or who repeatedly default on installment agreements. IRS concerns about misuse of collection payment alternatives would be better addressed through more reliable methods of identifying taxpayers who have actually demonstrated these "high risk" tendencies.

IRS Response to Recommendation 8

We are currently conducting research on taxpayers who repeatedly make offers in compromise as suggested by a recent GAO audit. We are also in the process of refining our measures of compromise and installment agreement default rates, and are amenable to working with TAS toward identifying taxpayers with a high probability of defaulting on agreements.

We do not, however, agree that concern about repeated defaults has a significant impact on the policy surrounding when to accept or reject payment proposals.

NTA Status Update to Recommendation 8

NTA Recommendation 9

9. The IRS should develop and implement a new "compliance" measure that routinely and accurately tracks taxpayer filing and paying compliance behaviors subsequent to entering into collection payment alternative agreements. Particularly in situations where the agreements will not result in the full payment of the outstanding tax liabilities, *e.g.*, OICs and PPIAs, the post-treatment compliance behavior of these taxpayers is a critically important component of the agreement. Any meaningful discussion regarding the use of OICs and PPIAs is incomplete without addressing the impact these agreements have on future taxpayer filing and payment compliance.

IRS Response to Recommendation 9

The IRS is currently tracking OIC post-acceptance filing and paying compliance behaviors and a report has been designed to capture the data. Review of the Monitoring OIC units will be included in the annual review cycle to help to validate the data reflected on the report.

NTA Status Update to Recommendation 9

NTA Recommendation 10

10. The IRS should reevaluate its current policies and procedures governing the use of collateral agreements in conjunction with accepted OICs. Properly designed collateral agreements can mitigate concerns that the IRS may have in entering into collection payment alternative agreements that will not result in full payment of the outstanding tax liabilities. We understand that the IRS has resisted the idea of expanded use of collateral agreements primarily due to costs associated with monitoring the agreements. In consideration of the large number of delinquent tax accounts currently reported as not collectible, which could potentially be resolved through improved utilization of the OIC, we believe these concerns are "penny wise and dollar foolish." However, we believe the costs associated with monitoring collateral agreements could be at least partially offset by implementing an additional OIC user fee for accepted offers that include collateral agreements.

IRS Response to Recommendation 10

The IRS secures collateral agreements in situations where significant recovery is anticipated on a case-by-case basis. At this point in time, the IRS has no plans to expand its use of collateral agreements in conjunction with accepted OICs unless our program reviews reveal that collateral agreements are not being secured when appropriate. Concerns about cost would not, however, drive the policy if greater use of collateral agreements was determined to be productive. The current user fee for submitting an offer in compromise does not reflect the full cost of the program and we do not plan to consider increased fees at this time. Increased fees would decrease the accessibility of the program and would be met with a negative reaction from taxpayers.

NTA Status Update to Recommendation 10

2006 ARC – MSP Topic #7 – LEVIES

Problem

The IRS levy program is a necessary means of collection and, when used appropriately, is a fundamental component of tax enforcement. The National Taxpayer Advocate recognizes the IRS's need to utilize automation to perform enforcement activities more efficiently, but is concerned that this automation comes at the expense of meaningful personal contact and quality taxpayer service. The IRS should only serve a notice of levy upon third parties after it has taken the necessary steps to ensure that taxpayers will not be needlessly harmed. For example, 84 percent of all Federal Payment Levy Program (FPLP) levies historically have involved Social Security payments to the elderly or disabled, many of whom are fully dependent on these benefits to cover their basic living expenses, yet the IRS does nothing to try to screen out vulnerable, low income taxpayers from this automated process. Other levy release and payment application procedures are ineffective and lead to additional harm for taxpayers. By employing more proactive approaches, such as removing potential hardship cases from FPLP, the IRS can achieve the appropriate balance between enforcement and taxpayer service.

NTA Recommendations

1. Conduct a study to determine the effectiveness of telephone contact versus mailed correspondence prior to issuance of a levy. If this study shows telephone contact to be more effective, the IRS should consider mandating that telephone contact be attempted prior to issuance of a levy, at least in certain situations.

2. Discontinue the practice of "wholesale" or multiple levies, except in situations where the IRS has performed appropriate research of the taxpayer's address and the taxpayer has remained unresponsive or uncooperative.
3. Conduct the research necessary to implement an effective filter to screen out taxpayers from the FPLP who are unable to pay.
4. Remove all FPLP cases from its Private Debt Collection initiative.
5. Treat all levy releases expeditiously and provide clearer guidance to ensure taxpayers are properly apprised of the levy release timeframes. A possible solution is to include such language in a notice or "stuffer" which could accompany the taxpayer's copy of levy that the IRS is required to send. Additional training may also be warranted to ensure that all employees with taxpayer contact requirements are fully aware of these guidelines.
6. Implement tighter management and quality controls to ensure the levy payment transcript process is effectively working to protect taxpayer rights. A quality or diagnostic measure should be developed and utilized to ensure the transcript process provides the intended protections. The IRS should also form a task force (with TAS as a participant) to look into the various misapplied levy proceeds situations. At any rate, the IRS must notify taxpayers as soon as it learns it has been over collecting on an account.
7. Send a detailed annual notice (much like the CP 89 notice it currently sends to all accounts with installment agreement activity) to notify taxpayers of continuous levy activity. This notice should provide a detailed accounting of the payments received, including the application of such payments, all interest and penalty charges and the remaining balance due of any existing liabilities.

NTA Recommendation 1

1. Conduct a study to determine the effectiveness of telephone contact versus mailed correspondence prior to issuance of a levy. If this study shows telephone contact to be more effective, the IRS should consider mandating that telephone contact be attempted prior to issuance of a levy, at least in certain situations.

IRS Response to Recommendation 1

All new ACS receipts with levy sources receive a Final Notice via certified mail, and those with phone numbers receive four telephone attempts via predictive dialer technology to contact the taxpayer prior to any levy attempt. The taxpayer is given the opportunity to respond before being scheduled for levy action. If it is determined that the address or telephone number is no longer valid, further research action takes place to locate the taxpayer. This includes directory research, on-line research, and contact with third parties as appropriate. Follow-up telephone contact or re-issuance of letters takes place on new numbers and/or addresses. Certified notice mailing is required only for the last known address provided or

confirmed by the taxpayer. Home, work, cell phone numbers, and authorized POA numbers are included in the database used to attempt contact.

Undelivered taxpayer mail is processed through the Address Research System (ADR) or via ACS Support staff to input information received on non-scanned mail. For certain accounts with undelivered mail, if no new address or telephone number is found and all locator research actions are exhausted, the account can be closed as unable to locate. We have conducted an initial analysis of the tools used to complete telephone research, and plan to continue focusing on the identification of the most effective resources and processes to locate taxpayers.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Discontinue the practice of "wholesale" or multiple levies, except in situations where the IRS has performed appropriate research of the taxpayer's address and the taxpayer has remained unresponsive or uncooperative.

IRS Response to Recommendation 2

The IRS does not issue multiple levies systemically. Multiple levies are not routine, issued only on a case-by-case basis, and after an authorized Collection employee has reviewed the case and determined based on the circumstances of the case that issuing multiple levies is the next appropriate action. The taxpayer is encouraged to contact the IRS to resolve the liability or provide information to determine the collectibility of the unpaid tax liability at any point during the collection process.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Conduct the research necessary to implement an effective filter to screen out taxpayers from the FPLP who are unable to pay.

IRS Response to Recommendation 3

This recommendation was addressed in the original response and we are in agreement that research is needed. W&I Compliance is working with W&I Research and the National Taxpayer Advocate to conduct research to systemically

identify taxpayers who would incur a financial hardship by being included in FPLP. The Research is expected to be completed by September 2007, and implementation plans will be considered after the research is completed.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Remove all FPLP cases from its Private Debt Collection initiative.

IRS Response to Recommendation 4

The IRS excludes taxpayers with a FPL in place from the PDC inventory mix.

The Federal Payment Levy Program (FPLP) cases in PCA inventories is consistent with how these cases are treated within the IRS and not the result of inventory placement decisions. Involuntary levy cases such as those in the FPLP are removed from potential PCA inventory as part of the normal inventory selection process. After assignment, if a FPLP match occurs on a PCA case, the taxpayer has immediate access to work with someone to resolve the delinquency. If the taxpayer wishes to resolve the account using installment payments, the FPLP levy would be prevented or released and the contractor would monitor the agreement. Taxpayers who are unable to pay their balance due will be recalled from the PCA and placed in currently not collectible status when those requirements are met, and the FPLP levy would be prevented or released. Since the PCAs have the ability to resolve the account, there is no need to automatically recall accounts subject to an FPLP levy from the PCA inventory. If the facts of the case warrant a recall from the PCA, then the account will be recalled. Under no circumstance will commissions be paid on levy payments, as outlined in the Task Orders issued to the PDC firms. Additionally, taxpayers subject to a FPL can exclude themselves from future FPLP action by resolving their tax liabilities or by substantiating their financial hardships.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. Treat all levy releases expeditiously and provide clearer guidance to ensure taxpayers are properly apprised of the levy release timeframes. A possible solution is to include such language in a notice or “stuffer” which could accompany the taxpayer’s copy of levy that the IRS is required to send. Additional training may also be warranted to ensure that all employees with taxpayer contact requirements are fully aware of these guidelines.

IRS Response to Recommendation 5
We agree that levies must be released promptly. In non-hardship situations, levy releases are input and processed daily, but are subject to current systemic limitations that involve the printing and mailing of the release. A levy release can be expedited in hardship situations in which case the release is faxed to the recipient. To maintain the efficiency of a bulk processing operation, faxing releases is limited to those taxpayer situations that involve hardship conditions. We continue to pursue other technological alternatives to improve the efficiency and responsiveness to taxpayers in releasing levies. However, we also agreed to work with TAS on the Levy release process and further consider options for better advising taxpayers concerning levy release timeframes.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. Implement tighter management and quality controls to ensure the levy payment transcript process is effectively working to protect taxpayer rights. A quality or diagnostic measure should be developed and utilized to ensure the transcript process provides the intended protections. The IRS should also form a task force (with TAS as a participant) to look into the various misapplied levy proceeds situations. At any rate, the IRS must notify taxpayers as soon as it learns it has been over collecting on an account.

IRS Response to Recommendation 6
The IRS has made programming changes to more quickly and efficiently identify cases where levy releases are necessary. Some payments had been sent to Excess Collections rather than being refunded to the taxpayer. To address this issue, we developed a transcript to identify levy payment on full paid accounts. As a result, levies are released earlier, eliminating the potential of surplus levy funds being remitted to Excess Collections. In addition, we developed a procedure by which our cashiers identify levy over-payment situations and share the list with ACS on a daily basis. ACS researches the account, releases levies in appropriate situations and refunds excess monies to taxpayers. We also generate a transcript to identify payments misapplied to an account without a valid assessment so that we can quickly identify and properly resolve these situations. We intend to review these improvements with TAS and consider additional steps if needed.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. Send a detailed annual notice (much like the CP 89 notice it currently sends to all accounts with installment agreement activity) to notify taxpayers of continuous levy activity. This notice should provide a detailed accounting of the payments received, including the application of such payments, all interest and penalty charges and the remaining balance due of any existing liabilities.

IRS Response to Recommendation 7

In FY 2007, SBSE Collection Policy will investigate the feasibly of developing an annual notice for taxpayers in a continuous levy status.

NTA Status Update to Recommendation 7

2006 ARC – MSP Topic #8 – CENTRALIZED LIEN PROCEDURES

Problem

In 2005, the IRS consolidated 33 geographically dispersed lien units into a single Centralized Case Processing Lien Unit (CCP-LU) located at its Cincinnati campus. The National Taxpayer Advocate is concerned that centralization has encroached on taxpayer rights and has increased the burden on both taxpayers and the IRS. The IRS has continued to experience difficulty timely providing notice of appeal rights and timely releasing liens under the new lien processing structure. Taxpayers and other IRS employees have experienced problems reaching the CCP-LU in the first place. The National Taxpayer Advocate recommends, among other things, that the IRS reexamine whether centralization is more cost effective and provides better service to taxpayers than the previous local lien desk structure and that the IRS conduct a comprehensive cost analysis of the centralized lien processing system.

NTA Recommendations

1. Program its systems to automatically release liens when the account is satisfied.
2. Work proactively with Governmental Liaisons to contact recording entities yearly to identify fee schedule changes and update ALS accordingly.

3. Propose revisions to Form 8821, Tax Information Authorization, and the accompanying instructions, or develop a new form to reduce confusion.
4. Reexamine whether centralization is more cost effective and provides better service to taxpayers than the previous local lien desk structure, and conduct a comprehensive cost analysis, including downstream costs such as TAS cases and Taxpayer Assistance Center contacts.
5. Examine primary disconnect rates to determine if additional staffing is necessary or if menu items need to be revisited for ease of taxpayer use.
6. Issue additional guidance or training regarding IRS authority to issue an immediate lien release when a taxpayer satisfies an account by cash or cash equivalents, including certified check, cashiers check, official bank check, or guaranteed draft drawn on any federally chartered or state licensed financial institution.

NTA Recommendation 1

1. Program its systems to automatically release liens when the account is satisfied.

IRS Response to Recommendation 1

The Automated Levy System (ALS) automatically generates lien releases when accounts are satisfied. Exceptions to this process are cases with freeze codes, credits, and zero balances. Programming these conditions for Individual Master File was completed in January 2006. Programming for Business Master File and Non Master File were completed in January 2007. Programming systemic partial releases for mirror accounts, such as bankruptcy and OIC, will be completed in January 2008.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Work proactively with Governmental Liaisons to contact recording entities yearly to identify fee schedule changes and update ALS accordingly.

IRS Response to Recommendation 2

Together with the Governmental Liaison Division, the Centralized Levy Unit (CLU) created and sent an information booklet to recording offices explaining how lien documents will be submitted. We are identifying special requirements and

making contacts with selected recording offices to explain the Federal Lien Registration Act and how the IRS determines the format and content of lien documents.

With regard to paying recording fees, we have updated the ALS database to include the specific requirements of the recording offices and to identify which recording offices are paid by imprest procedures and which are billed counties. We also have requested additional programming to enable our CLU employees to have accurate county recorder information at their fingertips.

Under revised procedures, the CLU will continue to date stamp Billing Support Vouchers (BSV) used to pay recording fees and will verify that employees are timely and accurately following revised procedures. We have also enhanced the ALS to allow employees to edit BSVs and plan to further upgrade ALS to allow systemic monitoring of BSVs.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Propose revisions to Form 8821, Tax Information Authorization, and the accompanying instructions, or develop a new form to reduce confusion.

IRS Response to Recommendation 3

The centralized process previously required third parties to provide written requests for lien payoffs, including a completed Form 8821. However, the CLU has revised procedures that allow for the Form 8821 information to be documented to the Automated Lien System as a history entry so the requestor no longer needs to resubmit the Form 8821 to receive an update payoff figure. The procedure extends to the verbal authorization by the taxpayer during phone conversations. The assistor is able to document who the taxpayer authorized to receive the payoff information.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Reexamine whether centralization is more cost effective and provides better service to taxpayers than the previous local lien desk structure, and conduct a comprehensive cost analysis, including downstream costs such as TAS cases and Taxpayer Assistance Center contacts.

IRS Response to Recommendation 4
This recommendation is ongoing as the CLU has only been operation for 1 ½ years.

Consolidating lien operations into a single site has helped us to identify program inconsistencies and improve efficiencies in our customer service that were not identified in the decentralized environment. We detected, and have taken steps to address, many of the issues that were identified early on, and we will continue to take the steps necessary to improve overall service.

To ensure the improvement of the CLU after initial stand-up and implementation, a Collection executive was assigned for six months beginning in November 2005 to oversee the CLU and work extensively with a team of stakeholders to fine tune the process and build additional efficiencies into the program. The team included functions from across the IRS, GAO and TIGTA, as well as input from the Taxpayer Advocate Service. The team developed a comprehensive action plan to mitigate the various processing, systemic and accessibility issues identified during the initial months of centralized processing.

As a result, we have taken many actions to improve customer service and address concerns, such as:

- Reconfiguring our teams to provide dedicated telephone support;
- Establishing a specialized billing team to provide direct coordination with county recording offices;
- Partnering with Governmental Liaisons (GLs) to solicit feedback from the more than 4000 county recording offices and correct identified payment or process discrepancies;
- Updating our automated telephone messages to provide additional customer service for incoming calls;
- Updating the Automated Lien System (ALS) to provide nationwide access for each assistor ensuring any agent can provide assistance on an incoming call; and
- Bringing all lien filing and release requests current.

We continue to discuss additional actions in monthly team conference calls to ensure progress continues. Several ALS programming changes will be implemented throughout FY 07 & 08 to improve efficiencies and customer service. The E-Lien Project has also begun designing additional features.

Although a comprehensive cost comparison has not been completed, the projected savings was originally estimated in 2005 (Source: Centralized Case Processing FTE Allocation FY 06 and prepared by Booze Allen Hamilton). FY04 FTE estimation for CCP totaled 848 FTEs while Area CPS totaled 1,281 FTE, comparatively saving of 433FTEs. CCP Liens represents 20 percent of this study so the FTE savings alone for CCP Liens is 86.6FTE. Further cost comparison activity will be conducted and coordinated with TAS.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. Examine primary disconnect rates to determine if additional staffing is necessary or if menu items need to be revisited for ease of taxpayer use.

