

The National Taxpayer Advocate's

Fiscal Year 2006 Objectives Report to Congress

(This document contains selected excerpts from the 2006 report. It is not intended to be a complete summary, but instead is a collection of statements that relate to topics such as offers-in-compromise and taxpayer compliance issues.)

June 30, 2005

INTRODUCTION

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

POST-RRA 98 TAX ADMINISTRATION

In the IRS Restructuring and Reform Act of 1998,² Congress directed the IRS to develop a new mission statement, one that acknowledged the important role that taxpayer service plays in tax administration and in achieving taxpayer compliance. In response, the IRS adopted the following mission statement: Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Today, the IRS's explicit and primary focus is on increasing its enforcement activity. While this goal is laudable, it is very narrow. As Congress noted in RRA 98³, the IRS is far more than an enforcement agency – it must serve all taxpayers. Thus, the IRS should specifically state that its primary organizational goal is to increase voluntary compliance. As an offshoot of that goal, the IRS can and should address those taxpayers who refuse to voluntarily comply. However, by making its top organizational priority “increasing voluntary compliance” – as opposed to merely “increasing enforcement” – the IRS would not lump in those taxpayers who are noncompliant but *trying to comply* with those taxpayers who aren't even trying. These points are not mere semantic quibbles. Organizational goals and objectives matter.

As we learned in the years immediately before the enactment of RRA 98, setting sweeping enforcement-oriented expectations at the corporate level translated into a very different message to the front-line employees. A national push for increased productivity occurred. Policy guidance was published that loosened the tight reins on sharing production goals. The “firewall” that [policy statement] P-1-

¹ IRC § 7803(c)(2)(B).

² Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, § 1002

³ RRA 98 § 1002 provides that the IRS “[s]hall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers’ needs.” The Senate Finance Committee report stated that “[t]he Committee believes that taxpayer service is of such importance that the Committee should ... mandate that a key part of the IRS mission must be taxpayer service.” S. Rep. No. 105-174.

20⁴ and TBOR were intended to establish in prohibiting goal-setting and use of production statistics in evaluation of revenue officers and their immediate supervisors was weakened. The P-1-20 certification had become a paper exercise. Our tax system is a self-assessment system. We expect taxpayers to come in and tell us about their taxable income.

It is also a system that contemplates “rough justice.” That is, in exchange for taxpayers’ voluntarily filing their taxes each year, we accept the fact that taxpayers will not be 100 percent accurate – after all, they are not tax experts. And we, the IRS, accept the responsibility – or at least we should – for providing procedures and requirements that are not so burdensome that taxpayers cannot comply. Where such complexity is unavoidable, or where taxpayers need clarification or assistance, it is our duty to provide such clarification and assistance in a form that taxpayers can understand and actually access. It’s our job to help taxpayers be as close to 100 percent compliant as they possibly can.

The rub, of course, is that providing such service can appear expensive under some methods of analyses and does not create easily measurable results. For example, if we measure a program’s efficiency based on its ability to deliver a service in the least costly manner, then we must be very clear about how we define the term “costly.” When a taxpayer uses the Internet, does he still need to call the IRS toll-free line for further assistance? When a taxpayer uses the tollfree line, does he have to make multiple calls to resolve the issue? Perhaps a single visit to the walk-in site would resolve *all* of the taxpayer’s issues in a shorter amount of time with less overall burden on the taxpayer and the IRS. When labeling one channel “more efficient” or “less costly” than another, we need to include the downstream effects in that calculation. We should not take for granted the segment of our taxpayer population that is responsible for our 85 percent compliance rate. Rather than looking for ways to reduce services and assuming no impact to compliance as a result of these service reductions, we should be studying what factors make it easier or more difficult for taxpayers to comply and what services compliant taxpayers require in order to remain compliant.

Research – both applied and theoretical – is essential to the goal of increasing voluntary taxpayer compliance and a first-class tax administration system. Unfortunately, the IRS often makes decisions without conducting the requisite research to estimate the impact of such actions on voluntary compliance.

⁴ Special Review Panel Report for Charles O. Rossotti, Internal Revenue Service (August 1998), 11. IRS policy statement P-1-20, The Use of Enforcement Statistics (November 9, 1973) permitted the IRS to forecast enforcement results and communicate those results for planning purposes. The policy stipulated that tax enforcement results shall not be used to evaluate an enforcement officer or to impose or suggest production quotas or goals. The Taxpayer Bill of Rights prohibited the use of records of tax enforcement results to evaluate employees directly involved in Collection activities and their immediate supervisors or to impose or suggest production quotas or goals with respect to such employees. Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, § 6231 (1988).

Sometimes, the timeframes for decisions are externally imposed and unavoidable. All too often, however, the IRS imposes its own internal deadlines, and in the time that it takes to manage the uproar over proposed changes, it could accomplish some version of the requisite research studies. As the National Taxpayer Advocate, I am very mindful of the pressures – from Congress, from the Administration, from taxpayers, from the press – under which the IRS labors. I see these pressures every day on the job. I understand the hard choices that public servants must make. But the IRS must resist reacting to these pressures in a way that compounds underlying problems.

Before we radically alter the relationship of the taxpayer to the tax administrator (and, by extension, to his or her government), we need to have some understanding of the impact of these changes upon tax compliance. And we cannot gain that understanding solely by studying the IRS's own organizational needs. We must think about the world from the perspective of the taxpayer and other stakeholders.