IRS Response to Recommendation 5

The IRS initially underestimated the volume of incoming calls the Centralized Lien telephone operation would receive and acknowledges that taxpayers experienced difficulties in contacting the site in the months immediately following the full implementation to the centralized site. However, we have improved our operations and continue to take steps to improve the level of service for our internal and external customers. Changes in telephone routing by implementing scripts/messaging and staffing requirements at the Centralized Case Processing – Lien Unit (CCP-LU) site dramatically improved service by product line. After analyzing incoming call patterns, automated phone scripts were updated to better address the needs of our customers and provide improved routing service based on taxpayer needs.

We also examined the primary disconnect rates and other data and found the following:

- 88 percent of the 232,502 “Courtesy Disconnect” messages referenced occurred during the first four months of the fiscal year.
- Of the 250,000 callers cited as abandoning before reaching an assistor, more than 136,000 were PRIMARY abandons. These are callers who hang up while navigating through the initial telephone scripts, *after* they hear various informational messages about the type of assistance available from the CCP-LU operation.

Although the Average Speed of Answer (ASA) for the first full fiscal year was 17½ minutes per call, the ASA for the most recent quarter has improved to less than nine minutes, and continues to decline.

Similarly, while the Level of Service (LOS) for the first months of operation was a dismal 33 percent, the LOS for the most recent months has been near 80 percent and improving.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. Issue additional guidance or training regarding IRS authority to issue an immediate lien release when a taxpayer satisfies an account by cash or cash equivalents, including certified check, cashiers check, official bank check, or guaranteed draft drawn on any federally chartered or state licensed financial institution.

IRS Response to Recommendation 6

The CLU has improved customer service and accessibility with respect to lien releases. Under the decentralized structure, taxpayer lien release assistance was localized at locations that provided Walk-In assistance. Centralization allows for consistent lien release and payoff information to over 400 locations via an internal phone line. As stated in Problem 7 (Levies), item 5 above, we have agreed to work with TAS on the levy release process.

NTA Status Update to Recommendation 6

2006 ARC – MSP Topic #9 – COLLECTION ISSUES OF LOW INCOME TAXPAYERS

Problem

The IRS's collection operations fail to provide the meaningful services that low income taxpayers need to meet their obligations regarding federal tax delinquencies. The IRS frequently does not offer personal contacts and flexible payment options, even though many low income taxpayers require this type of service to fully and timely resolve problems. The IRS routinely gives very low priority to collection cases involving low income taxpayers and generally provides "service" on these accounts through computer-generated collection notices and automated levies. Frequently, cases involving low income taxpayers are simply set aside as "not collectible" even if the taxpayers are seeking alternative payment options. The taxpayers may also be subjected to automated levies on retirement and disability income sources, often without actual prior notice, even in situations where the taxpayers are surviving on incomes below or near the poverty level. Without the means to secure adequate representation, low income taxpayers can easily find themselves lost in a tax system that appears indifferent, uncaring, and sometimes hostile.

NTA Recommendations

1. The IRS should continue its efforts to develop and implement a low income waiver for the installment agreement user fee, similar to what is currently used in administering the OIC application fee. Also, we recommend that the IRS establish a graduated scale of IA user fees that reflect the amount of work required, i.e., lower fees should be required for streamlined IAs than those that require more financial analysis and extended periods of monitoring by the IRS.
2. The IRS needs to develop an alternative to the Allowable Living Expenses (ALE) methodology for determining the reasonable collection potential (RCP) of collection cases involving low income taxpayers. The ALE standards, as currently applied, are neither reasonable nor realistic in analyzing the RCP of taxpayers with incomes below or near the poverty level. Use of the ALE standards should constitute a reasonable "floor" in these situations, and the IRS should be flexible in accepting documentation of basic living expenses that exceed that "floor."
3. In recognition of the limited collection potential of delinquent collection accounts involving low income taxpayers, the IRS should establish liberal and flexible installment agreement and offer in compromise acceptance policies for taxpayers in this segment of the population who are seeking resolution and closure for their tax debt problems.
4. The IRS needs to expand its current procedures to ensure that notices of intent to levy on Social Security benefits via the FPLP program are mailed to the best addresses available, and not simply the last known addresses. At a

minimum, the IRS should utilize address research resources that are readily available via the Internet, and coordinate with the SSA to determine if the IRS's "last known address" for the taxpayer is the most recent one available.

5. The IRS should develop and implement a realistic screening process to eliminate low income taxpayers from FPLP levies on Social Security benefits. Also, the IRS should incorporate procedures into the FPLP process that require legitimate attempts at personal contacts prior to the issuances of these levies.
6. The IRS should develop and implement procedures to require managerial review and approval of any levy involving retirement and/or disability income from the Social Security Administration, within the spirit of § 3421 or RRA 98.
7. The IRS should develop procedures in conjunction with the SSA to ensure FPLP levies are released in an expedited manner in situations where failure to do so will cause financial hardship for the taxpayer. Designated points of contact, designated fax numbers, and similar measures should be developed and implemented to ensure expedited resolution for problems involving FPLP levies.
8. The National Taxpayer Advocate acknowledges and supports the IRS's efforts to review and revise its methods of addressing the collection problems faced by low income taxpayers, particularly those seeking to ensure timely, meaningful contacts for these taxpayers in regard to their collection accounts, and those designed to improve the administration of the FPLP program in situations involving low income individuals. In order to ensure that the interests of the low income taxpayer population are adequately represented and considered in these efforts, we recommend that the IRS include the National Taxpayer Advocate in the planning and analysis stages of these efforts as soon as possible. We recommend that the IRS also include the participation of the Low Income Taxpayer Clinics (LITC) and the Taxpayer Advocacy Panels (TAP) for their improvement efforts in this area. These groups have significant experience with the needs of this population and can offer valuable perspective about how to effectively communicate with these taxpayers.

NTA Recommendation 1

1. The IRS should continue its efforts to develop and implement a low income waiver for the installment agreement user fee, similar to what is currently used in administering the OIC application fee. Also, we recommend that the IRS establish a graduated scale of IA user fees that reflect the amount of work required, i.e., lower fees should be required for streamlined IAs than those that require more financial analysis and extended periods of monitoring by the IRS.

IRS Response to Recommendation 1

IRS agreed with the recommendation and agreed to study the possibility of being able to either waive or reduce the IA user fees for individuals.

On January 1, 2007, the IRS implemented procedures to allow eligible low income individual taxpayers to apply for a reduced IA user fee if they met the income criteria. The form 13844 has been made available and instructions for its use are provided in the user fee request notice. IRS is researching the potential to subsequently have the IRS identify individuals who have been granted an IA as being eligible and therefore remove the need for the taxpayer to apply.

NTA Status Update to Recommendation 1

NTA Recommendations 2 and 3

2. The IRS needs to develop an alternative to the Allowable Living Expenses (ALE) methodology for determining the reasonable collection potential (RCP) of collection cases involving low income taxpayers. The ALE standards, as currently applied, are neither reasonable nor realistic in analyzing the RCP of taxpayers with incomes below or near the poverty level. Use of the ALE standards should constitute a reasonable "floor" in these situations, and the IRS should be flexible in accepting documentation of basic living expenses that exceed that "floor."
3. In recognition of the limited collection potential of delinquent collection accounts involving low income taxpayers, the IRS should establish liberal and flexible installment agreement and offer in compromise acceptance policies for taxpayers in this segment of the population who are seeking resolution and closure for their tax debt problems.

IRS Response to Recommendations 2 and 3

See response to MSP #6 (Collection Payment Alternatives), recommendation #7 above.

The Consolidated Decision Analytics (CDA) project will enhance the Inventory Delivery System (IDS) to route cases to the best treatment stream. The goal of this project is to develop new, more advanced analytical models and include both internal and third party data to determine the best treatment for each individual taxpayer. We will consider where to treat low income taxpayers in our analysis and model development. Implementation is scheduled for early FY09.

NTA Status Update to Recommendations 2 and 3

NTA Recommendations 4 and 5

4. The IRS needs to expand its current procedures to ensure that notices of intent to levy on Social Security benefits via the FPLP program are mailed to the best addresses available, and not simply the last known addresses. At a

minimum, the IRS should utilize address research resources that are readily available via the Internet, and coordinate with the SSA to determine if the IRS's "last known address" for the taxpayer is the most recent one available.

5. The IRS should develop and implement a realistic screening process to eliminate low income taxpayers from FPLP levies on Social Security benefits. Also, the IRS should incorporate procedures into the FPLP process that require legitimate attempts at personal contacts prior to the issuances of these levies.

IRS Response to Recommendations 4 and 5

Current actions are in compliance with the Taxpayer Relief Act of 1997, which specifically authorized the IRS to use the FPLP to levy up to 15 percent of Social Security payments. IRS has been working with SSA on several initiatives. First, blocking a FPL on benefit payments going directly to a health care facility; and secondly, helping to perfect SSA records so that SSA could ensure it was appropriately honoring levies.

Beginning in February 2002, taxpayer's social security benefits were incorporated into the FPLP as a means to satisfy a taxpayer's IRS debt. Originally, the Total Positive Income (TPI) from the taxpayer's last filed return was used to identify/exclude taxpayers who would be "harmed" by having 15 percent of their social security benefits applied to their IRS debt. In 2003, the Government Accountability Office (GAO) concluded a study and found the TPI criterion is "an inaccurate indicator of a taxpayer's ability to pay", and as a result, taxpayers with similar abilities to pay were likely to be treated differently just because they were social security recipients in FPLP. Some taxpayers may show relatively little income on their last filed return, yet have substantial assets and the ability to pay the tax. Conversely, other taxpayers who reported high incomes on their last filed returns may now lack the wherewithal to pay. In January 2006, IRS eliminated the TPI exclusion criterion.

In response to the GAO report, the IRS convened a cross-functional task force including representatives from the National Taxpayer Advocate's Office. This group looked at data from the Information Returns Program (IRP) along with existing hardship criteria used by the IRS. Although, this group concluded the IRS had no completely systemic means of predicting taxpayer hardship, the Service agreed to conduct additional research in 2007. Specifically, the goal of this new research is to determine if a statistical analysis of data available to the IRS would enable the development of a filter which distinguishes between hardship and non-hardship cases with a high degree of accuracy. Research, W&I Compliance and the Taxpayer Advocate's staff are working together to complete this task.

The IRS updates the taxpayer's address of record when the taxpayer advises of a change of address to IRS directly, or when the information is received from the USPS. IRS uploads the USPS National Change of Address files weekly. The Address Research System is also used in an attempt to locate taxpayers. Address verification procedures are further discussed in MSP10.

NTA Status Update to Recommendations 4 and 5

NTA Recommendation 6

6. The IRS should develop and implement procedures to require managerial review and approval of any levy involving retirement and/or disability income from the Social Security Administration, within the spirit of § 3421 or RRA 98.

IRS Response to Recommendation 6

We do not agree that managerial approval should be required in all of these cases.

We have agreed, however, to research potential indicators of hardship to be used in the Federal Payment Levy Program. W&I submitted a research prospectus on this matter and the target completion date is 12/07/2007. If this results in some kind of screen being developed and implemented, it will also impact our policy regarding levy on SSA income outside of the FPLP process.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. The IRS should develop procedures in conjunction with the SSA to ensure FPLP levies are released in an expedited manner in situations where failure to do so will cause financial hardship for the taxpayer. Designated points of contact, designated fax numbers, and similar measures should be developed and implemented to ensure expedited resolution for problems involving FPLP levies.

IRS Response to Recommendation 7

When the account is removed from the FPLP through the input of a Master File code excluding the account from the FPLP, the FPLP transmits a release code to FMS to release the levy. Because of the inherent system timing issues to transmit codes between the agencies, the FPLP also established an operational procedure to curb this systemic timing

issue. The IRM provides instruction to all frontline personnel (ACS, field, TAC, and TAS, etc.) handling levy release requests, especially emergency releases including SSA levies, to complete the proper paper work and submit the levy release request to field FPLP coordinators. The FPLP coordinators have direct access to FMS' database where in real-time they input a release code into the FMS database within 24 hours of receiving the request.

However, we have identified some instances where SSA did not timely process the levy release and will be working with SSA and Financial Management Services (FMS) to improve their process and identify contact persons for resolving individual issues.

We agree that levies must be released promptly in hardship situations, and we do expedite levy releases in those cases. We plan to study options for improving our efficiency in releasing levies during FY 2007.

NTA Status Update to Recommendation 7

NTA Recommendation 8

8. The National Taxpayer Advocate acknowledges and supports the IRS's efforts to review and revise its methods of addressing the collection problems faced by low income taxpayers, particularly those seeking to ensure timely, meaningful contacts for these taxpayers in regard to their collection accounts, and those designed to improve the administration of the FPLP program in situations involving low income individuals. In order to ensure that the interests of the low income taxpayer population are adequately represented and considered in these efforts, we recommend that the IRS include the National Taxpayer Advocate in the planning and analysis stages of these efforts as soon as possible. We recommend that the IRS also include the participation of the Low Income Taxpayer Clinics (LITC) and the Taxpayer Advocacy Panels (TAP) for their improvement efforts in this area. These groups have significant experience with the needs of this population and can offer valuable perspective about how to effectively communicate with these taxpayers.

IRS Response to Recommendation 8

Recommendation is on-going and we continue to partner with Taxpayer Advocate and the LITC program owners concerning program changes and initiatives.

The Taxpayer Advocate also has a representative on the F&PC (Filing and Payment Compliance) Advisory Council, which discusses collection program changes and initiatives, and the Private Debt Collection initiative in particular.

W&I is also working with the National Taxpayer Advocate to conduct research to systemically identify taxpayers who would incur a financial hardship by being included in FPLP. The prospectus was developed and the data was gathered. The review is currently in process.

NTA Status Update to Recommendation 8

2006 ARC – MSP Topic #10 – EXCESS COLLECTIONS

Problem

The Excess Collections File (XSF) is a cumulative file within the IRS's Integrated Data Retrieval System (IDRS) which reflects payments that either cannot be identified or cannot be applied to a specific taxpayer account. Both the Taxpayer Advocate Service (TAS) and the Treasury Inspector General for Tax Administration (TIGTA) have found that the IRS routinely moves funds into the XSF with very little research or contact with the taxpayer to ascertain whether a taxable return should be filed, and if so, where such funds should be applied. As a result, the IRS cannot properly determine whether it has collected the correct amount of tax due or owes the taxpayer a refund. The National Taxpayer Advocate recommends that the IRS make meaningful personal contact with taxpayers at the earliest possible stage and conduct substantive research to assist when such contact cannot readily be established. In doing so, the IRS will more effectively fulfill its fiduciary responsibility for these funds, reinforce voluntary compliance, and instill public confidence in the tax system.

NTA Recommendations

1. Evaluate the costs (*e.g.*, postage, downstream resolution, etc.) expended and saved by performing additional research as well as explore other methods to automate this additional research. The IRS should ensure that all employees responsible for the placement and maintenance of funds into XSF have full IRS intranet and Internet access to research internal and external sources for potential addresses and leads. The IRS should clarify the extent of this research, mandate such research on all cases regardless of dollar amount and provide sufficient time for employees to accomplish such duties (preferably a minimum of 14 days to allow for an attempted personal contact and taxpayer

response). Furthermore, the IRS should mandate an attempted personal contact be made prior to the manual placement of any funds into XSF, regardless of dollar amount.

2. Provide mandatory training for all employees to reiterate the need to resolve the applicable credit issue at the earliest possible interval. This training should include examples based on actual cases to illustrate the benefits of substantive research and early intervention. The IRS should also develop and implement a desk guide or handbook, similar to the IRS's Reasonable Cause handbook.
3. Require managerial approval on all transfers to XSF, regardless of dollar amount. W&I should conduct quality and operational reviews to ensure all transfers include such documentation.
4. Send a detailed annual notice (much like the CP 89 notice the IRS currently sends to all accounts with installment agreement activity) to notify taxpayers of continuous levy activity. This notice should provide a detailed accounting of the payments received, including the application of such payments, all interest and penalty charges, and the remaining balance due of any existing liabilities.
5. Establish clear, written procedures for Criminal Investigation regarding transfers of payments to the XSF and ensure implementation prior to the conclusion of the 2007 processing year.

NTA Recommendation 1

1. Evaluate the costs (*e.g.*, postage, downstream resolution, etc.) expended and saved by performing additional research as well as explore other methods to automate this additional research. The IRS should ensure that all employees responsible for the placement and maintenance of funds into XSF have full IRS intranet and Internet access to research internal and external sources for potential addresses and leads. The IRS should clarify the extent of this research, mandate such research on all cases regardless of dollar amount and provide sufficient time for employees to accomplish such duties (preferably a minimum of 14 days to allow for an attempted personal contact and taxpayer response). Furthermore, the IRS should mandate an attempted personal contact be made prior to the manual placement of any funds into XSF, regardless of dollar amount.