IRS PARTNERSHIP WITH TAS

Congress specifically created the Taxpayer Advocate Service so that the IRS hears the “voice of the taxpayer” while it makes strategic, operational, and programmatic choices. We can avoid one-dimensional, internally-driven decisions if the IRS consults with the Office of the Taxpayer Advocate early in the planning process. In 1998, Congress clearly stated that it expects such early collaboration: “The Committee also believes that the reporting requirements of the Taxpayer Advocate should be targeted not only towards solving problems with the IRS but also towards preventing problems before they arise.”⁵ Moreover, the IRS should consult with a broad array of external stakeholder groups about such issues. It is not sufficient that the IRS just bring in these stakeholders when it is convenient for the IRS, after the IRS has already reached a decision and way after the point when it can incorporate significant recommendations for change.

As clearly demonstrated by IRS's proposal to close 68 walk-in sites (“Taxpayer Assistance Centers” or TACs), a failure to listen to and discuss concerns of the National Taxpayer Advocate, along with numerous taxpayer and Congressional stakeholders, can lead to virtually universal opposition to proposals that might, if properly researched and reasoned, gain greater acceptance.

Two years ago, in my FY 2004 Objectives Report, I noted that the relationship between a function such as the Taxpayer Advocate Service (TAS) and its parent organization – here, the Internal Revenue Service (IRS) – can take one of two forms.⁶ That is, the relationship between TAS and the IRS can follow either the partnership or adversarial model. Obviously, we would all prefer a partnership, in which TAS works with the IRS to resolve problems. Throughout this report, we

⁵ S. Rep. No. 105-174.

⁶ National Taxpayer Advocate Fiscal Year 2004 Objectives Report to Congress 1.

note many instances and results of such partnering, and describe our plans for joint initiatives for Fiscal Year 2006. In fact, we set out in Appendix III a list of seven such teams or projects that involve TAS/IRS collaborative efforts. I applaud the IRS for these efforts. Such partnering can be especially difficult when IRS employees are placed under pressure to produce quantifiable results, particularly in the enforcement area. IRS employees, being the dedicated public servants that they are, want to meet their supervisors' expectations. But such pressure to "produce" can lead to a tendency to discount the impact of certain actions or procedural changes on taxpayers' rights or the ability of taxpayers to comply with their tax obligations – areas of special concern to the National Taxpayer Advocate and TAS. Thus, depending on what goals the IRS sets for itself, IRS employees may view TAS involvement or intervention in IRS initiatives as an interference rather than a help.

A LOOK AHEAD TO NATIONAL TAXPAYER ADVOCATE PRIORITIES IN FY 2006

With the passage of time, it is reasonable to review some of the significant changes required by RRA 98 for fine-tuning to reflect work practices and other factors that could not be anticipated at the time of the statute's enactment. RRA 98's underlying principles, however, still hold true, namely:

- That tax administration should be taxpayer-centric and designed around the characteristics of taxpayer segments;
- That IRS employees should be evaluated under a system of *balanced* measures and not on the basis of enforcement results; and
- That the IRS must balance its efforts to increase voluntary compliance (including through enforcement actions) with a healthy respect for taxpayer rights (including the confidentiality of taxpayer information) and the provision of quality taxpayer service.

In FY 2006, the Office of the Taxpayer Advocate will continue to evaluate IRS programs on the basis of these principles. We will accomplish this goal through the activities described in the following pages, through the 2005 Annual Report to Congress, through internal dialogue with the IRS and public discussions with our stakeholders, and through Congressional testimony. As National Taxpayer Advocate, I will use the Taxpayer Assistance Order, the Taxpayer Advocate Directive, and the Taxpayer Rights Impact Statement, where appropriate. In fact, since the submission of my FY 2005 Objectives Report to Congress last June, I have issued three Taxpayer Rights Impact Statements and two proposed Taxpayer Advocate Directives.

My office will continue its work on the Offer-in-Compromise program, particularly the IRS implementation of Effective Tax Administration offers, even as we propose legislation to improve this program. Moreover, in the 2005 Annual Report to Congress, I will make a legislative recommendation for improving

Collection Due Process hearings that will attempt to eliminate some of the IRS objections about the misuses of the program at the same time that we more accurately target its protections to unwarranted or unnecessary collection actions. We will continue to advocate that IRS actions be brought within the mainstream of fundamental administrative law protections.

In the following section, I discuss my office's involvement with the IRS Private Debt Collection initiative. In addition, with respect to the IRS's elimination of geographic-based and face-to-face taxpayer service, I identify several avenues of research that the IRS should pursue before undertaking significant change from established practice. Notably, the IRS to date has not developed a credible strategic plan for migrating taxpayers from face-to-face service to other methods. Nor has the IRS really considered or studied the impact of a diminished community presence on taxpayers' image of the IRS and on voluntary compliance. The mere fact that the IRS is open for assistance in a community – even if its assistance is not availed of by all taxpayers in that community – may lead those taxpayers to feel better about the tax system in general and to comply voluntarily with that system in greater numbers.

Finally, I note that in FY 2005, Congress significantly simplified the tax laws impacting families by enacting a Uniform Definition of a Qualifying Child.⁷ The Earned Income Tax Credit (EITC), however, remains an area of great complexity and noncompliance. This year, my office – and I personally – studied the tax credits available in the United Kingdom, Canada, and Australia. In my 2005 Annual Report to Congress, I will make a legislative recommendation for EITC reform. My goal is to eliminate some of the most common inadvertent taxpayer errors, eliminate opportunities for fraud, and reduce the EITC's compliance burden on both the taxpayer and the IRS.

CONCLUSION

Preliminary data from the National Research Program indicate that the overall compliance rate for 2001 is about 85 percent – roughly the same compliance rate that was measured during the last major study, which was conducted for 1988. While enforcement actions arguably declined over the last decade, I suspect the compliance rate did not decline because of the significant improvements made to taxpayer service. Still, we are left to collect the remaining 15 percent of the known tax due, and I believe it will take many different strategies to move the marker an additional 5 percentage points. Some of these strategies involve direct collection and examination activities, or litigation; some, eliminating complexity; some, improving tax administration by understanding the needs of taxpayers and the causes of noncompliance; and still others, finding ways to increase the indirect effect of traditional enforcement activities. But these strategies cannot and must not be accomplished at the expense of taxpayer service, because the

⁷ Working Families Tax Relief Act of 2004, Pub. L. No. 108-311.

overwhelming majority of our taxpayers are, on the whole, either compliant or trying to comply. And they deserve to be treated as such.

Respectfully submitted,
Nina E. Olson
National Taxpayer Advocate
30 June 2005

TAS Participation in the Private Debt Collection Initiative

The second objective of the National Taxpayer Advocate is that TAS should be sufficiently engaged in the design and implementation of the PDC initiative. By being engaged in this manner, the National Taxpayer Advocate hopes to identify and correct problems before they negatively impact taxpayers. To achieve this objective, the National Taxpayer Advocate has assigned members of her staff to participate in the design of different facets of the initiative. There are seven main areas of TAS focus: training, policies and procedures, privacy, notices, complaint process, selection criteria and exclusion codes, and contractor monitoring and case research.

- **Training** – Private collectors must be adequately trained about taxpayer rights. IRS and TAS personnel must provide this training *directly* and not rely on private collectors to train their own employees on these issues. If the IRS does not provide the training in key areas, such as taxpayer rights, there will be a lack of uniformity in contractor practices that may result in violations of taxpayer rights, customer dissatisfaction, and less compliance overall.
- **Policies & Procedures** – The IRS and the private collectors must agree to policies and procedures that will allow taxpayers access to TAS at any time while they are being contacted by the private collectors. TAS will interact with the private collectors in the same way that it currently works with the IRS to find satisfactory resolutions for taxpayers.¹⁵ Taxpayers also need to be provided ample information about the initiative and about how to contact TAS.
- **Privacy & Confidentiality** – TAS is assisting the IRS in developing processes to protect the privacy and confidentiality of taxpayer information. TAS is assessing proposed information sharing procedures to determine whether private collectors receive only those pieces of taxpayer information necessary to complete their contracted tasks.
- **Notices** – The IRS has been working on the clarity of its own collection notices for many years. However, the notices of private debt collectors are not scrutinized for notice clarity and accuracy to the same degree as IRS notices. TAS has allocated experienced personnel to work with the IRS on private collection notice issues.
- **Complaint Process** – The IRS is establishing a complaint process for taxpayers who have complaints about treatment by private contractors. TAS is working with the IRS to develop a complaint process that fully investigates all

¹⁵ During the program's roll-out, TAS will accept any case from the PDC for initial review so that TAS can independently determine whether taxpayers are properly treated by the PDCs.

taxpayer complaints in a timely manner. The IRS also must develop a system that requires private collectors to take corrective action when the IRS validates taxpayer complaints.

• **Selection Criteria & Exclusion Codes** – The IRS is still refining its processes for identifying those cases that will be selected for private collection and those that will be excluded. Initially, the cases sent to private collectors will have the following characteristics:

1. The account indicates that the taxpayer does not dispute the liability. Generally, in these cases, the taxpayer has either signed an agreement that the tax is owed or has made at least 3 payments on the liability.
2. Taxpayer filed on Form 1040 series of returns.
3. The case does not involve a restriction on collection activity or otherwise indicate that discretion or enforcement action may be required to resolve the liability. TAS will monitor the selection and exclusion criteria to assess whether the criteria result in the selection of cases that are appropriate for referrals to PDCs and do not result in the referral of cases that require the exercise of discretion for resolution.
- 4.

• **Contractor Monitoring and Case Research** – TAS is working with the IRS to develop the means and measures by which the results of the private collection initiative can be monitored and evaluated. While TAS participation in the initiative has not been without its problems, the National Taxpayer Advocate remains hopeful that she can remain constructively involved in the design of the PDC initiative. To this end, and at the request of the IRS PDC Team, the National Taxpayer Advocate recently designated a senior member of her staff to work full time with the PDC Team. This TAS representative will make sure that the PDC team consults with TAS subject matter experts and will also bring significant issues to the attention of the National Taxpayer Advocate.

COLLECTION DUE PROCESS

Collection due process (CDP) hearings offer taxpayers a chance to have a meaningful opportunity to be heard about certain issues, including collection alternatives, after the IRS places a lien on taxpayers' property and before the IRS can levy on taxpayers' property.¹⁶ CDP hearings must be conducted by independent officers from the Office of Appeals.¹⁷ Taxpayers can raise numerous issues at CDP hearings including:

- Collection alternatives, such as offers in compromise and installment agreements;
- Appropriate spousal defenses; and

¹⁶ IRC §§ 6320 (applicable to liens) and 6330 (applicable to levies).