IRS Response to Recommendation 1

In 2005, the Excess Collections Task Group (XSFTG) was formed to address concerns regarding the large dollar credits in the Excess Collection Fund (XSF). One of the major changes resulting from this study group was to implement procedures to require employees to conduct additional research on large dollar (over $100,000) credit balance accounts prior to moving funds to the XSF. Currently these same procedures do not apply to lower dollar credits (less than $100,000) moved to XSF. In the preliminary results of a sample study, the additional employee research conducted on

dollar credits of less than $100,000 did not yield the positive results experienced with large dollar credits and substantially decreased the employee productivity rate. We are now conducting a second study on lower dollar credits and reviewing other options for resolving these issues.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Provide mandatory training for all employees to reiterate the need to resolve the applicable credit issue at the earliest possible interval. This training should include examples based on actual cases to illustrate the benefits of substantive research and early intervention. The IRS should also develop and implement a desk guide or handbook, similar to the IRS's Reasonable Cause handbook.

IRS Response to Recommendation 2

We will include information regarding the need to resolve credit issues at the earliest possible date in the Continuing Professional Education (CPE) for Accounts Management employees, for delivery during FY08. However, we do not agree with the second part of this recommendation to develop a separate desk guide or handbook to address this issue, as the IRM is the official source for procedural requirements. Currently IRM 21.5.7.3.2, IDRS Research for Payments contains procedures for researching payments or possible misapplication of payments. Also, IRM 21.5.8.1, Credit Transfer Overview contains procedures for transferring credits to the proper account and to provide an audit trail of credits transferred to XSF by the input of Transaction Code (TC) 971 Action Code (AC) 296, which indicates all credit research action has been completed.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Require managerial approval on all transfers to XSF, regardless of dollar amount. W&I should conduct quality and operational reviews to ensure all transfers include such documentation.

IRS Response to Recommendation 3

Account Management is not in agreement with the requirement to have managerial approval of all transfers to XSF, regardless of the dollar amount because this would place an unnecessary burden on the front line manager. Accounts

Management has agreed to the requirement to have managerial approval of all transfers of credits or payments of $100,000 or more prior to transferring credits to XSF or Unidentified Remittance. This information can be found in various parts of Accounts Management IRM(s) such as IRM 21.2.4.4.15.1 Excess Collection File (XSF), 21.5.7.4.4.2 Form 8765, IDRS Control File Credit Application and IRM 25.6.3.5 Excess Collection File (XSF) And Unidentified Remittance (URF).

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Send a detailed annual notice (much like the CP 89 notice the IRS currently sends to all accounts with installment agreement activity) to notify taxpayers of continuous levy activity. This notice should provide a detailed accounting of the payments received, including the application of such payments, all interest and penalty charges, and the remaining balance due of any existing liabilities.

IRS Response to Recommendation 4

See response to MSP #7, Levies -- Recommendation #7.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. Establish clear, written procedures for Criminal Investigation regarding transfers of payments to the XSF and ensure implementation prior to the conclusion of the 2007 processing year.

IRS Response to Recommendation 5

The Director of Refund Crimes is currently reviewing proposed procedures regarding the transfer of payments to XSF by CI employees. This guidance will be implemented by August 1, 2007, directing CI's Fraud Detection Centers to conform with the administrative process for transferring payments to XSF detailed in the IRM.

NTA Status Update to Recommendation 5

2006 ARC – MSP Topic #11 – SMALL BUSINESS OUTREACH

Problem

There are 45 million small business or self-employed taxpayers in the tax system today. These taxpayers use a wide range of services and products, and are increasingly diverse in terms of education, language, and geography. Small business taxpayers must deal with complex tax laws and regulations in order to satisfy their tax obligations and filing requirements. Many of these taxpayers cannot afford professional advice, and the IRS's Small Business/Self-Employed division (SB/SE) is not adequately helping them understand and comply with their tax obligations. The single largest component of the tax gap, about 44 percent, is attributable to underreporting by self-employed taxpayers. The National Taxpayer Advocate urges the IRS to conduct research to assess the characteristics and needs of small business owners and self-employed taxpayers and to develop an integrated strategic plan to enhance the scope and effectiveness of its outreach and education to these taxpayers.

NTA Recommendations

1. Undertake an initiative similar to the Taxpayer Assistance Blueprint (TAB) to access needs of the small business taxpayers. Develop a strategic five-year plan that outlines the services the IRS should provide and determines the most effective way to deliver and improve outreach and education to small business taxpayers and provides for an interactive process of assessing and meeting these needs.
2. Conduct research or focus groups to obtain information about the characteristics and needs of small business and self-employed taxpayers, including their usage of computer technology and practitioners.
3. Establish a measure for the effectiveness of outreach activities. At a minimum, the IRS should survey small business owners and self-employed taxpayers to ascertain that outreach delivered through practitioners and small business organizations reaches the taxpayers and remains accurate.
4. Evaluate and reconsider staffing levels in SB/SE's outreach and education division. At a minimum, there should be a Stakeholder Liaison in each and every state.
5. SB/SE must develop a specific outreach and education strategy to serve disabled small business owners and small business owners who hire disabled employees or provide accommodations to these employees. At the very least, SB/SE should include on the IRS website more detailed information regarding the deductions and credits to which small businesses may be entitled, either for hiring employees with a disability, providing accommodations to employees with a disability, or removing architectural barriers for taxpayers with a disability.

NTA Recommendation 1

1. Undertake an initiative similar to the Taxpayer Assistance Blueprint (TAB) to access needs of the small business taxpayers. Develop a strategic five-year plan that outlines the services the IRS should provide and determines the most effective way to deliver and improve outreach and education to small business taxpayers and provides for an interactive process of assessing and meeting these needs.

IRS Response to Recommendation 1

The Taxpayer Assistance Blueprint (TAB) outlines key strategies to enhance service. These include maintenance of multiple service channels, expansion of electronic filing, and service optimization. Our top level SBSE staff recently met with the Director, Taxpayer Services concerning TAB and have initiated efforts to expand the initiative within SBSE.

SB/SE CLD (Communications, Liaison & Disclosure) has also completed a strategic plan and has done a considerable amount of research to identify and determine outreach activities. They have also engaged in a number of focus group activities to obtain information about necessary areas to target for outreach activities, as well as conducting "level of service" calls/informal customer satisfaction surveys.

SB/SE's planning consists of a Concept of Operations (CONOPS); a strategic plan for the next two consecutive fiscal years; and a program letter requirement for each function, which more specifically lays out the mission, strategy and activities for the current fiscal year. The SB/SE Strategic Plan covers two years so it will align with the Treasury and OMB budgetary process. CLD closely follows this process and has a CONOPS and program letter aligned to the SB/SE Strategic Plan.

Although strategic planning is important, we also feel it is critical to maintain flexibility in its outreach approach to react to emerging issues and provide up-to-the-minute education to taxpayers. One recent example is our outreach to the entertainment industry regarding the taxability of celebrity gift bags. This was not in our outreach plans for FY 2006, but we seized upon the tax compliance issue and quickly rolled out a nationwide strategy to deliver the IRS's message.

Most recently, SB/SE created a cross-functional Outreach and Education Task Force. The task force is assessing the various outreach products, messages, and channels that have been developed to reach the small business community, as well as identifying additional research needs and opportunities for leveraging across the operating divisions. Once this

initial work is completed, the next phase of this initiative will include external stakeholders in the review and analysis in order to develop recommendations for improvement and development of strategies and initiatives going forward.

Additionally, SB/SE Research is working closely with several external stakeholders to ensure that current and future research plans regarding the tax gap address the needs and concerns of the business community. At last measure 44 percent of the almost $350 billion gap stemmed from underreporting by small business taxpayers. As a result, Communications, Governmental Liaison and Stakeholder Liaison have taken extensive measures to reach out to our small business stakeholders. New this year: "e-News for Small Businesses," a latest-breaking news and information newsletter e-mailed to thousands of subscribers in the small business community. Communications has also produced online tax gap fact sheets to include "Business Income" (gross receipts and sales), "Reporting Capital Gains" and other tax gap related topics.

Stakeholder Liaison (SL) organized and attended thousands of outreach events across the country last fiscal year, reaching members of the tax professional community. This year, SL also launched its phone forum program, already proving to be a valued resource in the tax professional community by providing real-time information on a variety of topics.

Finally, SB/SE and the Small Business Administration have developed a partnership to assess the impact of our existing products, services, messages, and delivery channels and will identify opportunities for improvement in these areas as well.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Conduct research or focus groups to obtain information about the characteristics and needs of small business and self-employed taxpayers, including their usage of computer technology and practitioners.

IRS Response to Recommendation 2

In addition to efforts to expand the scope of the Taxpayer Assistance Blueprint, SB/SE is developing an e-Strategy designed to leverage technology to maximize service and compliance. CLD is partnering with Research and the other SB/SE functions to define the vision and establish the strategy. To support this effort, Research will be analyzing the

internal and external environment, including best practices in e-government and technological applications. In addition, we will be collecting input from external stakeholders, including a needs assessment on usage of computer technology.

CLD continues to partner with SB/SE Research to obtain research data and conduct focus groups to assist in identifying and developing future outreach activities. During FY 2006, for example, SB/SE Research provided a comprehensive library of existing research targeted toward the non-filer community. Stakeholder Liaison Headquarters is currently using this research to develop an outreach strategy aimed at small business taxpayers who are not complying with their filing requirements.

CLD is also working with SB/SE Research on a specific project using the Examination Operational Automated Database (EOAD) to determine whether significant portions of the tax gap can be isolated and then addressed by industry and geography. In a tax gap related project, we are also working with Research on behavioral methods to influence small business owners who primarily deal in cash to report their income. This study will be on two levels: how practitioners perceive and deal with their "cash economy" clients and how "cash economy" business owners view their income tax responsibility related to reporting cash receipts. We are also expanding our customer satisfaction survey of practitioners to include more practitioners. Our survey currently only targets CPAs. We are assessing available databases, planning to expand the survey to include enrolled agents and unenrolled preparers, and expect to learn much more about our taxpayer and practitioner behaviors as a result. SB/SE Research is also in process of conducting a study with the California Franchise Tax Board concerning practitioner behaviors. The objective of the project is to develop a model to identify practitioners contributing to the tax gap and apply appropriate treatment streams to address those practitioners.

CLD also partners with Research to conduct focus groups with practitioners at the Nationwide Tax Forums. Last year's focus group questions concerned our EFTPS services as well as expanding communications with practitioners. The communication products discussed were Tax Talk Today, Headliners, e-News and irs.gov website. The '07 Forums are currently ongoing and we are soliciting input from practitioners concerning Trust Fund tax responsibilities; gathering ideas on how the service can leverage technology to support the practitioner community, reduce burden and optimize business outcomes; and gathering feedback on the effectiveness of tax gap fact sheets to educate taxpayers on complying with their tax obligations. We have and will continue to utilize our lessons learned from these activities to further expand and enhance our Small Business outreach.

Other Research projects planned for FY07 & FY08 which focus on characteristics and needs of small business and self-employed taxpayers include:

- Profiling NRP data to better understand the type of taxpayer that deducts Employee Business Expense
- Enhancing our understanding of the employee leasing industry
- Determining characteristics of unagreed TCO cases and develop treatment to reduce their number.
- Profiling filers of Form 941 without a related business return

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Establish a measure for the effectiveness of outreach activities. At a minimum, the IRS should survey small business owners and self-employed taxpayers to ascertain that outreach delivered through practitioners and small business organizations reaches the taxpayers and remains accurate.

IRS Response to Recommendation 3

SB/SE monitors the effectiveness of outreach activities through direct contact with stakeholders. In these "level of service" calls, we directly sample stakeholders and inquire about the effectiveness of outreach activities. We solicit feedback from stakeholders at each hosted event and use the feedback to improve future events. We also believe that stakeholder satisfaction is a valid measurement of our effectiveness. We do not have any specific examples where we have failed to meet the challenge of effectively providing education related to tax obligations and IRS policies to our stakeholders.

CLD's Policy and Strategic Planning (PSP) function oversees the Issue Management Resolution System (IMRS). The purpose of the IMRS application is to allow employees to track significant local issues and national/international issues identified by stakeholders. The system provides managers and HQ with trend information to determine when national, international, and high-level significant local issues are widespread, and is used to elevate stakeholder issues to HQ for resolution. We have received very positive feedback from practitioners concerning IMRS and understand that many practitioners are also using the system as a research tool.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Evaluate and reconsider staffing levels in SB/SE's outreach and education division. At a minimum, there should be a Stakeholder Liaison in each and every state.

IRS Response to Recommendation 4

A considerable amount of research and consideration has been given to SB/SE's outreach and education staffing since standup and overall staffing has not diminished. Although the design of the original Taxpayer Education & Communication (TEC) division included approximately 1200 staff, many of those staff equivalents were not going to fully engage in outreach and education. Many of the TEC employees had outreach duties, but also supported the filing season – a duty that had fallen to many Compliance employees over the past several years. With TEC employees fulfilling that function, Compliance employees could perform their enforcement duties year round, thereby completing their casework more expeditiously and providing better customer service to those taxpayers in the enforcement process. The number of TEC staff dedicated fully to outreach is approximately the same as the number of staff in the redesigned Stakeholder Liaison (SL) function, which is fully committed to outreach and education.

The IRS used a strategic approach to placing Stakeholder Liaison employees. We used research data to determine locations with the highest concentration of SB/SE taxpayers and placed our Stakeholder Liaisons there. External stakeholders in all 50 states and Washington, D.C. have a liaison contact in the SL function, even though the contact may not be physically located within the same state or city.

The IRS efficiently uses advancements in technology to deliver liaison activities so that activities do not diminish when the liaison contact is in a different state than the stakeholder. In FY 2006, there were 283 SL events conducted in the 12 states without the physical presence of a Stakeholder Liaison employee. These ranged from two events in Hawaii to 90 events in Missouri. During the design of CLD, we also wanted to ensure there was coverage from at least one CLD employee in each state, which we accomplished in all but two states. There are also plans to hire SL employees in states that currently have a vacancy.

We also work through our partners so that small business workshops are now fully leveraged by external stakeholders, such as Small Business Development Centers and SCORE. We support these stakeholders by providing products and approved presentations for key message delivery. We also audit classes to ensure quality and market classes to our

stakeholders to inform small business owners regarding class availability. The decision to conduct a workshop is driven by identified demand and the availability of a leveraged stakeholder to deliver the workshop.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. SB/SE must develop a specific outreach and education strategy to serve disabled small business owners and small business owners who hire disabled employees or provide accommodations to these employees. At the very least, SB/SE should include on the IRS website more detailed information regarding the deductions and credits to which small businesses may be entitled, either for hiring employees with a disability, providing accommodations to employees with a disability, or removing architectural barriers for taxpayers with a disability.

IRS Response to Recommendation 5

SBSE is in process of developing an outreach strategy to integrate key tax related information such as ADA tax incentives, business tax credits and deductions for employment of people with disabilities, and services to employers and employees through leveraged partnerships. A number of products are already included on the IRS website.

We continue to explore additional opportunities to partner with interest groups representing persons with disabilities or those that employ the disabled to share tax related information through fact sheets, forums, and other communication vehicles. Most recently, we established leveraged partnerships with Department of Labors' Office of Disability Employment, DisabilityInfo.gov and community-based associations such as Chamber of Commerce for Individuals with Disabilities, Corporation for National and Community Service and the National Organization on Disability.

Also see MSP 20 for additional discussion concerning education, outreach and materials targeted to persons with disabilities.

NTA Status Update to Recommendation 5

2006 ARC – MSP Topic #12 – OVERSIGHT OF UNENROLLED RETURN PREPARERS

Problem

Taxpayers are harmed by the absence of a comprehensive federal program to regulate unenrolled return preparers (*i.e.*, those who are not Certified Public Accountants, attorneys, enrolled agents, or enrolled actuaries). The National Taxpayer Advocate has repeatedly raised concerns about the lack of IRS oversight of unenrolled return preparers. However, the IRS has declined to support such a system, and none is currently in place. Nor does the IRS effectively monitor tax practitioners with its current administrative capabilities. Even when a member of the public or an IRS employee identifies potential preparer misconduct, the IRS does not have an effective system to receive and track complaints. In addition, the IRS has collected only 13 percent of net assessed return preparer penalties for the last five fiscal years and only six percent in FY 2006. The National Taxpayer Advocate also recommends that the IRS move forward on revisions to the regulations under IRC §7216 and reevaluate proposed changes to Circular 230, which would eliminate the ability of unenrolled return preparers to engage in limited practice before the IRS.

NTA Recommendations

1. Research the preparer community to better design an approach to regulate unenrolled return preparers. The following information would be useful in this analysis:
   - Types and number of returns prepared by unenrolled preparers;
   - Assessment and collection of preparer penalties broken down by type of preparer;
   - Assessment and collection of penalties and interest against taxpayers who use paid preparers, broken down by type of preparer and type of penalty;
   - Adjustments in tax liabilities on returns prepared by paid preparers, broken down by line item and type of preparer.
   - Experience of the preparer programs in California and Oregon to determine their effectiveness and costs of administering.
2. Reevaluate the proposed rules under Circular 230 to eliminate the authority of unenrolled return preparers to engage in limited practice before the IRS considers amending Circular 230. The National Taxpayer Advocate recommends that Treasury and the IRS retain the current limited practice provisions.
3. Establish a multi-function task force, including the EITC program office, to design a program to receive and investigate preparer complaints filed by taxpayers or referred by IRS employees. The group should evaluate the feasibility of a national preparer database and address the necessity of safeguards to provide preparers due process and protect preparers from unfair treatment; procedures to limit access, content and use of the information contained therein; and

strict guidelines pertaining to making information public. The group should also design a comprehensive outreach campaign targeted to both taxpayers and IRS employees.