¹⁷ IRC § 6330(b)(3).

- Underlying liability, in certain circumstances.¹⁸

Taxpayers may obtain judicial review of the notice of determination issued by Appeals after the CDP hearing.¹⁹ While a CDP hearing or an appeal from a CDP hearing is pending, the IRS is precluded from levying on taxpayers' property, subject to certain exceptions.²⁰

Because CDP hearings create a pause in IRS collection action before depriving taxpayers of their property, the IRS struggles with the balance of providing the statutory appeal rights and moving collection cases along in an efficient manner. The IRS is also confronted with the challenge of differentiating between those taxpayers who want to work with the IRS in good faith to resolve their liability and those taxpayers who simply want to delay the collection process. The National Taxpayer Advocate is concerned that the IRS is reacting to this challenge by taking steps that may have the effect of diminishing the meaningful nature of the CDP hearings.²¹ For example, the Office of Appeals has presumptively established that all CDP hearings will be telephonic hearings rather than face-to-face hearings, and is designating all CDP hearings originating from IRS service center actions to be heard by Appeals service center personnel. Certain fact intensive tax disputes are often resolved more efficiently in a face-to-face exchange of information or with an employee who is based in the same geographic locale as the taxpayer. Taxpayers who are not sufficiently informed about their rights may not know to timely request a face-to-face hearing or a referral to a local Appeals office.

OFFER IN COMPROMISE

As of the first eight months of FY 2005, new OIC receipts have declined by 30 percent with new cases at 50,743 compared to 72,881 for the same period during 2004.²⁴ The decline in submissions may be due to an increasing numbers of taxpayers and representatives reaching the conclusion that the offer process is not working as well as it should. The IRS' new \$150 OIC processing fee and revised OIC Form, which makes it more clear when offers will not be accepted, may also be reducing the number of unrealistic OIC submissions.

Although the number OIC acceptances declined from 13,231 for the first 8

¹⁸ IRC § 6330(c)(2).

¹⁹ IRC §§ 6320(c) and 6330(d)(1) provide taxpayers with the ability to seek judicial review in either the U.S. Tax Court or the appropriate U.S. district court, depending on the tax.

²⁰ IRC § 6330(e) provides for a suspension of collection actions unless the collection of the tax is in jeopardy, or the IRS is levying state tax refunds, or the IRS has otherwise demonstrated good cause to proceed with collection activity.

²¹ The legislative history of the IRS Restructuring and Reform Act that brought about CDP hearings indicates that hearings must be "meaningful" to the taxpayer, as follows: The Committee believes that taxpayers are entitled to protections in dealing with the IRS that are similar to those they would have in dealing with any other creditor. Accordingly, the Committee believes that the IRS should afford taxpayers adequate notice of collection activity and a meaningful hearing before the IRS deprives them of their property. S. Rep. 105-174, (1998).

²⁴ SB/SE, Offer in Compromise Program, Executive Summary for the Oversight Board, FY 2005-May 2005.

months in FY 2004 to 12,784 for the same period in FY 2005, the percent of acceptances increased from 15 to 20 percent. An increase in the percent of OICs accepted by IRS provides further support for the conclusion that the quality of OIC submissions is increasing. Moreover, the number of offers returned – which includes those the IRS deems can be fully paid – dropped from 23,907 to 14,745, a 38 percent decline. This change may also be due to IRS process improvements, most notably the elimination of the requirement that offer examiners add five years to the statutory collection period when calculating whether a taxpayer can fully pay the tax out of future income.²⁶

An increase in the OIC acceptance rate is good news. The IRS reports that in the first 8 months of FY 2005, accepted offers have been bringing in 16 cents on the dollar owed, which is higher than the 13 percent yield from all IRS debts that are two years old.²⁷ A higher acceptance rate also means that the IRS is spending less time processing offers that are not ultimately accepted. Moreover, when the IRS accepts an offer, the IRS imposes a requirement that the taxpayer remain in compliance for 5 years. A recent study showed that about 80 percent of taxpayers remain in compliance during the subsequent 5 years.²⁸ We do not know whether we get that same long-term effect from enforced collection actions. The bad news is that the Taxpayer Advocate Service continues to receive complaints from taxpayers and practitioners concerning the IRS process for determining an acceptable offer amount. One common complaint is that SB/SE employees blindly adhere to IRS expense standards, without considering the taxpayer's specific facts and circumstances in determining whether the standards TIGTA has concluded that the OIC fee, imposed in November 2003, is responsible for reducing OIC submissions by 28%, but it is difficult to conclude that the continued reduction in OIC submissions in FY 2005 is due to the OIC fee. See Treasury Inspector General for Tax Administration, Ref. No. 2005-30-096, *The Implementation of the Offer in Compromise Application Fee Reduced the Volume of Offers Filed by Taxpayers at All Income Levels* (June 2005). The Form 656, Offer in Compromise, however, was revised in July 2004, and the revision was publicized in October 2004.

²⁶ This processing change occurred in November 2004.