4. Submit the National Preparer Database to the Office of the Taxpayer Advocate for review and issuance of a Taxpayer Rights Impact Statement (TRIS).[7]
5. Prioritize both the assessment and collection of preparer penalties.
6. Deem the preparation of an offer in compromise or request for a collection due process hearing for a fee as practice before the IRS covered by Circular 230.
7. Further, to better track practitioners, the IRS should require a preparer signature on Forms 433-A and 433-B and enforce the signatures on Form 656.
8. Work in conjunction with TAS to determine a methodology for SB/SE to select ERO sites at random for *e-file* monitoring visits. Revise the ERO Visitation Checksheet to review ERO procedures to comply with the use and disclosure requirements under IRC § 7216.
9. Expand access to e-Services to include all practitioners authorized to practice before the IRS under Circular 230, without regard to whether they satisfied an *e-file* threshold.
10. Prioritize the process to revise the regulations under IRC § 7216.

NTA Recommendation 1

1. Research the preparer community to better design an approach to regulate unenrolled return preparers. The following information would be useful in this analysis:
   - Types and number of returns prepared by unenrolled preparers;
   - Assessment and collection of preparer penalties broken down by type of preparer;
   - Assessment and collection of penalties and interest against taxpayers who use paid preparers, broken down by type of preparer and type of penalty;
   - Adjustments in tax liabilities on returns prepared by paid preparers, broken down by line item and type of preparer.
   - Experience of the preparer programs in California and Oregon to determine their effectiveness and costs of administering.

[7] *See* National Taxpayer Advocate's Fiscal Year 2005 Objectives Report to Congress 2-5.

IRS Response to Recommendation 1

The IRS continues to share the National Taxpayer Advocate's concern regarding the quality of services provided by paid return preparers and the competency and standards of professional conduct exhibited by all tax practitioners. The IRS continues to view the practitioner community, including unenrolled return preparers, as a key partner in fulfilling our Mission. The IRS has made it clear that it expects tax preparers and practitioners to be "the pillars of our tax system, not the architects of its circumvention". Our commitment in this area is specifically reflected in the IRS' Strategic Plan.

We recognize the legitimate growing interest in return preparer regulation, and we are cognizant of the impact on both taxpayers and tax administration that result from actions taken by unscrupulous or incompetent return preparers. A legislative proposal is pending which would require all paid preparers to be licensed. In anticipation of this legislative change, a project manager has been assigned to identify issues and develop implementation plans. Should the legislation pass, we will proceed with a formal implementation team. Additionally, we are assessing our operations internally for improvement opportunities.

The California and Oregon return preparer registration programs are cited as examples of successful regulation. We are working with OPERA to gather data on paid preparers and we have scheduled meetings with State representatives from California and Oregon to obtain additional information on how their licensing programs work.

The IRS agrees that all taxpayers should be able to receive accurate return preparation assistance along with complete confidence that their confidential information is fully protected and accessible by only those individuals as defined by law. The IRS also agrees that preparers who violate this public trust should be identified and subjected to the full range of sanctions available, both civil and criminal.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Reevaluate the proposed rules under Circular 230 to eliminate the authority of unenrolled return preparers to engage in limited practice before the IRS considers amending Circular 230. The National Taxpayer Advocate recommends that Treasury and the IRS retain the current limited practice provisions.

IRS Response to Recommendation 2
The proposed amendment eliminating unenrolled preparer's limited practice ability is NOT included in the final version of the regulations.

NTA Status Update to Recommendation 2

NTA Recommendation 3
3. Establish a multi-function task force, including the EITC program office, to design a program to receive and investigate preparer complaints filed by taxpayers or referred by IRS employees. The group should evaluate the feasibility of a national preparer database and address the necessity of safeguards to provide preparers due process and protect preparers from unfair treatment; procedures to limit access, content and use of the information contained therein; and strict guidelines pertaining to making information public. The group should also design a comprehensive outreach campaign targeted to both taxpayers and IRS employees.

IRS Response to Recommendation 3
The Servicewide Enforcement Return Preparer Strategy (SWEPS) has been formed and has been functioning for many months. It was recently the subject of a SB/SE Newsletter release. The annual planning meeting is scheduled for August, 2007. At this meeting, Senior Executives from the various Operating Divisions are scheduled to attend. The meeting will explore other areas where the group may be used to enhance compliance and enforcement activities relating to tax return preparers. The EITC program office recently conducted a Return Preparer Strategy session in Atlanta. A project manager from OPR participated in that session as did members of the SWEPS team. The need for a Servicewide return preparer project office was identified during the EITC strategy session and the SWEPS team will discuss that issue at a future meeting.

NTA Status Update to Recommendation 3

NTA Recommendation 4
4. Submit the National Preparer Database to the Office of the Taxpayer Advocate for review and issuance of a Taxpayer Rights Impact Statement (TRIS).[8]

[8] *See* National Taxpayer Advocate's Fiscal Year 2005 Objectives Report to Congress 2-5.

IRS Response to Recommendation 4
OPR has already identified the need for a national preparer database and we have started the process to obtain funding. A cross-functional project team has been formed and met for the first time the week of June 18, 2007 to begin discussing a vision, business rules and requirements for the new system. The system, if funded as requested, will not be available until 2009 or later. A representative from the National Taxpayer Advocate has been invited to participate on the project team.

NTA Status Update to Recommendation 4

NTA Recommendation 5
5. Prioritize both the assessment and collection of preparer penalties.

IRS Response to Recommendation 5
Assessment of Preparer Penalties

- If evidence exists that a preparer is filing erroneous returns or there are indications of misconduct, consideration is given to asserting penalties under §6694, Understatement of Taxpayer's Liability by Income Tax Return Preparer, and/or §6695, Other Assessable Penalties With Respect to the Preparation of Income Tax Returns for Other Persons
- The President's 2008 budget request includes a proposal to expand the penalties included in §6694
  - Currently the penalty is $250 for preparing a return with an understatement of liability due to an unrealistic, frivolous, or undisclosed position ($250 per return) where the preparer knew or reasonably should have known of the understatement. This penalty would be increased to the greater of $1000 or 50 percent of the preparer's fee.
  - Currently the penalty is $1000 if an understatement on a return is due to a preparer's willful, reckless or intentional disregard of the rules. This penalty would be increased to the greater of $5000 or 50 percent of the preparer's fee.
- §6700 and §6701 impose penalties for promoting abusive tax shelters or aiding and abetting understatement of tax liabilities. The penalties for abusive tax shelters start at $1,000. For aiding and abetting the penalties are $1,000 for individual returns and $10,000 for corporate returns.
- Under §7407, a federal district court may enjoin a preparer from persisting in conduct prohibited by law, or in extreme cases, from continuing to act as a preparer altogether.
- Any IRS employee who believes a practitioner has violated the regulations governing practice before the IRS will make a written report to the Office of Professional

Responsibility, where a determination can be made whether the practitioner violated Circular 230. The practitioner may be reprimanded, or recommended for a proceeding for censure, suspension, or disbarment.

- Violations of the rules for e-file Providers may result in a Warning, Written Reprimand, Proposed Suspension, Immediate Suspension, or Expulsion from the e-file program.

We have continued to balance and expand our enforcement activity in all of these areas. While the total dollar amount of the preparer penalties assessed fluctuates from year to year, the number of preparers who have been assessed penalties has continued to climb over the last several years (as shown in Table 1.12.1 in the 2006 TAS Annual Report.)

All penalties are asserted by field examiners while working in-process income tax returns or through the Program Action Case (PAC) process. We have a very vibrant Return Preparer Program (RPP) in the field consisting of Area Return Preparer Coordinators (RPC). The RPCs are specially trained to review and assist the field employees in asserting penalties and, when warranted, will approve PACs in order to address serious compliance issues and assert appropriate penalties. Our headquarters policy function meets regularly with the RPCs to ensure they have the proper policy guidance and tools to assist the examiners in the field. Through this approach, we have impact on both professional and unenrolled preparers that may not be complying with the tax laws. In addition, at the beginning of the fiscal year, the SB/SE Examination Division issued RPP program expectations and guidelines to all Areas that included reference to the importance of properly assessing penalties. A multi-functional meeting is scheduled for August 2007 to discuss service-wide program objectives and plans to coordinate efforts.

Collection of Preparer Penalties

With regard to collection of preparer penalties, the IRS uses an enterprise-wide approach to working collection cases. Cases, including those involving preparer penalties, are assigned to an appropriate treatment stream based on case characteristics and expected collection outcome.

Historically, many of the preparer penalty accounts are assigned and worked, and many closed as currently not collectible. Others are in the notice stream or inventory queue, awaiting assignment.

Excluding abatements, the percentages of cases that are currently paid in full are:

Full Paid Preparer Penalty Accounts Under $25,000			
Year Assessed	Number of Accounts	Total Fully Paid	Percent Fully Paid
FY03	146	64	43 percent
FY04	151	67	44 percent
FY05	204	49	24 percent

Many of the remaining cases will be collected through installment agreements, subsequent payments, and refund offsets over the statutory life of the accounts. There are six to eight years remaining to collect the penalties.

The IRS's Collection Division in SB/SE pursues the delinquent preparer penalty accounts in excess of $25,000 and often finds that the cases are uncollectible. By the time the penalties are appealed, adjudicated and assessed, assets are typically encumbered or have been sold. These accounts include cases in which preparers have been prohibited from tax practice, convicted of tax fraud, sent to prison, filed bankruptcy, or have otherwise become unable to pay the large penalties assessed against them.

The collection of Return Preparer Penalties is a critical component in the IRS effort to have an impact on Return Preparer noncompliance. Examination has made changes to its compliance program guidance to place a higher priority on assessing penalties against problem preparers, and continues to emphasize the basic collectibility procedures that examiners should follow.

Collecting on return preparer penalties assessments is also a priority item for the Collection function, and they continue to work with SB/SE Exam on improving the collectibility of preparer penalty assessments through the Coordinated Approach to Collection Inventory (CACI) team. Research is currently being done on the current inventory of preparer penalties. Once all data is secured it will be analyzed to determine the effectiveness of the current collection process for collecting those accounts and to identify any improvements that can be made to that process.

NTA Status Update to Recommendation 5

NTA Recommendations 6 and 7

6. Deem the preparation of an offer in compromise or request for a collection due process hearing for a fee as practice before the IRS covered by Circular 230.
7. Further, to better track practitioners, the IRS should require a preparer signature on Forms 433-A and 433-B and enforce the signatures on Form 656.

IRS Response to Recommendations 6 and 7

The IRS has no legal authority to mandate a preparer signature on Form 656, Offer in Compromise; Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals; or Form 433-B, Collection Information Statement for Businesses, without legislative changes. The Form 656, Offer in Compromise, has a section for the paid preparer to complete, however this information is not always submitted with the application. In addition, the Form 656 asks the taxpayer to identify anyone who helped prepare the application. Again, completion of this section of the application is not mandatory. There are no current plans to request legislative changes to address this issue, as this was not one of our highest priorities in the annual guidance priority listing.

The IRS does not legally deem the preparation of the Form 656 as practice before the Internal Revenue Service. If a Form 656 is prepared by a practitioner covered by Circular 230, the provisions of Circular 230 will apply. Unenrolled return preparers who prepare Form 656 are not entitled to represent taxpayers in the offer in compromise process.

NTA Status Update to Recommendations 6 and 7

NTA Recommendation 8

8. Work in conjunction with TAS to determine a methodology for SB/SE to select ERO sites at random for *e-file* monitoring visits. Revise the ERO Visitation Checksheet to review ERO procedures to comply with the use and disclosure requirements under IRC § 7216.

IRS Response to Recommendation 8

Monitoring is accomplished through visits to e-file Providers' establishments, including its collection points (satellite offices) and seasonal offices, by the Electronic Monitoring Coordinator (EMC) and/or e-file Monitors. The IRS conducted over 1,100 total monitoring visits to electronic return originators during calendar year 2006. There are currently four types of visits:

- *Referral Visits* – mandatory if the referral clearly suggest noncompliance and warrants immediate attention. Referrals are complaints or information received from Authorized IRS e-file Providers, other tax preparers, taxpayers, IRS Campuses, and other IRS functions.
- *Follow-up Visits* – conducted from the previous year's referrals that involved identified violation(s) to verify the corrective action was taken. Prior to scheduling a follow-up visit, the EMC should consider available resources, prior violations, and severity of violations.
- *Random Visits* – A random visit is based upon a non-discriminatory sampling of active Providers selected from a central database in the monitor's geographic area.
- *Targeted Visits* – A targeted visit is bases on selection criteria indicating that e-file compliance issues may be present in a particular ERO's e-file practice.

Referrals and Follow-up visits are made unannounced and used to investigate allegations and complaints submitted against Authorized IRS e-file Providers. Random and Targeted visits are made by appointment and used to determine general compliance within the IRS e-file.

IRS determines the number of total visits to be performed from a central database of active Providers in the monitor's geographic area. The total number of visits is based upon 1 percent of the total number of active Provider that e-filed greater than 25 tax returns.

We agree with the recommendation to work with TAS to determine a method for ***random*** visits for e-file monitoring visits. However, in determining a method, we must be cognizant that all Areas are not able to conduct random visits. Some Areas are already at their maximum required number of visits stemming from referrals and other mandatory visits that exceed the total number of required visits (1 percent of prior year's e-filings with more than 25 returns). Any final method decisions made must be in conjunction with resource issues and other operational concerns.

The ERO Visitation checksheet was revised and distributed to the e-file monitors, on January 13, 2007, to include questions regarding security and disclosure requirements under Section 7216.

NTA Status Update to Recommendation 8

NTA Recommendation 9

9. Expand access to e-Services to include all practitioners authorized to practice before the IRS under Circular 230, without regard to whether they satisfied an *e-file* threshold.

IRS Response to Recommendation 9

This will be accomplished as part of the Next Generation e-Services project approved through the MVS process for FY'09. The project is just now beginning to form the Integrated Project Team to start developing requirements.

NTA Status Update to Recommendation 9

NTA Recommendation 10

10. Prioritize the process to revise the regulations under IRC § 7216.

IRS Response to Recommendation 10

The Treasury Department and the IRS have proposed amendments to Circular 230 and the regulations under §7216. The guidance is proposed, not final, at this time. We received numerous comments, in addition to the National Taxpayer Advocate's report, and held public hearings on the proposed rules. We are considering all comments in drafting final regulations and will address the comments in the preamble to the final regulations.

NTA Status Update to Recommendation 10

2006 ARC – MSP Topic #13 – CORRESPONDENCE DELAYS

Problem

The IRS's correspondence policy masks systemic delays with quality measures that do not reflect actual correspondence timeliness to taxpayers. In FY 2005, the IRS issued 2.9 million "stall" letters informing taxpayers to expect additional delays beyond the standard 30-day response period. Rather than balancing resources to answer taxpayer correspondence more quickly, the IRS has automated the "delay-notification" process. Meanwhile, taxpayer satisfaction surveys continue to show that lack of "timeliness" is a major source of taxpayer dissatisfaction. TAS has also identified a disparity between the volumes of English and Spanish-language IRS letters, suggesting a lapse in service to the Spanish-speaking population. The National Taxpayer Advocate recommends that the IRS revise its measures for timeliness to reflect reasonable taxpayer expectations, enhance correspondence staffing levels, and take greater strides toward communicating with Spanish-speaking taxpayers in their primary language.

NTA Recommendations

1. First, the IRS should incorporate the following corrections to its system of measuring "timeliness":
   - Solicit input from taxpayers regarding "acceptable" correspondence processing timeframes, and balance those desires along with reasonable staffing; and
   - Develop a system to recognize and accelerate the treatment of correspondence that has received prior interim contacts.
2. Then, the IRS should re-think its previous specialization effort, and consider the following actions:
   - Increase the balance within the specialization processes. Re-organizational fallout has created measures without clear accountability for "timeliness" in its responses to the taxpayers. Campuses must align goals and measures, and establish processes – including a single point of accountability – to address barriers created by specialization (*e.g.*, transshipment, subject-matter-experts, unrelated business measures).
3. Next, the IRS should balance the utilization of resources allocated to its toll-free lines and correspondence inventory.
   - Avoid utilizing the same personnel to answer the bulk of both taxpayer correspondence and toll-free telephone calls, especially during the peak of tax filing season;
   - Eliminate policies designed to automatically generate form letters (interims) to taxpayers. For planning purposes, the IRS should get behind the problem by coding and tracking the reasons for interim letters. Then, initiate solutions that benefit both the IRS and the taxpayer. Where interim responses are necessary due to complexity, IRS responses should be substantive;

- Redirect the dollars currently spent on postage and work toward hiring additional employees to perform its correspondence and telephone casework; and
- Develop a new hiring initiative that specifically addresses the need to provide taxpayers with timely correspondence resolution, which becomes particularly acute during filing season, for congressional funding consideration.