²⁷ SB/SE, Offer in Compromise Program, Executive Summary for the Oversight Board, FY 2005-May 2005. On average, the passage of time results in diminishing collection returns for the IRS, such that after 6 months the IRS loses 47 cents on the dollar, after 24 months it loses 87 cents on the dollar, and after 3 years the debt is nearly uncollectible. IRS Automated Collection System Operating Model Team, Collectibility Curve (Aug. 5, 2002).

²⁸ SB/SE Payment Compliance and Office of Program Evaluation and Risk Analysis (OPERA), *IRS Offers in Compromise Program, Analysis of Various Aspects of the OIC Program*, September 2004.

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Another common complaint is that the IRS has ignored its mandate to compromise based upon equity, public policy and hardship. In 1998, Congress authorized the IRS to compromise tax debts based upon factors such as equity, public policy and hardship in cases where doing so would promote the effective administration of the tax laws (ETA offers). However, the IRS has interpreted the congressional authorization so narrowly that, for example, the IRS group charged with evaluating such offers accepted only a single ETA offer based upon equity or public policy in FY 2004, and only 11 have been accepted by that group in FY 2005. We believe that the IRS' reluctance to compromise in inequitable situations may lead taxpayers to disregard the law or erode their faith in the fairness of the income tax system. As discussed in the National Taxpayer Advocate's 2004 Annual Report to Congress, we are not confident that the IRS will, on its own, use its ETA authority in the manner we believe Congress intended. TAS will therefore continue to recommend that Congress provide more specific guidance to the IRS to ensure that a new "equitable consideration" standard be applied in a broader array of cases.³⁰ In the meantime, however, we will continue to work with the IRS to expand the circumstances under which they will compromise based upon ETA.

TAXPAYER SERVICE RESEARCH

Research on the Impact of Taxpayer Service on Voluntary Compliance

The IRS has conducted only limited research on the impact of customer service on taxpayer compliance, and this relationship is still not well understood. Consequently, the IRS does not know whether recently proposed reductions in customer service will save the government money, since the potential impact on taxpayer compliance can not be quantified. Additional research should be conducted to enable the Service to identify and quantify the linkage between the variety of customer services it delivers and the impact those services have on taxpayer compliance.

IMMEDIATE INTERVENTIONS

Immediate Interventions are administrative or procedural issues that cause immediate and significant harm to multiple taxpayers and require immediate corrective action because of high visibility or sensitivity, or the potential significant impact of the problem. TAS addresses immediate interventions in two phases. Generally, within 7 to 10 days of the issue becoming a project, TAS must propose a resolution. The resolution may simply involve a request to the Operating Division to issue an Alert or it may require the intervention of the National Taxpayer Advocate and the issuance of a Taxpayer Advocate Directive (TAD).³¹ The second phase of the project involves researching the issue in depth and looking for more permanent solutions to the problem.

³⁰ See National Taxpayer Advocate 2004 Annual Report to Congress 433.

³¹ IRM § 1.2.50.4, IRM § 13.2.1.5.

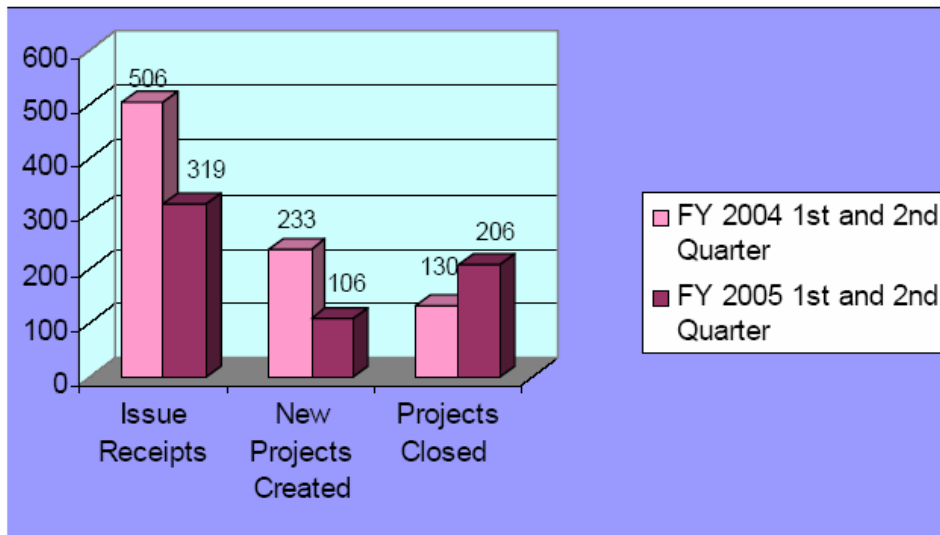
The Office of Systemic Advocacy received seven immediate intervention projects during the first two quarters of FY 2005.³² An example of these projects involved taxpayers in the western states (Alaska, California, Hawaii, Idaho, Oregon, and Washington) experiencing delays, and in some cases getting no response at all, in requests for lien releases, withdrawals, and escrow demands. These delays were causing economic hardship and taxpayer burden by impeding home purchases and sales and hampering efforts of businesses to obtain operating capital. TAS created an immediate intervention project; initial research showed that the problem was a possible by-product of staffing losses prior to the full implementation of centralized lien processing units at the IRS' Cincinnati campus. In this instance, TAS worked closely with the IRS to identify barriers and propose solutions. The solutions included realigning and training staff from other departments to immediately work the backlog of inventory, streamlining the process of forwarding all central California demands to the Fresno campus, providing more employees with immediate computer access to the lien database for Idaho, Washington, Alaska, Oregon, and Hawaii, and designating a liaison and back-up in the unit as central contacts to handle urgent and unresolved issues. Systemic Advocacy is continuing to monitor the implementation and progress of these solutions.

SYSTEMIC ADVOCACY RECEIPTS AND PROJECTS

The following chart illustrates the top issues received in the TAS Office of Systemic Advocacy during the first six months of FY 2005.

³² Systemic Advocacy received 11 immediate intervention issues for the same time period in FY 2003 and received 7 in FY 2004.

SAMS Comparison Data FY 2004 and FY 2005 – Receipts/Projects/Closed



The number of systemic advocacy issues received through March 2005 decreased by 37 percent over the same period last year. Two possible explanations for this trend are:

- Increased awareness among IRS employees about what constitutes a systemic advocacy issue versus what should be submitted via other established channels (e.g. IRM changes and clarifications, TAS casework processing issues and questions, employee suggestion program; and
- Decreased interest in submitting advocacy issues. Submitters are not receiving accurate, clear, and timely communication about the status and use of their issue submission, especially when a project is not created from their submission. As discussed above, TAS intends to address this problem by improving SAMS capability and management oversight.

The decrease in the number of projects created during FY 2005 may be attributed to an improved consistency in ranking issues as they are received, resulting in a more clearly defined list of possible projects. In addition, TAS incorporated several new issue submissions into open projects, thus expanding the scope of existing projects without creating new projects with overlapping issues.

The number of projects closed during the first two quarters for FY 2005 increased by 63 percent over the same period last year. TAS introduced performance measures during FY 2005 that increased awareness of aging projects and allowed management to provide better project management direction. The end result was an increase in the number of closed projects, especially those projects

TAXPAYER ADVOCACY PANEL BACKGROUND

The Taxpayer Advocacy Panel (TAP) serves as an advisory body to the Secretary of the Treasury, the Commissioner of the Internal Revenue, the National Taxpayer Advocate, and the Wage and Investment (W&I) and Small Business/Self-Employed (SB/SE) Operating Division Commissioners to improve IRS service to taxpayers and customer satisfaction. The TAP was initially established in 1998 as a federal volunteer advisory panel to identify “grass roots” issues and provide opportunities for taxpayers to make comments and suggestions on improvements within the IRS. The TAP consists of seven area committees and seven issue committees, with representatives from all 50 states, Washington D.C., and Puerto Rico.

TAP COMMUNICATIONS ISSUE COMMITTEE

In an effort to strengthen its voice in the community, TAP created a communications committee. The committee was established in the early part of calendar year 2005 and to date has developed a concept of operations that focuses on internal communication of TAP, external communications of TAP, and outreach.

TAS FISCAL YEAR 2006 TAP STRATEGY

During FY 2006, The Taxpayer Advocate Service will continue to support and promote the Taxpayer Advocacy Panel and encourage W&I and SB/SE to utilize the TAP as issues are developed and prior to making decisions on programs. FY 2006 strategies include:

- Implementing measures to determine TAP effectiveness;
- Base-lining survey responses from exiting TAP members;
- Implementing the TAP Member Handbook and staff Standards of Operation; and
- Rolling out a 2006 TAP communications plan focusing on outreach, and internal and external messaging.
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In addition, the TAS TAP staff will improve its support for the TAP so that it is better able to serve taxpayers and the IRS. In FY 2006, the TAS TAP staff will:

- Implement a revised TAP recruitment process that will focus on replacing one-third of the membership each year and filling vacancies as needed;
- Establish at least two meetings with the Commissioner during the year to emphasize TAS involvement as IRS develops or revises programs and procedures;
- Maintain a monthly communiqué with W&I and SB/SE business executives to explore additional committee opportunities and improve response rates on elevated recommendations; and
- Explore opportunities to partner with additional IRS operating and functional divisions and other components of TAS, including Local Taxpayer Advocates, Systemic Advocacy, and Low Income Taxpayer Clinics.