4. The IRS should rewrite its current correspondence policy statement:
   - Develop proper measures for timeliness, based on taxpayer expectations. Create ongoing advisory teams consisting of front-line workers and management, who are the most familiar with current, procedural issues and taxpayers' common correspondence complaints, to identify emerging issues and technology, and problem resolution.
5. The IRS should make the following corrections in its handing of its Spanish language correspondence:
   - Acknowledge the evolving demographics of the nation's taxpayer population, and enhance efforts to communicate with Spanish speaking taxpayers in their primary language;
   - Record taxpayer requests for all future communications to be issued in Spanish by providing a checkbox option on each of its notices, letters, and forms to use as indicators; and
   - Determine proper staffing levels for Spanish speaking assistors and hire to the appropriate level.
6. Regarding the coordination of its own internal systems, the IRS should:
   - Maintain a proactive focus on increasing taxpayer-satisfaction. Adopt a nationally-coordinated IDRS tool development process (for SWFT, JEEDA, and IDAP) to support further developments, while still encouraging "homegrown" solutions. The development of an IDRS tool designed specifically to reduce correspondence delays should be made a priority.
   - Ensure that the e-services suite of products will be made available to taxpayers as soon as possible. As these products allow a taxpayer to access his or her own account instantly, in many instances, the taxpayer's need to correspond with the IRS at all will be eliminated.

NTA Recommendation 1

1. First, the IRS should incorporate the following corrections to its system of measuring "timeliness":
   - Solicit input from taxpayers regarding "acceptable" correspondence processing timeframes, and balance those desires along with reasonable staffing; and

- Develop a system to recognize and accelerate the treatment of correspondence that has received prior interim contacts.

IRS Response to Recommendation 1
Accounts Management routinely solicits customer feedback regarding service through the Adjustments Customer Satisfaction Survey. In the quarterly report results, customer comments regarding acceptable correspondence processing timeframes are solicited and reported.

Current systems do not allow for the recognition of correspondence that has previously received an interim contact. IRS maintains a policy of working cases on a first-in, first-out basis regardless of prior interim contacts. In effect, older cases with interim contacts already receive prioritized treatment under the current first-in/first-out system.

NTA Status Update to Recommendation 1

NTA Recommendation 2
2. Then, the IRS should re-think its previous specialization effort, and consider the following actions:
   - Increase the balance within the specialization processes. Re-organizational fallout has created measures without clear accountability for "timeliness" in its responses to the taxpayers. Campuses must align goals and measures, and establish processes – including a single point of accountability – to address barriers created by specialization (*e.g.*, transshipment, subject-matter-experts, unrelated business measures).

IRS Response to Recommendation 2
The IRS re-organization has resulted in clear lines of accountability within each function for all business measures. The effect of today's organization is that it allows IRS management to quickly respond to staffing needs for customer correspondence.

While campuses have multiple directors, correspondence continues to be controlled and routed for response according to long-established functional lines with clearly defined authorities and accountability.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Next, the IRS should balance the utilization of resources allocated to its toll-free lines and correspondence inventory.
   - Avoid utilizing the same personnel to answer the bulk of both taxpayer correspondence and toll-free telephone calls, especially during the peak of tax filing season;
   - Eliminate policies designed to automatically generate form letters (interims) to taxpayers. For planning purposes, the IRS should get behind the problem by coding and tracking the reasons for interim letters. Then, initiate solutions that benefit both the IRS and the taxpayer. Where interim responses are necessary due to complexity, IRS responses should be substantive;
   - Redirect the dollars currently spent on postage and work toward hiring additional employees to perform its correspondence and telephone casework; and
   - Develop a new hiring initiative that specifically addresses the need to provide taxpayers with timely correspondence resolution, which becomes particularly acute during filing season, for congressional funding consideration.

IRS Response to Recommendation 3

Under the Centralized Contact Center Forecasting and Scheduling (CCCFS) initiative, plans are under development to improve the forecasting process for correspondence and to provide enhanced integration of correspondence and telephone schedules. This process will allow the IRS to more accurately project impacts to both programs.

Not all cases automatically receive interim letters. On cases that have been suspended pending the receipt of additional information needed to work the case, taxpayers are informed of this requirement.

The IRS is very interested in limiting the number of interim letters. However, a certain number are a part of the yearly business cycle due to the large annual peak of correspondence receipts. We make every effort to plan and schedule our finite Accounts Management staffing to minimize delays and to provide the best possible services for taxpayers that write or call us for assistance.

As IRS implements CCCFS, AMS, and ICAS, some of the current issues affecting the timeliness of customer responses will be addressed. In view of these planned systems enhancements and other more critical staffing needs, we have not requested a hiring initiative for correspondence case processing.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. The IRS should rewrite its current correspondence policy statement:
    - Develop proper measures for timeliness, based on taxpayer expectations. Create ongoing advisory teams consisting of front-line workers and management, who are the most familiar with current, procedural issues and taxpayers' common correspondence complaints, to identify emerging issues and technology, and problem resolution.

IRS Response to Recommendation 4

The Adjustments Customer Satisfaction Survey provides IRS verbatim customer feedback with regard to their timeliness expectations. The IRS has a suite of balanced measures to ensure that services provided are efficient and correct. Additionally, National Quality Review System data provides the means for identifying and addressing problem areas in need of improvement.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. The IRS should make the following corrections in its handing of its Spanish language correspondence:
    - Acknowledge the evolving demographics of the nation's taxpayer population, and enhance efforts to communicate with Spanish speaking taxpayers in their primary language;
    - Record taxpayer requests for all future communications to be issued in Spanish by providing a checkbox option on each of its notices, letters, and forms to use as indicators; and
    - Determine proper staffing levels for Spanish speaking assistors and hire to the appropriate level.

IRS Response to Recommendation 5

The IRS receives very few pieces of correspondence written in Spanish. Spanish language cases are worked by Spanish speaking assistors at several campuses. There is a continuous feedback loop from the field offices to headquarters functions with regard to the volume of receipts and staffing levels. Spanish speaking assistor staffing is considered as part of the annual work plan process.

- All notices and letters identified by the IRS Multi-lingual policy as "vital documents" are currently offered in Spanish. It is not feasible or fiscally prudent to implement a system to provide a checkbox because it would require, among other things, the translation of more than 800 remaining IRS notices and letters.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. Regarding the coordination of its own internal systems, the IRS should:
   - Maintain a proactive focus on increasing taxpayer-satisfaction. Adopt a nationally-coordinated IDRS tool development process (for SWFT, JEEDA, and IDAP) to support further developments, while still encouraging "homegrown" solutions. The development of an IDRS tool designed specifically to reduce correspondence delays should be made a priority.
   - Ensure that the e-services suite of products will be made available to taxpayers as soon as possible. As these products allow a taxpayer to access his or her own account instantly, in many instances, the taxpayer's need to correspond with the IRS at all will be eliminated.

IRS Response to Recommendation 6

IRS is actively engaged in improving customer satisfaction. The IDRS Accessory Management tools are a way in which research can be streamlined so customers receive the correct answer in an efficient manner. Best practices are already shared between SWFT, Jeeda and IDAP.

The development of a "1040X" Jeeda screen is currently underway. This is particularly important since amended returns and duplicate return conditions can account for up to 50 percent of IMF inventory.

The IRS is committed to enhancing the suite of e-services products. The schedule of releases already includes online account and transcript access to taxpayers in 2009.

NTA Status Update to Recommendation 6

2006 ARC – MSP Topic #14 – DISASTER RESPONSE AND RECOVERY

Problem

Over the years, the IRS has successfully responded to many disasters by, for example, providing and staffing toll-free FEMA phone assistance lines for Hurricane Katrina victims and answered approximately 950,000 calls. However, the IRS has room for improvement in planning for disaster relief. The IRS has yet to establish comprehensive short-term and long-term strategies to assist victims. This failure to incorporate the lessons of the past into a fluid planning and response process may harm the victims of the next disaster. The National Taxpayer Advocate recommends the IRS establish a permanent disaster response team composed of employees and managers with expertise in individual, corporate, and small business tax matters. This team would operate in coordination with the Directors of the Federal Emergency Management Agency and Homeland Security.

NTA Recommendations

1. Establish a permanent disaster response team in the national office of the Internal Revenue Service. The team should be composed of employees who, besides their regular responsibilities, shall assist taxpayers in clarifying and resolving federal tax matters associated with or resulting from any Presidentially declared disaster. The disaster response team would include personnel from the Office of the Taxpayer Advocate, and others from the IRS's national office with expertise in individual, corporate, small business tax matters, including Counsel, Chief Information Officer, Agency Wide Shared Services, Communications and Liaison and so on. The team shall operate in coordination with the Secretary of the Treasury, the Directors of the Federal Emergency Management Agency and the Department of Homeland Security.
2. We believe that once it is formed, the permanent disaster response team should address these issues:
   - Develop methodology to evaluate and classify disasters based on characteristics relevant to an effective response effort. This methodology would include criteria for any "on the ground" evaluation by the State Disaster Coordinator or other personnel charged with making an on-site assessment. Develop a plan for coordinating the disaster classification with templates of planned response strategies including staffing and services offered at FEMA and other recovery sites.
   - Set up Service Level Agreements with IRS business units and functional divisions specifying their disaster support commitments.
   - Establish specific criteria for using automatic disaster relief (O Freeze).

- Change the processing procedures of IRM 3.11.3.7.1.7 to ensure that taxpayers who self-identify by notating their tax returns get the same treatment as those identified by the IRS or who self-identify by telephone.
- Adopt the safe harbor valuation rules detailed in Revenue Procedure 2006-032 for personal use residential real property.
- At technical employee Continuing Professional Education, provide technical disaster tax law training to all employees to provide the IRS with a core of "first responder" tax specialists to deploy in case of a disaster.
- Coordinate with other agencies to identify most likely disasters and likely areas to experience disasters, and to develop specific models and strategies for response to the future disasters.

NTA Recommendations 1 and 2

1. Establish a permanent disaster response team in the national office of the Internal Revenue Service. The team should be composed of employees who, besides their regular responsibilities, shall assist taxpayers in clarifying and resolving federal tax matters associated with or resulting from any Presidentially declared disaster. The disaster response team would include personnel from the Office of the Taxpayer Advocate, and others from the IRS's national office with expertise in individual, corporate, small business tax matters, including Counsel, Chief Information Officer, Agency Wide Shared Services, Communications and Liaison and so on. The team shall operate in coordination with the Secretary of the Treasury, the Directors of the Federal Emergency Management Agency and the Department of Homeland Security.
2. We believe that once it is formed, the permanent disaster response team should address these issues:
   - Develop methodology to evaluate and classify disasters based on characteristics relevant to an effective response effort. This methodology would include criteria for any "on the ground" evaluation by the State Disaster Coordinator or other personnel charged with making an on-site assessment. Develop a plan for coordinating the disaster classification with templates of planned response strategies including staffing and services offered at FEMA and other recovery sites.
   - Set up Service Level Agreements with IRS business units and functional divisions specifying their disaster support commitments.
   - Establish specific criteria for using automatic disaster relief (O Freeze).
   - Change the processing procedures of IRM 3.11.3.7.1.7 to ensure that taxpayers who self-identify by notating their tax returns get the same treatment as those identified by the IRS or who self-identify by telephone.

- Adopt the safe harbor valuation rules detailed in Revenue Procedure 2006-032 for personal use residential real property.
- At technical employee Continuing Professional Education, provide technical disaster tax law training to all employees to provide the IRS with a core of "first responder" tax specialists to deploy in case of a disaster.
- Coordinate with other agencies to identify most likely disasters and likely areas to experience disasters, and to develop specific models and strategies for response to the future disasters.

IRS Response to Recommendations 1 and 2
The IRS does have sound criteria and established policies and procedures in place for responding to disasters. The Gulf Coast hurricanes of 2005 resulted in an unparalleled need for coordination between IRS operating divisions and external partners to provide disaster assistance to taxpayers in the impacted areas. In the GAO Report on Catastrophic Disasters, GAO-06-618, the Comptroller General recognized the IRS among a few agencies for its "flexibility and adaptability" in responding to Katrina's challenges. Specifically, GAO recognized IRS for the assignment of 5,000 employees to augment the FEMA hurricane registration efforts, the establishment of a dedicated toll-free disaster hotline, the distribution of over 291,000 disaster kits (through February 2006), and the creation of a special section on the IRS internet site.

TIGTA and GAO have conducted a total of 10 audits involving our response to the
disasters with very few findings. In addition, the Director, Communications, Liaison and Disclosure, who has overall stewardship for the Disaster Assistance and Emergency Relief Program, commissioned an internal review of the current disaster policies and procedures to identify lessons learned and recommend formalized procedures and policies for future use.

Pursuant to that direction, the Disaster Assistance Review Team (DART) completed a comprehensive program review and issued a report in May 2006. The DART report already raised many of the issues noted in the NTA's report and outlined many recommendations and program enhancements that are currently in process, including a complete revision of the IRS Disaster IRM Section 25.16.

IRM 25.16 contains the established policies and procedures for responding to disasters. It has undergone a complete update and is currently in final revision and clearance status.

The DART report recommendations also included (but not limited to):

a. Service Level Agreements to identify commitments from all OD/FD's, which were finalized on June 15, 2007.
b. Criteria established for convening DTAPG—see status below.
c. Established criteria for the assessment of damages—A recommendation has been prepared for the Disaster Policy Board's approval that will define levels of damages and will also specify the relief that will be granted based on the level of damages.
d. Establish level of services for affected taxpayers—The services provided to taxpayers are listed in IRM 25.16. Information on the tax relief and assistance that is available to taxpayers located in Presidentially declared disaster areas is also available on the website at: http://www.irs.gov/newsroom/article/0,,id=147085,00.html.
e. Developed roles and responsibilities for Government Liaisons—The GL role and responsibilities are published in IRM 25.16.and also in the SL/GL Disaster Response plan which has been incorporated into the revised IRM 25.16 and is also posted on the IRWeb at http://sbse.web.irs.gov/nda/disaster_plan.htm
f. Address FEMA field staffing, training issues, volunteer cadre program and streamline reporting process—IRM 25.16 has been updated to include guidelines for staffing FEMA sites, employee and cadre training, and the Disaster Assistance Activity Reporting procedures.

The IRS Disaster Tax Administration Policy Group (DTAPG), a cross-functional team of senior officials responsible for directing IRS policy in disaster response efforts, reviewed and approved the DART report, and the Taxpayer Advocate Service (TAS) has a representative on the DTAPG. The DTAPG is an on-going group that addresses issues on an as needed basis. IRM 25.16 has been updated to clarify the roles and responsibilities of the DTAPG.

In 2005, the Disaster Policy Board implemented a new S- Freeze to eliminate the Code and Edit procedures causing the improper processing of self-identified returns. This became operational on January 14, 2007.

An on-line job aid was also developed to ensure that taxpayer accounts are accurately adjusted for appropriate relief. The job aid, TCD 0164 can be found on IRWeb at http://techcomm.web.irs.gov/tcd/tcd0164/tcd0164.htm.

To ensure our organization is better prepared to respond to a disaster or emergency, the Senior Commissioner Representatives have also worked closely with the field business units to review and refine local incident management and business resumption processes, and to conduct table top exercises to test the plans and ensure they are effective. In addition, the IRS has an initiative to ensure its managers and employees have provided personal contact information into

a national database that will allow us to communicate with our employees outside of the office in the event a building or area emergency.

NTA Status Update to Recommendations 1 and 2

2006 ARC – MSP Topic #15 – CONCERNS WITH THE IRS OFFICE OF APPEALS

Problem

The IRS Office of Appeals has centralized work on appeals of certain examination and collection cases at IRS campuses. While this strategy can reduce cycle time, it emphasizes telephone or correspondence contacts and limits taxpayer opportunities for a local hearing with Appeals. This is especially true for *"pro se"* taxpayers who lack legal representation, may not fully understand the process, and fail to properly submit technical documents and narratives. In addition, Appeals is not aggressively pursuing use of Alternative Dispute Resolution (ADR) programs to resolve cases. The National Taxpayer Advocate urges Appeals to adequately notify taxpayers of the Appeals process and their rights to a face-to-face or local office meeting and to develop short and long-term strategies to promote use of ADR programs.

NTA Recommendations

1. Research what *pro se* taxpayers expect of the Appeals process, then determine whether their expectations are unrealistic or Appeals is failing its mission.
2. Insert information on locations of Low-Income Taxpayer Clinics in all Appeals campus initial contact letters.
3. Establish a mentor program to reduce cycle time.
4. Look at "timeliness" quality standards as opposed to time span or cycle time measures.
5. Train Appeals and Examination employees to use ADR processes and promote their use throughout IRS compliance functions.
6. Expand Fast Track Mediation to the campus Appeals function. Offer campus examination taxpayers Fast Track Mediation and transfer the case to a local office if the taxpayer agrees to mediation.
7. Analyze campus case results and results on cases transferred to Appeals field offices. Are there more defaults on campus cases? Is there a better resolution for taxpayers at field offices? Is there more time on field cases? What is the cycle time on campus versus field cases? Why do more *pro se* taxpayers default on "S" cases? Is the default rate higher in campus than in field cases, and if so, why? What are the characteristics of cases in which taxpayers request

to be transferred from campus to field offices? Appeals is missing an opportunity to research the impact of its processes and develop proactive solutions.

8. Conduct a survey of *pro se* taxpayers in Tax Court "S" cases to determine what their needs, expectations, concerns, misconceptions, and reservations are with respect to Appeals' role in Tax Court case resolution.
9. Explore moving the Office of Appeals from the Commissioner of Internal Revenue to the Secretary of the Treasury, to better protect its independence from further compromise by the IRS's enforcement focus.[9]

NTA Recommendation 1

1. Research what *pro se* taxpayers expect of the Appeals process, then determine whether their expectations are unrealistic or Appeals is failing its mission.

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[9] A 1987 IRS document summarized Appeals' history:

> A 1952 reorganization established the structure of the Appeals organization along the lines we see today [*i.e.,* 1987]. Prior to the 1952 reorganization, the Appeals function (Technical Staff) reported directly to the Commissioner through the Head of the Technical Staff. The reorganization brought about the establishment of a system of regional administration of districts under Regional Commissioners of Internal Revenue. However, to maintain the independent status of Appeals and preserve the principle of separating the Audit and Appeals operations, the Appeals function was carved out and placed under the office of the Assistant Regional Commissioner (Appellate), who had final settlement authority. In 1982, the Chief Counsel was delegated line supervisory authority over Appeals by the Commissioner. The transfer of Appeals to Chief Counsel facilitates the flow of information and assistance between appeals officers and counsel attorneys." *See* IRS Document 7225, "History of Appeals" (Nov. 1987).

In 1995, the IRS moved the reporting structure of the Office of Appeals from Chief Counsel back to the Commissioner and Regional Commissioners. See IRS Appeals to be Under Commissioner in Chief Counsel Reorganization, 95 TNT 117-4, June 16, 1995; Linda B. Burke, TEI Says IRS Appeals Function Should Report to Deputy Commissioner, Not Chief Counsel, 95-TNT 108-89, June 5, 1995. ("The current structure of Appeals, reflecting the 1982 decision to shift Appeals to the Chief Counsel's "side of the house," has contributed to a perceived diminution in Appeals' independence. Given Counsel's role as the adviser to Examination personnel, it is hardly surprising that taxpayers are less than sanguine about Appeals' reporting to Counsel. Indeed, anecdotal evidence suggests that Counsel has generally become more involved in the management and oversight of Appeals' workload and that this involvement has affected Appeals' attitude toward settlement.")

In 1998, Congress enacted legislation to "ensure an independent appeals function within the [IRS]". Pub. L. No. 105-206 § 1001(a)(4). For examples of Congressional concerns with Appeals independence, see 144 Cong. Rec. S4182 (1998) ("One of the main concerns we've listened to throughout our oversight initiative – a theme that repeated itself over and over again – was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. With this legislation, we require the agency to establish an independent Office of Appeals – one that may not be influenced by tax collection employees and auditors") and 144 Cong. Rec. S7639 (1998) ("the bill mandates that the Commissioner's restructuring of the IRS include an independent appeals function. This appeals unit is intended to provide a place for taxpayers to turn when they disagree with the determination of front-line employees. A truly independent appeals unit will assure that someone takes a fresh look at taxpayers' cases, rather than merely rubber-stamping the earlier determination").

IRS Response to Recommendation 1
In our latest Customer Satisfaction Survey Pro Se taxpayers were 61 percent satisfied. The 61 percent satisfied for pro se is lower than represented taxpayers but is an 11 percent improvement from the prior year. The expectations of pro se taxpayers include, according to Macro International, the outside firm who designed and conducted the Customer Satisfaction Survey for Appeals - fair and equitable treatment, listening and due consideration, clarity of explanations, professionalism, and timely handling of the dispute. Macro International concluded that Appeals met those expectations most of the time. They determined that unrepresented taxpayers (*pro se*) tend to give lower overall satisfaction ratings due to their lack of understanding or familiarity with the Appeals process than represented taxpayers.

NTA Status Update to Recommendation 1

NTA Recommendation 2
2. Insert information on locations of Low-Income Taxpayer Clinics in all Appeals campus initial contact letters.

IRS Response to Recommendation 2
Appeals believes that this issue should be addressed by the Operating Divisions so taxpayers have the information on LITC before the adverse decisions leading to appeal rights are rendered. The earlier in the process this information is given to taxpayers, the more helpful it would be.

NTA Status Update to Recommendation 2

NTA Recommendation 3
3. Establish a mentor program to reduce cycle time.

IRS Response to Recommendation 3
Appeals is establishing a technical mentoring program to assist employees' development and advancement.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Look at “timeliness” quality standards as opposed to time span or cycle time measures.

IRS Response to Recommendation 4
The Appeals Quality Measurement System (AQMS) standard for time span includes a sub-attribute that measures timely actions taken on a case. Timely action is also one of the aspects in the Critical Job Elements (CJE) for employee performance evaluation. A look at timely action, together with time applied and time span, provide a more complete picture on the quality of the case than any one attribute alone.

NTA Status Update to Recommendation 4

NTA Recommendation 5
5. Train Appeals and Examination employees to use ADR processes and promote their use throughout IRS compliance functions.

IRS Response to Recommendation 5
Appeals continues to work in concert with the Operating Divisions to promote the use of ADR processes. Both the LMSB and SBSE Commissioners have issued communiqués to their employees on the benefits of using the Fast Track program. Appeals and LMSB issued Publication 4539 - ***Fast Track Settlement A Process for Prompt Resolution of Large & Mid-sized Business Tax Issues.*** LMSB provides this information to all taxpayers at the opening examination meeting. Appeals and SB/SE have drafted an SB/SE FTS publication similar to the LMSB publication that will be available in the future.

With the rollout of the SBSE Fast Track Settlement Program, Appeals Officers, Revenue Agents and Tax Compliance Officers have been trained. All Appeals trained mediators received refresher mediation training during their FY 06 CPE and plans are to include Refresher Mediation training as part of Appeals annual CPE curriculum. In April, 2007 Appeals held a mediation class that was delivered by the Federal Mediation and Conciliation Services (FMCS). Appeals will complete a workload analysis annually to ensure it has enough trained mediators at the proper locations to handle the volume of FTS cases.

Use of Appeals ADR products continues to grow. Delegation Order 4-25 (DO 4-25) which allows early resolution of cases utilizing Appeals settlement authority is currently being used to settle various issues. In FY06, 372 cases were closed

using DO 4-25 Part 1 and 28 cases were closed using Part II. In FY07 through May, 130 cases were closed using Part I and 304 using Part II. In Fast Track Mediation with SBSE 49 cases were closed in FY06 and through May, 2007 26 cases have been closed. In Post Appeals Mediation, 33 cases were closed in FY06 and through May, 2007 13 cases have been closed. In Fast Track Settlement with LMSB, in FY06 78 cases were closed and through May, 2007 39 cases have been closed. During the first phase of Fast Track Settlement with SBSE 27 cases have been closed.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. Expand Fast Track Mediation to the campus Appeals function. Offer campus examination taxpayers Fast Track Mediation and transfer the case to a local office if the taxpayer agrees to mediation.

IRS Response to Recommendation 6

Appeals continues to look into various avenues in order to provide good taxpayer service without sacrificing sound tax administration. We will take this recommendation under advisement.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. Analyze campus case results and results on cases transferred to Appeals field offices. Are there more defaults on campus cases? Is there a better resolution for taxpayers at field offices? Is there more time on field cases? What is the cycle time on campus versus field cases? Why do more *pro se* taxpayers default on "S" cases? Is the default rate higher in campus than in field cases, and if so, why? What are the characteristics of cases in which taxpayers request to be transferred from campus to field offices? Appeals is missing an opportunity to research the impact of its processes and develop proactive solutions.

IRS Response to Recommendation 7
In FY 05, the default rate for field was 21 percent versus 4 percent in the campus with the campuses just standing up. In FY 06, the default rate for field was 20 percent versus 16 percent in the campus. As of May 2007, the default rates are 18 percent for Field and 20 percent for Campus.

The Appeals cases that result in defaults most often are CDP cases. In FY 05, 81 percent of the Appeals notices that were defaulted consisted of CDP notices while only 6 percent of the defaulted notices consisted of Examination type cases involving notices of deficiency. In FY 06, 86 percent of Appeals defaulted notices consisted of CDP notices while only 7 percent of them consisted of Examination type cases involving notices of deficiency. As of May 2007, 86 percent of the defaulted notices involved CDP cases.

As programming enhancements are completed for the tracking of cases where transfers were requested from campus to field offices, these cases will be identified and studied to discover what their characteristics are and what can be learned from this information.

Appeals continuously monitors and analyzes all data, including cycle time, and case results for both campus and field operations. This includes operational reviews by headquarters' staff, field operations' staff and area directors' staff as well as joint analysis and reviews with the operating divisions.

NTA Status Update to Recommendation 7

NTA Recommendation 8
8. Conduct a survey of *pro se* taxpayers in Tax Court "S" cases to determine what their needs, expectations, concerns, misconceptions, and reservations are with respect to Appeals' role in Tax Court case resolution.

IRS Response to Recommendation 8
Appeals believes education and better communication, rather than a survey or additional research, is the more productive avenue to improve service to pro se taxpayers. Appeals is committed to increasing awareness of the appeals process through a wide range of products and communication methods, with an emphasis on reaching *pro se* taxpayers. For example, Appeals has developed self help tools for pro se taxpayers who are interested in the Offer in Compromise,

Innocent Spouse and Penalty Appeals programs. These tools were implemented on the IRS web site (irs.gov) in early 2007. They are specifically designed to help pro se taxpayers understand the Appeals process.

NTA Status Update to Recommendation 8

NTA Recommendation 9

9. Explore moving the Office of Appeals from the Commissioner of Internal Revenue to the Secretary of the Treasury, to better protect its independence from further compromise by the IRS's enforcement focus.[10]

IRS Response to Recommendation 9

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[10] A 1987 IRS document summarized Appeals' history:

> A 1952 reorganization established the structure of the Appeals organization along the lines we see today [*i.e.,* 1987]. Prior to the 1952 reorganization, the Appeals function (Technical Staff) reported directly to the Commissioner through the Head of the Technical Staff. The reorganization brought about the establishment of a system of regional administration of districts under Regional Commissioners of Internal Revenue. However, to maintain the independent status of Appeals and preserve the principle of separating the Audit and Appeals operations, the Appeals function was carved out and placed under the office of the Assistant Regional Commissioner (Appellate), who had final settlement authority. In 1982, the Chief Counsel was delegated line supervisory authority over Appeals by the Commissioner. The transfer of Appeals to Chief Counsel facilitates the flow of information and assistance between appeals officers and counsel attorneys." *See* IRS Document 7225, "History of Appeals" (Nov. 1987).

In 1995, the IRS moved the reporting structure of the Office of Appeals from Chief Counsel back to the Commissioner and Regional Commissioners. See IRS Appeals to be Under Commissioner in Chief Counsel Reorganization, 95 TNT 117-4, June 16, 1995; Linda B. Burke, TEI Says IRS Appeals Function Should Report to Deputy Commissioner, Not Chief Counsel, 95-TNT 108-89, June 5, 1995. ("The current structure of Appeals, reflecting the 1982 decision to shift Appeals to the Chief Counsel's "side of the house," has contributed to a perceived diminution in Appeals' independence. Given Counsel's role as the adviser to Examination personnel, it is hardly surprising that taxpayers are less than sanguine about Appeals' reporting to Counsel. Indeed, anecdotal evidence suggests that Counsel has generally become more involved in the management and oversight of Appeals' workload and that this involvement has affected Appeals' attitude toward settlement.")

In 1998, Congress enacted legislation to "ensure an independent appeals function within the [IRS]". Pub. L. No. 105-206 § 1001(a)(4). For examples of Congressional concerns with Appeals independence, see 144 Cong. Rec. S4182 (1998) ("One of the main concerns we've listened to throughout our oversight initiative – a theme that repeated itself over and over again – was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. With this legislation, we require the agency to establish an independent Office of Appeals – one that may not be influenced by tax collection employees and auditors") and 144 Cong. Rec. S7639 (1998) ("the bill mandates that the Commissioner's restructuring of the IRS include an independent appeals function. This appeals unit is intended to provide a place for taxpayers to turn when they disagree with the determination of front-line employees. A truly independent appeals unit will assure that someone takes a fresh look at taxpayers' cases, rather than merely rubber-stamping the earlier determination").

Appeals' independence is well protected in the current structural configuration by reporting directly to the Commissioner. Appeals does not believe moving to Treasury will increase its independence.

NTA Status Update to Recommendation 9

2006 ARC – MSP Topic #16 – CORRESPONDENCE EXAMINATION

Problem

The IRS increasingly uses correspondence examinations for audits of high income individuals, though there are indications that these examinations are better reserved for interviews or field audits. The IRS's reluctance to discuss issues by telephone and the high volume of unassociated mail from taxpayers have led to premature audit closures. The IRS also makes inappropriate use of the combination letter, which compresses the timeframe taxpayers have to resolve disputes, and directs its processing employees to try to persuade taxpayers not to seek face-to-face meetings to pursue their appeal rights. The National Taxpayer Advocate urges the IRS to review the correspondence examination process with these concerns in mind, reduce the volume of unassociated mail, and establish better communication channels to prevent premature closures.

NTA Recommendations

1. List a telephone number on all correspondence examination letters for the taxpayer to call if he or she needs the letter reissued in Spanish.
2. For visually impaired and blind taxpayers, make correspondence examination letters available in a format that is readable and understandable (e.g., in Braille). Place a hold on the taxpayer's account while waiting for the accommodating notice. Create a process to allow the taxpayer to request that all further correspondence between the taxpayer and the IRS be communicated in the requested accommodating format.
3. Extend the response time to 45 days in the initial stage of correspondence. Conduct research to determine if using a 30 or 45 day letter or two separate letters (one at 30 days and a follow-up letter 15 days later) makes a difference in taxpayer response times.
4. Provide specific examples of documentation needed to resolve the issue.
5. Develop fill-in forms like the EITC certification form to the greatest extent possible.

6. Acknowledge receipt of correspondence from taxpayers, regardless of whether the information is sufficient to resolve the issue(s).
7. Attempt to reach taxpayers by telephone in all no response cases. Conduct additional address research, including internet and external databases, not just the U.S. Postal Service.
8. Evaluate the correspondence examination process to determine why taxpayers have difficulty understanding what documentation is needed.
9. Eliminate the use of "Combo Letters" in all but the simplest tax cases (*i.e.*, cases with issues that can readily be resolved in one taxpayer contact by a single source document or brief explanation).
10. Develop and implement performance measures to:
    - reduce the volume of unassociated mail;
    - reduce the premature closure of audits; and
    - consider the time it takes to resolve an audit reconsideration in the cycle time computation.
11. Establish a better system of correspondence control so responses can be timely associated with case files.
12. Make sure taxpayers know that the time is running for petitioning the U.S. Tax Court even if additional information is submitted for consideration.
13. Train examiners in the appropriate use of oral testimony.
14. Include information on the Low Income Taxpayer Clinic program in the initial correspondence letter.

NTA Recommendation 1

1. List a telephone number on all correspondence examination letters for the taxpayer to call if he or she needs the letter reissued in Spanish.

IRS Response to Recommendation 1

In 2008, Form 886-H series, used in EITC and exemption audits, will include a statement in Spanish advising taxpayers the form is available in Spanish. Currently, when taxpayers call the toll-free lines, they are asked if they would like to speak to a Spanish speaking tax examiner. Additionally, corporate phone routing allows Spanish calls to be routed to a campus that has Spanish speaking tax examiners.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. For visually impaired and blind taxpayers, make correspondence examination letters available in a format that is readable and understandable (e.g., in Braille). Place a hold on the taxpayer's account while waiting for the accommodating notice. Create a process to allow the taxpayer to request that all further correspondence between the taxpayer and the IRS be communicated in the requested accommodating format.

IRS Response to Recommendation 2

The IRS has procedures in place to accommodate visually impaired taxpayers. The taxpayer is instructed to send the notice back either by faxing or writing with a cover sheet requesting "Alternative Media Format." The Alternative Media Center will issue the new notice within 15 days or notify the taxpayer within 5 days if they are unable to provide the information requested. IRM 21.3.1.5, Request for Copy of Notice in an Alternative Media Format, provides procedures for TEs to place a hold on the taxpayer's account until a notice can be sent in Braille.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. Extend the response time to 45 days in the initial stage of correspondence. Conduct research to determine if using a 30 or 45 day letter or two separate letters (one at 30 days and a follow-up letter 15 days later) makes a difference in taxpayer response times.

IRS Response to Recommendation 3

The IRS conducted a test on the use of a second notice for taxpayers who did not respond. The results showed a higher no response rate for these taxpayers.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Provide specific examples of documentation needed to resolve the issue.

IRS Response to Recommendation 4
Taxpayers are provided with a list of items that the IRS will accept to verify the tax issue being audited with the initial contact letter. If the taxpayer does reply and does not send the correct information, tax examiners are instructed, per IRM 4.19.13.9.1, to explain to the taxpayer what items were disallowed and what the taxpayer needs to verify the deduction and or credit.

NTA Status Update to Recommendation 4

NTA Recommendation 5
5. Develop fill-in forms like the EITC certification form to the greatest extent possible.

IRS Response to Recommendation 5
The IRS has no plans to develop fill-in forms similar to the EITC Certification form which recommends documentation to submit for proof of residency. Forms used for audit purposes do not lend themselves to this format.

NTA Status Update to Recommendation 5

NTA Recommendation 6
6. Acknowledge receipt of correspondence from taxpayers, regardless of whether the information is sufficient to resolve the issue(s).