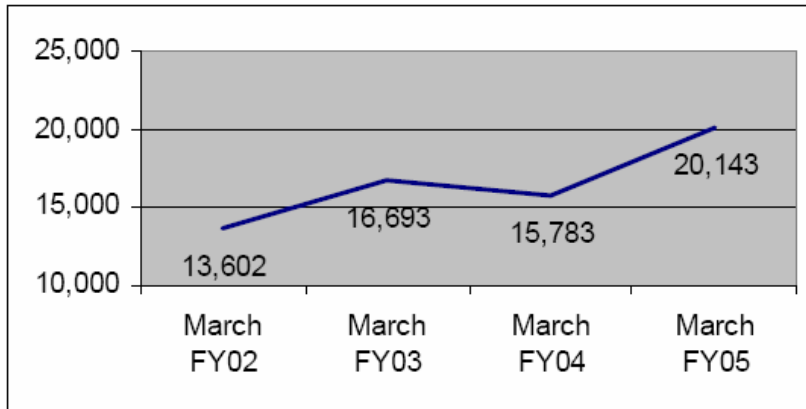
CASE PROCESSING

Receipts

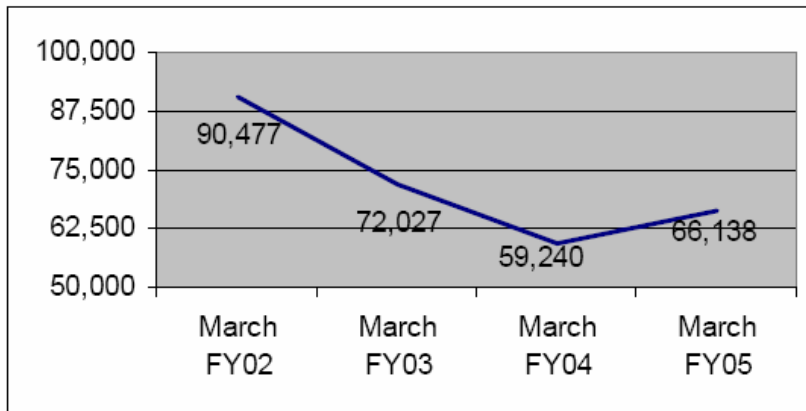
TAS receipts through March FY 2005 (87,457 cases) have increased dramatically (12.8 percent) over the same period in FY 2004 and include 1,176 cases that TAS accepted in the “best interest of the taxpayer” (criteria code 9). The receipts increased in both financial hardship cases (30 percent) and systemic hardship cases (11.2 percent). Through March 2005, IRS operating divisions and functional units referred 35.5 percent more cases to TAS over the same period last year.

The following charts illustrate the volume of TAS financial and systemic hardship case receipts.

Financial Hardship Case Receipts

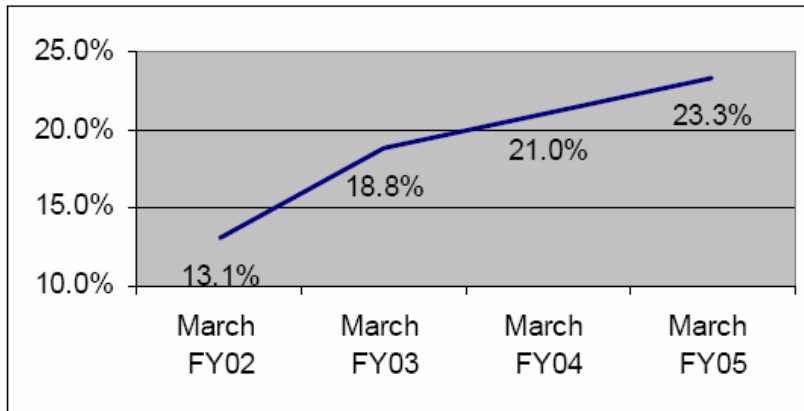


Systemic Hardship Case Receipts



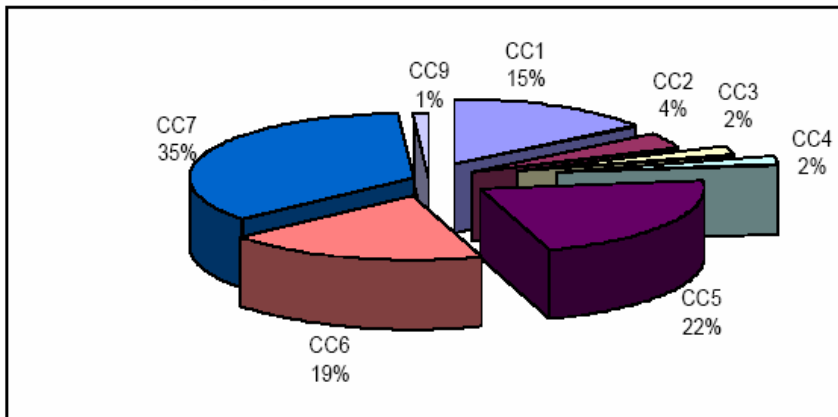
As a percentage of total case receipts, financial hardship receipts have increased.

Financial Hardship Case Receipts as a Percentage of Total Receipts



The following chart sets forth the reasons TAS accepted cases between October 1, 2004 and March 31, 2005 by TAS Criteria Code (CC).

FY 2005 Receipts by Criteria as of March 31, 2005



- CC 1: Taxpayer suffering or about to suffer a significant hardship
- CC 2: Taxpayer facing threat of adverse action
- CC 3: Taxpayer will incur significant costs if relief is not granted
- CC 4: Taxpayer will suffer irreparable injury, or long-term adverse impact
- CC 5: Taxpayer experienced a delay of more than 30 days to resolve tax account problem
- CC 6: Taxpayer has not received a response by the date promised
- CC 7: A system(s) or procedure(s) has either failed to operate as intended or failed to resolve the taxpayer's problem
- CC 9: Any case not meeting other TAS criteria, but kept in the TAS office to be worked, including duplicate congressionals

Taxpayer Assistance Orders

Internal Revenue Code § 7811 authorizes Local Taxpayer Advocates to issue a Taxpayer Assistance Order (TAO) when a taxpayer is suffering or about to suffer a significant hardship as a result of the IRS' administration of tax laws. The TAO enables TAS to require IRS to take an action which is specifically authorized by IRC § 7811(b) or to expedite consideration of a taxpayer's case, review and reconsider its own determination, or review the determination at a higher level in that unit.