IRS Response to Recommendation 6
Although acknowledgement letters are not generated on initial receipt of correspondence, if the taxpayer calls the IRS, any employee can access the Integrated Data Retrieval System and inform the taxpayer if the IRS received mail related to their case. The first interim letter to the taxpayer is issued within 30 days of the correspondence received date (CRD). A subsequent interim letter, if necessary, is sent within 70 days of the CRD if the issue remains unresolved. A third interim letter is mailed in the event the issue is not resolved within 115 days.

NTA Status Update to Recommendation 6

NTA Recommendation 7

7. Attempt to reach taxpayers by telephone in all no response cases. Conduct additional address research, including internet and external databases, not just the U.S. Postal Service.

IRS Response to Recommendation 7

To improve our ability to reach taxpayers, the IRS uses a software database to locate and update taxpayer information on undeliverable mail. Address updates are received weekly from the United States Postal Service via the National Change of Address (NCOA) program, which maintains the most current taxpayer mailing address. To further ensure contact with the taxpayer, Correspondence Examination requires TEs to call the taxpayer when additional information is needed to resolve the case. This guidance is provided in Internal Revenue Manual (IRM) 4.19.1.4.1.9. TEs are instructed to call the taxpayer "if the taxpayer's telephone number is available, to request additional information needed instead of sending a letter." The IRM also states, "telephone contact should also be attempted, if warranted, after issuance of Notice of Deficiency if less than 15 days until default and information submitted is not sufficient to make a change."

NTA Status Update to Recommendation 7

NTA Recommendation 8

8. Evaluate the correspondence examination process to determine why taxpayers have difficulty understanding what documentation is needed.

IRS Response to Recommendation 8

IRS worked with the Taxpayer Advocacy Panel to revise nine letters and forms to help the taxpayer understand what is requested. Form 886-H series will be tested at two of the tax forums this year in partnership with the Single Point of Contact Office and W&I Research.

NTA Status Update to Recommendation 8

NTA Recommendation 9

9. Eliminate the use of "Combo Letters" in all but the simplest tax cases (*i.e.*, cases with issues that can readily be resolved in one taxpayer contact by a single source document or brief explanation).

IRS Response to Recommendation 9
An audit report is sent with the initial contact letter (combo letter) mainly for those cases in which there is third party data supporting the assessment or denial of an item on the taxpayers' return. The combo letter is not routinely sent to the taxpayer for audits where no third party data exists but in those cases where the claimed deductions appear inordinately high, such as Schedule A audits.

NTA Status Update to Recommendation 9

NTA Recommendation 10
10. Develop and implement performance measures to:
    - reduce the volume of unassociated mail;
    - reduce the premature closure of audits; and
    - consider the time it takes to resolve an audit reconsideration in the cycle time computation.

IRS Response to Recommendation 10
1. W&I is unaware of any problem with unassociated mail in any of the five W&I campuses. IRM 4.19.21 mandates that all incoming mail must be updated within five days.
2. Several years ago TAS stated this as an issue in the Austin campus. Examination and TAS did a joint review of 100 cases and found only one case closed prematurely. W&I has implemented controls to ensure cases are not closed prematurely.
3. Once a case is closed on AIMS and the taxpayer does not petition the Tax Court or request an appeal, the cycle time ends. If the taxpayer requests an audit reconsideration, it is not tracked on the AIMS database since the taxpayer can request reconsideration any time after the case is closed. To ensure reconsiderations are worked timely, CEAS will be reprogrammed in July 2007 giving Examination the ability to monitor reconsideration inventory.

NTA Status Update to Recommendation 10

NTA Recommendation 11
11. Establish a better system of correspondence control so responses can be timely associated with case files.

IRS Response to Recommendation 11
The IRM now requires campus employees to update the mail on the AIMS database within five days of the mail received date. Site reviews are performed to ensure that this requirement is followed.

NTA Status Update to Recommendation 11

NTA Recommendation 12
12. Make sure taxpayers know that the time is running for petitioning the U.S. Tax Court even if additional information is submitted for consideration.

IRS Response to Recommendation 12
IRM 4.19.13.9.1 addresses this issue. It states, "Your time to petition the United States Tax Court will end on _____. (Insert or tell taxpayer last date to petition".) However you may continue to work with us to resolve your tax matter, but we cannot extend your time to petition the United States Tax Court beyond _____. (Insert or tell taxpayer last date to petition.)" In addition, the Notice of Deficiency (letter 3219) clearly reminds taxpayer of the last day they have to file a petition with the United States Tax Court.

NTA Status Update to Recommendation 12

NTA Recommendation 13
13. Train examiners in the appropriate use of oral testimony.

IRS Response to Recommendation 13
Tax Examiners are instructed to use their judgment regarding the use of oral testimony in determining the substantially correct determination. However, the IRS will revisit instructions regarding oral testimony to ensure clarity.

NTA Status Update to Recommendation 13

NTA Recommendation 14
14. Include information on the Low Income Taxpayer Clinic program in the initial correspondence letter.

IRS Response to Recommendation 14
Form 4134, Low Income Tax Clinic List, is included with the initial contact letter. Correspondence Examination included this publication when the CP75 was revised as the Initial Contact Letter for all EITC Examinations beginning in tax year 2005.

NTA Status Update to Recommendation 14

2006 ARC – MSP Topic #17 – IRS IMPLEMENTATION OF MATH ERROR AUTHORITY IMPAIRS TAXPAYER RIGHTS

Problem
Taxpayers who are summarily assessed additional tax via a "math error" notice may not be afforded the same rights as those assessed additional tax through normal IRS deficiency procedures. Math error authority allows the IRS to summarily assess tax *before* a taxpayer has the opportunity to challenge the assessment in the U.S. Tax Court. Because math error assessments are not subject to judicial review before the tax is paid or collected, the Internal Revenue Code only allows the IRS to use these assessments in specific, narrow circumstances. However, the IRS has exceeded this limited authority by issuing math error notices in cases that go beyond these specified circumstances. In addition, math error notices sent to taxpayers do not include the level of detail that Congress intended. The IRS should improve the notice language and format to ensure that taxpayers understand what changes were made to their tax returns and why, and refresh the training of its employees on the appropriate use of math error authority.

NTA Recommendations
1. Math error notices should specify the exact nature of an error so the taxpayer understands clearly what must be corrected to reverse the change to the tax return. For example, if a Social Security number on the return is not valid, the explanation on the notice should identify which taxpayer or claimed dependent is associated with the suspect number.
2. Math error notices should clearly state the date by which taxpayers must contact the IRS to retain the right to petition the Tax Court. We encourage the IRS to investigate options for implementing this improvement in advance of the current 2009 target date.

3. The IRS should revise the reconciliation table on math error notices to include the individual line items that were in error, and show the net difference in line items as a result of IRS changes to the return. The line items shown in the table should also include the line number of the tax return.
4. The IRS should enhance its math error notice employee training to include an overview of the legislative basis for math error authority in training materials for employees involved in math error processing. The training should cover: (1) the differences between a math error assessment and a general assessment; (2) the congressional intent behind the IRS's math error assessment authority (including examples from the legislative history showing what constitutes a math error and what does not); (3) the specific limited allowable uses of math error authority enumerated in IRC § 6213(g); and (4) the statutory requirement to abate a math error assessment at the taxpayer's request.
5. The quality review process for math error notices should be improved by adding a determination that math error authority was applied appropriately. Currently, the quality review process focuses only on processing (for example, determining whether a math error notice contains the correct computer-generated paragraph for the identified return error).

NTA Recommendation 1

1. Math error notices should specify the exact nature of an error so the taxpayer understands clearly what must be corrected to reverse the change to the tax return. For example, if a Social Security number on the return is not valid, the explanation on the notice should identify which taxpayer or claimed dependent is associated with the suspect number.

IRS Response to Recommendation 1

Return settlement notices are computer generated with specific language. It is not possible at this time to create math error codes that will allow us to use fill in language that would address every specific scenario.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Math error notices should clearly state the date by which taxpayers must contact the IRS to retain the right to petition the Tax Court. We encourage the IRS to investigate options for implementing this improvement in advance of the current 2009 target date.

IRS Response to Recommendation 2
We cannot commit to this recommendation at this time. However, we will explore options to have this information included on math error notices before 2009.

NTA Status Update to Recommendation 2

NTA Recommendation 3
3. The IRS should revise the reconciliation table on math error notices to include the individual line items that were in error, and show the net difference in line items as a result of IRS changes to the return. The line items shown in the table should also include the line number of the tax return.

IRS Response to Recommendation 3
We cannot commit to this recommendation at this time. However, for current year return processing the computer programming for math error notices includes display of the original line item number in question, as well as the changes that were made to show the net difference of the line item in question. We will explore the feasibility of maintaining this programming for prior year returns.

NTA Status Update to Recommendation 3

NTA Recommendation 4
4. The IRS should enhance its math error notice employee training to include an overview of the legislative basis for math error authority in training materials for employees involved in math error processing. The training should cover: (1) the differences between a math error assessment and a general assessment; (2) the congressional intent behind the IRS's math error assessment authority (including examples from the legislative history showing what constitutes a math error and what does not); (3) the specific limited allowable uses of math error authority enumerated in IRC § 6213(g); and (4) the statutory requirement to abate a math error assessment at the taxpayer's request.

IRS Response to Recommendation 4
Tax return processing instructions and computer program processing for Math Error Authority Processing are done at the Headquarters' level. When returns are processed and tax examiners review returns for various processing errors, we do not believe there is a need for them to determine whether or not the errors are related to Math Error Authority or not. To

have the field or Processing Center employees involved would slow the process and potentially increase errors given the scope of our tax processing operations.

We will explore providing Math Error Authority training for the Headquarters' analyst responsible for developing the IRM instructions and requesting programming changes.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. The quality review process for math error notices should be improved by adding a determination that math error authority was applied appropriately. Currently, the quality review process focuses only on processing (for example, determining whether a math error notice contains the correct computer-generated paragraph for the identified return error).

IRS Response to Recommendation 5

It is not feasible or practical to add a determination that math error authority was applied appropriately during quality review. Math error notices, like other systemic notices, are generated as a result of processing conditions identified during the processing of tax returns.

NTA Status Update to Recommendation 5

2006 ARC – MSP Topic #18 – LIMITED ENGLISH PROFICIENT (LEP) TAXPAYERS: LANGUAGE AND CULTURAL BARRIERS TO TAX COMPLIANCE

Problem

As the LEP population grows, so does the number of LEP individuals in the workforce who are required to file tax returns and need to interact with the IRS. The IRS currently offers limited services for non-English speaking taxpayers, with the majority of those services offered only in Spanish. The National Taxpayer Advocate urges the IRS to expand services to other LEP language groups, educate taxpayers about the availability of these services, and develop a process to determine a taxpayer's language preference at the outset of his or her interaction with the IRS.

NTA Recommendations

1. Research and test whether educating taxpayers about the availability of the over-the-phone interpreter service (OPI) would increase its usage as well as increase requests for interpreters in other languages.
2. Expand over-the-phone interpreter service to include the toll-free sites and post-filing compliance functions, and expand outreach and awareness to the LEP community about this service.
3. Clarify that the definition of a "vital" document includes any document that impacts taxpayer rights, provides taxpayer protection, or proposes to assess a tax or levy on taxpayer property.
4. Increase the number of "regularly encountered" languages to mirror other government agencies of similar size and customer base, such as the Social Security Administration, and translate all vital documents into these languages.
5. Develop a process to determine the language spoken by taxpayers at the outset of their interaction with the IRS to ensure effective communications occur throughout the "life" of a tax return.[11]

NTA Recommendation 1

1. Research and test whether educating taxpayers about the availability of the over-the-phone interpreter service (OPI) would increase its usage as well as increase requests for interpreters in other languages.

[11] The National Taxpayer Advocate previously made this recommendation in the 2002 Report to Congress. *See* National Taxpayer Advocate 2002 Report to Congress 93.

IRS Response to Recommendation 1
The Language Services (LS) Executive Council, at its 4/27/07 meeting, approved a Service-wide OPI pilot for FY 08. The purpose of the pilot is to determine demand, feasibility, and best practices for providing OPI service to LEP taxpayers, specifically those in the Compliance arena, on a permanent basis. The LS Executive Council has appointed a working group (lead by SB/SE) to develop a research strategy for conducting the pilot and developing recommendations for future implementation.

NTA Status Update to Recommendation 1

NTA Recommendation 2
2. Expand over-the-phone interpreter service to include the toll-free sites and post-filing compliance functions, and expand outreach and awareness to the LEP community about this service.

IRS Response to Recommendation 2
The Taxpayer Assistance Blueprint (TAB) has adopted this initiative, which involves providing "access to multiple language interpreters via the telephone channel." This initiative, which will provide Service-wide OPI service, is included in the TAB 5-year strategic plan. The W&I CAS Joint Operations Center has been identified as the organization responsible for the oversight of the implementation. The LS Executive Council is working to ensure that it is involved in the planning and implementation of this effort.

NTA Status Update to Recommendation 2

NTA Recommendation 3
3. Clarify that the definition of a "vital" document includes any document that impacts taxpayer rights, provides taxpayer protection, or proposes to assess a tax or levy on taxpayer property.

IRS Response to Recommendation 3
The LS Executive Council is in the process of "revisiting" the definition of a vital document. This effort includes ensuring that designated documents are those that impact and protect taxpayer rights, as well as those documents that provide LEP taxpayers with critical information to meet their tax responsibilities. Additionally, the LS executive Council has

commissioned the second cycle of the "vital document identification process." This process involves reviewing existing designations to ensure that they are viable and identifying new documents for translation.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. Increase the number of "regularly encountered" languages to mirror other government agencies of similar size and customer base, such as the Social Security Administration, and translate all vital documents into these languages.

IRS Response to Recommendation 4

(a) The initiative to increase the number of "regularly encountered" languages is included in the FY 07-FY 11 strategic plan for the proposed Language Service Branch. The branch will continue the assessment of LEP language groups to determine the need to designate additional "regularly encountered" languages. Additionally, the Branch has planned specific efforts in FY 08 to begin migration of the Espanol website to a Multilingual Gateway similar to the Social Security Administration. The Branch is currently in the process of commissioning a feasibility study to determine how this migration will be implemented.

(b) The initiative to translate all vital documents into these languages is included in the W&I Strategy and Program Plan (SPP) for FY 10 implementation. Internal and external efforts are underway to identify vital document needs of the top five LEP language groups.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. Develop a process to determine the language spoken by taxpayers at the outset of their interaction with the IRS to ensure effective communications occur throughout the "life" of a tax return.[12]

[12] The National Taxpayer Advocate previously made this recommendation in the 2002 Report to Congress. *See* National Taxpayer Advocate 2002 Report to Congress 93.

IRS Response to Recommendation 5
The Taxpayer Assistance Blueprint (TAB) has adopted this as an initiative in the telephone contact center environment. This initiative is also included in the TAB 5-year strategic plan. The W&I Customer Account Services (CAS) Joint Operation Center (JOC) has been identified as the organization responsible for implementation under the oversight of the LS Executive Council.

NTA Status Update to Recommendation 5

2006 ARC – MSP Topic #19 – TAXPAYER "NO RESPONSE" RATES

Problem
The IRS relies almost exclusively on standardized paper correspondence to communicate with taxpayers. In many instances, taxpayers do not respond to IRS notices or requests for information, resulting in downstream consequences for both the IRS and the taxpayer. According to practitioners, taxpayers' reasons for failing to reply to IRS requests are almost as complex as the tax code itself. While the problem of "no response" occurs among individuals, businesses, and tax-exempt organizations, and at all income levels, the IRS does not know the magnitude of the problem. Generally, the IRS does not track the number of taxpayers that do not respond to notices, how many taxpayers try to respond, or how many notices are undelivered. If a taxpayer fails to respond to an initial notice but contacts the IRS later, the IRS must engage in a significant amount of rework, while the taxpayer may have to expend additional time and money. The IRS could reduce costs and ease taxpayer burden by working to improve the taxpayer response rate.

NTA Recommendations
1. Accurately track the no response rate to IRS notices and letters in order to understand the magnitude of the problem of no response.
2. Develop a targeted strategy aimed at increasing the taxpayer response rate, including studies or surveys to find out why some taxpayers do not respond.
3. Increase outreach and education efforts to encourage taxpayers to respond to the IRS, including:

- Examining the 2006 EITC certification test in which one message to qualifying taxpayers was "reply to any IRS correspondence about your EITC to get the credit your deserve";[13]
- Design an outreach campaign aimed at explaining the consequences of not responding to notices and letters and encouraging taxpayers to open mail from the IRS.

4. Continue to review IRS correspondence and publications to ensure that taxpayers understand what the IRS is requesting.
5. Consider changes to communication that would assist LEP, disabled, and low income taxpayers, such as:
   - Allow taxpayers to specify in what language they want to receive communication from the IRS;
   - Put language in Braille on envelopes indicating that the letter contains important IRS correspondence and providing a telephone number to call for more information; and
   - Include a self-addressed stamped envelope with letters requesting information from a taxpayer.
6. Expand use of the residency affidavit to all EITC examinations while continuing to monitor its effectiveness relative to other forms of documentation.

NTA Recommendation 1

1. Accurately track the no response rate to IRS notices and letters in order to understand the magnitude of the problem of no response.

IRS Response to Recommendation 1

All Correspondence Examination replies and no response cases are tracked on the Audit Information Management System. Automated Underreporter (AUR) tracks the default rate, which also includes no response cases. Extensive programming changes would be needed in the AUR system to track no response cases separately from overall defaults.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. Develop a targeted strategy aimed at increasing the taxpayer response rate, including studies or surveys to find out why some taxpayers do not respond.

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[13] Wage and Investment SPEC Communications and Marketing, *W&I Communication Strategy – Earned Income Tax Credit (EITC) FY 2006* 2 (Jan. 24, 2006).

IRS Response to Recommendation 2
We do agree that it is important to understand why taxpayers did not respond or respond completely. However, previous studies have shown that Taxpayers who did not respond to the notices also would not respond to surveys. It is therefore difficult to get taxpayers to participate in research requests to determine why they don't respond.

NTA Status Update to Recommendation 2

NTA Recommendation 3
3. Increase outreach and education efforts to encourage taxpayers to respond to the IRS, including:
   - Examining the 2006 EITC certification test in which one message to qualifying taxpayers was "reply to any IRS correspondence about your EITC to get the credit your deserve";[14]
   - Design an outreach campaign aimed at explaining the consequences of not responding to notices and letters and encouraging taxpayers to open mail from the IRS.

IRS Response to Recommendation 3
We cannot commit to this recommendation at this time. However, we will explore the potential of including in an outreach campaign a message encouraging taxpayers to respond to the IRS.

NTA Status Update to Recommendation 3

NTA Recommendation 4
4. Continue to review IRS correspondence and publications to ensure that taxpayers understand what the IRS is requesting.

IRS Response to Recommendation 4
IRS has worked with the Taxpayer Advocacy Panel to revise nine letters and forms to help the taxpayer understand what is requested. Form 886-H series will be tested at two of the tax forums this year in partnership with the Single Point of

[14] Wage and Investment SPEC Communications and Marketing, *W&I Communication Strategy – Earned Income Tax Credit (EITC) FY 2006* 2 (Jan. 24, 2006).

Contact Office and W&I Research. AUR conducts customer and employee surveys on a quarterly basis to assess the effectiveness of its notices and letters. The feedback is used to initiate changes. Publications impacting AUR are also reviewed annually to ensure clarity.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. Consider changes to communication that would assist LEP, disabled, and low income taxpayers, such as:
   - Allow taxpayers to specify in what language they want to receive communication from the IRS;
   - Put language in Braille on envelopes indicating that the letter contains important IRS correspondence and providing a telephone number to call for more information; and
   - Include a self-addressed stamped envelope with letters requesting information from a taxpayer.

IRS Response to Recommendation 5

In 2008, Form 886-H series, used in EITC and exemption audits, will include a statement in Spanish advising taxpayers the form is available in Spanish. Currently, when taxpayers call the toll-free lines, they are asked if they would like to speak to Spanish speaking tax examiner. Additionally, corporate phone routing allows Spanish calls to be routed to a campus with Spanish speaking tax examiners. IRM 21.3.1.5 has instructions on sending letters in alternative media when requested by the taxpayer.

It is not feasible to implement the use of self-addressed postage-paid response envelopes for this purpose due to the agency's overall printing and postage budget.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. Expand use of the residency affidavit to all EITC examinations while continuing to monitor its effectiveness relative to other forms of documentation.

IRS Response to Recommendation 6
IRS testing revealed that taxpayers and tax preparers were unfamiliar with the affidavit or its use. Widespread use of affidavits has the potential to enable significant erroneous EITC claims because of the ease with which affidavits can be created and submitted. Thus, while affidavits could reduce the burden on eligible taxpayers, they have significant potential for generating additional erroneous claims, contributing to overall IRS inventory.

NTA Status Update to Recommendation 6

2006 ARC – MSP Topic #20 – REASONABLE ACCOMMODATIONS FOR TAXPAYERS WITH DISABILITIES

Problem
Taxpayers with disabilities often find themselves attempting to navigate and comply with a complex tax system that has not been designed to provide equal access. Taxpayers who are blind, deaf, or have other disabilities encounter numerous barriers, such as communicating with the IRS and locating guidance on how to request an accommodation. In addition, the IRS struggles to provide a webpage that is accessible to taxpayers with disabilities and provides little education and outreach to these taxpayers, their caretakers, and employers regarding what deductions and credits they may be entitled to claim. The National Taxpayer Advocate recommends that the IRS create a disability website (containing information about IRS accommodations and deductions and credits available to taxpayers with a disability, their caretakers, and employers) and publicize IRS accommodations on forms, publications, and notices.

NTA Recommendations
1. The IRS should develop a way to identify if a taxpayer has a disability and what type of disability the taxpayer has, in order to correspond with the taxpayer in a format that is easiest for the taxpayer. The IRS should develop a process to determine the taxpayer's preferred format for correspondence at the outset of interaction with the IRS, such as Braille, large print, or audio. This approach would ensure effective communication throughout the "life" of a tax return.
2. The IRS should install video relay service in its Taxpayer Assistance Centers (TACs). This would allow taxpayers who are deaf or hard-of-hearing and whose primary language is American Sign Language (ASL) to communicate in their primary language.
3. IRS.gov should include speech options, providing vital IRS information in ASL via streaming video and allowing taxpayers to change the font size and color on the site.

4. The IRS should contract only with private companies that will guarantee all taxpayers equal access to information under § 508, and should provide the access (or service) itself if contractors cannot.
5. The IRS should include information on all of its forms, publications, and notices about how taxpayers with a disability can request IRS materials in an alternative format.
6. The IRS should design an area of IRS.gov that is solely dedicated to issues surrounding disability. This site should address what accommodations are available to taxpayers with a disability, what tax deductions or tax credits these taxpayers and their caretakers may be eligible for, and a comment section to allow the taxpayer to inform the IRS that a website, form or publication is not 508 compliant and to make other suggestions for service improvement. This website should also allow the user to change the font size and font color, and offer a speech option. SB/SE should have a section on this website to provide information to taxpayers with a disability who are self-employed or starting their own businesses.
7. SB/SE should include on its current website more detailed information regarding the deductions and credits small businesses may be entitled to, either for hiring employees with a disability, providing accommodations to employees with disabilities, or removing architectural barriers for taxpayers with disabilities.
8. SB/SE should develop a specific outreach and education strategy beyond the Internet. This strategy should be modeled after SPEC's outreach and education efforts.

NTA Recommendations 1

1. The IRS should develop a way to identify if a taxpayer has a disability and what type of disability the taxpayer has, in order to correspond with the taxpayer in a format that is easiest for the taxpayer. The IRS should develop a process to determine the taxpayer's preferred format for correspondence at the outset of interaction with the IRS, such as Braille, large print, or audio. This approach would ensure effective communication throughout the "life" of a tax return.

IRS Response to Recommendation 1

One of the Taxpayer Assistance Blueprint guiding principles is the concept that "The IRS is committed to offering a portfolio of service options delivered across multiple channels, including face-to-face service."

Rather than developing a way to identify if a taxpayer has a disability and the type of disability, it is the goal of IRS to provide services based on preferred delivery methods for all taxpayers, whether or not they have a disability. That goal, included in the TAB 5-year strategic plan, is to allow taxpayers to determine and communicate to us the optimal delivery method for their individual situation.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. The IRS should install video relay service in its Taxpayer Assistance Centers (TACs). This would allow taxpayers who are deaf or hard-of-hearing and whose primary language is American Sign Language (ASL) to communicate in their primary language.

IRS Response to Recommendation 2

The IRS's Field Assistance Office tested video relay equipment in 2005 in New York State and Washington, DC at TACs near universities designed for the deaf population. There was very little traffic during the filing season and virtually no traffic during the non-peak season. It was determined at that time not to roll out the equipment and licenses to other offices due to the minimal usage.

However, for future services, Field Assistance's Taxpayer Assistance Blueprint team will be reassessing the needs of taxpayers with disabilities to determine if future actions should be recommended based on taxpayer needs and preferences.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. IRS.gov should include speech options, providing vital IRS information in ASL via streaming video and allowing taxpayers to change the font size and color on the site.

IRS Response to Recommendation 3

The style sheet templates on IRS.gov currently prohibit site visitors from using web browser accessibility features, such as font and color adjustment. Site enhancements are planned to allow the user to update the style sheets to correct this situation pending availability of funding. Including a streaming video capability on IRS.gov has been a long standing enhancement requirement, but the funding has not been available for implementation.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. The IRS should contract only with private companies that will guarantee all taxpayers equal access to information under § 508, and should provide the access (or service) itself if contractors cannot.

IRS Response to Recommendation 4

Rather than contracting with private companies, the IRS already takes necessary action to ensure that members of the public with disabilities have equal access to information under § 508. IRS guidelines require that all taxpayers be provided equal access to IRS programs, activities, and information.

NTA Status Update to Recommendation 4

NTA Recommendation 5

5. The IRS should include information on all of its forms, publications, and notices about how taxpayers with a disability can request IRS materials in an alternative format.

IRS Response to Recommendation 5

The Tax Forms & Publications division of Media & Publications has long recognized the need for taxpayers to know how they can request IRS materials in an alternative format. We explored many possibilities including the current recommendation. However, research and analysis revealed this is not a viable solution because there is not adequate space to include information about IRS materials in an alternative format on all forms and publications. To address this issue, we made appropriate changes to the most widely used Publications, such as Form 1040 instructions and Publication 17. In addition, for future changes, we will consider taxpayer with disabilities preferences based on Taxpayer Assistance Blueprint research, analysis and conclusions.

NTA Status Update to Recommendation 5

NTA Recommendation 6

6. The IRS should design an area of IRS.gov that is solely dedicated to issues surrounding disability. This site should address what accommodations are available to taxpayers with a disability, what tax deductions or tax credits these

taxpayers and their caretakers may be eligible for, and a comment section to allow the taxpayer to inform the IRS that a website, form or publication is not 508 compliant and to make other suggestions for service improvement. This website should also allow the user to change the font size and font color, and offer a speech option. SB/SE should have a section on this website to provide information to taxpayers with a disability who are self-employed or starting their own businesses.

IRS Response to Recommendation 6
The purpose behind Section 508 was to provide those with disabilities equal access to information rather than providing such access through separate channels or sites. IRS.gov complies with Section 508, established government regulations, and best practices for providing content to persons with disabilities. Each new feature implemented on IRS.gov is subjected to rigorous accessibility testing prior to release.

The IRS.gov Help Desk currently provides an avenue for reporting Section 508/Accessibility issues.

See response to recommendation #3 above regarding changes to font size and color.

NTA Status Update to Recommendation 6

NTA Recommendation 7
7. SB/SE should include on its current website more detailed information regarding the deductions and credits small businesses may be entitled to, either for hiring employees with a disability, providing accommodations to employees with disabilities, or removing architectural barriers for taxpayers with disabilities.

IRS Response to Recommendation 7
This recommendation is largely already in place. The IRS has increased its efforts to educate taxpayers with disabilities regarding tax deductions and credits. In 2004, IRS worked with national partners to launch a disability initiative in 13 cities branded the “TaxFacts” campaign. Key objectives of this campaign were to engage affiliates of these partners to educate their customers on available tax deductions and credits and to develop a disability strategy within the IRS’ local community based partnerships. In 2006, this initiative, now titled the “Real Economic Impact Tour,” included 30 cities and for 2007 was expanded to 54 cities. The IRS also developed Publication 3966, Living and Working with Disabilities, which provides a summary of existing tax credits and benefits that may be available to qualifying taxpayers with disabilities,

parents of children with disabilities, and businesses or other entities wishing to accommodate persons with disabilities. This publication directs the user to other publications that are available in alternative formats. To date, over 1 million copies of this publication have been distributed and the product is available on the IRS web site, as well as many of the IRS' national partners' websites.

NTA Status Update to Recommendation 7

NTA Recommendation 8

8. SB/SE should develop a specific outreach and education strategy beyond the Internet. This strategy should be modeled after SPEC's outreach and education efforts.

IRS Response to Recommendation 8

SBSE is developing an outreach strategy to integrate key tax related information such as Americans with Disabilities Act (ADA) tax incentives, business tax credits and deductions for employment of people with disabilities, and services to employers and employees through leveraged partnerships as discussed in recommendation #7 above.

We continue to explore additional opportunities to partner with interest groups representing persons with disabilities or those that employ the disabled to share appropriate tax related information through fact sheets, forums, and other communication vehicles. Most recently, we are establishing leveraged partnerships with Department of Labors' Office of Disability Employment, DisabilityInfo.gov and community-based associations such as Chamber of Commerce for Individuals with Disabilities, Corporation for National and Community Service and the National Organization on Disability.

NTA Status Update to Recommendation 8

2006 ARC – MSP Topic #21 – INJURED SPOUSE ALLOCATIONS

Problem

If married taxpayers file a joint federal tax return claiming a refund and one spouse has an outstanding federal tax debt, unpaid child support, debts owed to other federal agencies (*e.g.*, student loans from the Department of Education), or state income tax obligations, the IRS will offset the couple's refund against these debts. The spouse who is not liable for the debt can avoid having his or her portion of the refund offset against the debt by filing Form 8379, Injured Spouse Allocation, with the IRS. However, taxpayers who request injured spouse relief may be burdened by lengthy processing times or IRS calculation errors. The IRS can take as long as 14 weeks to process a request for injured spouse relief and is more likely to make an error when calculating the allocation since the IRS computes the refund manually. The National Taxpayer Advocate urges the IRS to identify and address the reasons for the lengthy processing time and to develop a system of calculating injured spouse allocations automatically, rather than manually.

NTA Recommendations

1. Wage & Investment should begin tracking the following issues so processing problems can be identified and addressed.
   - The average cycle time for injured spouse allocations where the Form 8379 is filed electronically;
   - The average cycle time for injured spouse cases where the Form 8379 was filed separately;
   - The average cycle time for injured spouse allocations where the Form 8379 is filed attached to the original return;
   - The number and type of errors made when processing injured spouse allocations;
   - The number and type of errors made as a result of calculating injured spouse allocations manually; and
   - The number of Forms 8379 that contained taxpayer errors and the type of taxpayer errors.
2. The IRS should calculate injured spouse allocations automatically rather than manually, which would reduce both errors and processing time.
3. The IRS should clarify the community property question on Form 8379 to ask where the taxpayer is domiciled, rather than where the taxpayer's main home is located. This change would yield a more accurate answer as to the taxpayer's place of residence.
4. The IRS should design a split column joint tax return that would separate spouses' income, deductions, credits and payments. Adopting this recommendation would eliminate most problems surrounding injured spouse relief.

NTA Recommendation 1

1. Wage & Investment should begin tracking the following issues so processing problems can be identified and addressed.
   - The average cycle time for injured spouse allocations where the Form 8379 is filed electronically;
   - The average cycle time for injured spouse cases where the Form 8379 was filed separately;
   - The average cycle time for injured spouse allocations where the Form 8379 is filed attached to the original return;
   - The number and type of errors made when processing injured spouse allocations;
   - The number and type of errors made as a result of calculating injured spouse allocations manually; and
   - The number of Forms 8379 that contained taxpayer errors and the type of taxpayer errors.

IRS Response to Recommendation 1

We do not agree that there is a substantiated need to gather the type of data suggested in the first three bullets of this recommendation. In addition, the tracking of Forms 8379 filed separately would involve substantial costs because it would require a manual process; such data could not be captured systemically.

It is not feasible to implement the bulleted items 4 – 6 in this recommendation. The current quality review process is conducted by management and PAS on a sample basis involving less than one percent of the injured spouse allocations for both tax and non-tax cases. To obtain the suggested data would require the costly manual review of all, or a much larger sample of injured spouse allocation cases. Such data cannot be captured systemically.

NTA Status Update to Recommendation 1

NTA Recommendation 2

2. The IRS should calculate injured spouse allocations automatically rather than manually, which would reduce both errors and processing time.

IRS Response to Recommendation 2

In the past the Accounts Management Section has explored the possibility of automating the injured spouse allocation process. However, until Form 1099/W-2 information is systemically accessible at the beginning of the tax year, it is not feasible to automate this process because of the need to validate the information the taxpayer provides on the Form 8379

with the Form 1099/W-2 documents. In addition, there are system limitations that prevent automating the injured spouse process through pipeline and data conversion.

NTA Status Update to Recommendation 2

NTA Recommendation 3

3. The IRS should clarify the community property question on Form 8379 to ask where the taxpayer is domiciled, rather than where the taxpayer's main home is located. This change would yield a more accurate answer as to the taxpayer's place of residence.

IRS Response to Recommendation 3

Revised Form 8379 has been submitted to Media and Pubs for revision. However, a final decision whether or not to use the term "domicile" on the form remains to be agreed. Although this is the legally correct term, it may confuse many taxpayers who use the form.

NTA Status Update to Recommendation 3

NTA Recommendation 4

4. The IRS should design a split column joint tax return that would separate spouses' income, deductions, credits and payments. Adopting this recommendation would eliminate most problems surrounding injured spouse relief.

IRS Response to Recommendation 4

Taxpayers using the filing status Married Filing Joint represent less than 40 percent of all individual income tax returns processed. Those married taxpayers needing to file for an Injured Spouse Allocation represent less than one half of one percent of all married taxpayers filing joint returns. While separate reporting on Form 1040 would improve injured spouse processing, it would significantly increase the complexity of tax return preparation and create additional unnecessary burden for the vast majority of joint return filers not affected by injured spouse issues.

NTA Status Update to Recommendation 4