TAS employees evaluated 185 additional cases to date during FY 2005 for consideration as a TAO. The cases were either resolved as a result of TAS consideration or the involvement of higher level personnel in either TAS or the IRS business unit. The increased consideration of a TAO is a direct result of training delivered in FY 2004 by the National Taxpayer Advocate and Special Counsel to the National Taxpayer Advocate to all TAS employees about the proper exercise of TAO authority under IRC § 7811.

As of March 31, 2005, TAS issued 10 Taxpayer Assistance Orders, as compared to 14 TAOs issued during the same period in FY 2004. IRS completed the requested actions on seven of the TAOs. TAS rescinded three of the TAOs because new information obtained after issuance eliminated the need for a TAO. The TAOs issued requested the following actions:

- Process Manual Refund Posting.
- Abate Civil Penalty and issue refund of payments made against that Assessment
- Process tax year 2000 return as received timely.
- Release federal tax lien filed, which will enable the Taxpayer to purchase a car.
- Abate Substitute for Return assessment.
- Reopen Offer in Compromise investigation.
- Reopen OIC based on classification of Individual Retirement Account as a dissipated asset.
- Withdraw Federal Tax Lien.
- Determine legal basis for initiating redemption process.
- Schedule an Appeals hearing.

Section 7811(b) provides that a TAO may require the action(s) to be taken within a specified timeframe. All ten TAOs had specified timeframes; the IRS complied with six within the specified timeframe. One was extended by TAS, as this was in the best interest of the taxpayer.

Downstream Impact of Compliance Initiatives

TAS continues to receive cases resulting from IRS enforcement initiatives. The table below highlights the number of levies and liens issued compared to the number of TAS levy and lien receipts for the last three fiscal years.

	FY02	FY03	FY04
Levies Issued by IRS	1,308,365	1,680,844	2,029,613
TAS Cases with Levy Issue	8,571	9,228	9,019
Liens Filed by IRS	527,292	565,382	534,392
TAS Cases with Lien Issue	3,167	3,501	4,329

As the IRS hires or applies more employees to compliance initiatives, TAS is preparing for increased workload. We will continue to provide training to our Case Advocates on levy and lien issues and collection alternatives in order to prepare ourselves for the resulting shift in issues and workload.⁶²

APPENDIX I – EVOLUTION OF THE OFFICE OF THE TAXPAYER ADVOCATE

The Office of the Taxpayer Ombudsman was created by the Internal Revenue Service in 1979 to serve as the *primary advocate*, within the IRS, for taxpayers. This position was codified in the Taxpayer Bill of Rights (TBOR 1), included in the Technical and Miscellaneous Revenue Act of 1988, (TAMRA), Pub. L. 100-647. In TBOR 1, Congress granted the Ombudsman the statutory authority to issue a Taxpayer Assistance Order (TAO) if, “in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the IRS is administering the internal revenue laws.”¹ Further, the Taxpayer Ombudsman and the Assistant Commissioner (Taxpayer Services) were directed to jointly make an annual report to the Congress about the quality of taxpayer services provided by the IRS. This report was made directly to the Senate Finance Committee and the House Committee on Ways and Means.² Taxpayer Bill of Rights 2 (TBOR 2) replaced the Office of the Taxpayer Ombudsman with the Office of the Taxpayer Advocate.³ The Joint Committee on Taxation set forth the following reasons for change:

To date, the Taxpayer Ombudsman has been a career civil servant selected by and serving at the pleasure of the IRS Commissioner. Some may perceive that the Taxpayer Ombudsman is *not an independent advocate* for taxpayers. In order to ensure that the Taxpayer Ombudsman has the necessary stature within the IRS to represent fully the interests of taxpayers, Congress believed it appropriate to elevate the position to a position comparable to that of the Chief Counsel. In addition, in order to ensure that the Congress is systematically made aware of recurring and unresolved problems and difficulties taxpayers encounter in dealing with the IRS, the Taxpayer Ombudsman should have the authority and responsibility to make independent reports to the Congress in order to advise the tax-writing committees of those areas.⁴

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

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

¹ TAMRA, Pub. L. No. 100-647, Section 6230, Conference Committee Report.

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

³ Pub. Law 104-168, Sec. 101, July 30, 1996.

⁴ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress* (JCS-12-6), December 18, 1996, p. 20. (Emphasis added).

Congress did not provide the Taxpayer Advocate with direct line authority over the regional and local Problem Resolution Officers (PROs) who handled cases under the Problem Resolution Program. At the time of the enactment of TBOR 2, Congress believed that it was sufficient to require that “all PROs should take direction from the Taxpayer Advocate and that they should operate with sufficient independence to assure that taxpayer rights are not being subordinated to pressure from local revenue officers, district directors, etc.”⁵ ⁶ TBOR 2 also replaced the joint Assistant Commissioner—Taxpayer Advocate report to Congress with two annual reports to Congress issued directly and independently by the Taxpayer Advocate. The first report is to contain the objectives of the Taxpayer Advocate for the next calendar year. This report is to contain full and substantive analysis, in addition to statistical information and is due not later than June 30 of each year. The second report is on the activities of the Taxpayer Advocate during the previous fiscal year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a Taxpayer Assistance Order (TAO), describe in detail the progress made in implementing these recommendations, contain a summary of at least 20 of the most serious problems which taxpayers have in dealing with the IRS, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and include other such information as the Taxpayer Advocate may deem advisable. The stated objective of these reports is “for Congress to receive an unfiltered and candid report of the problems taxpayers are experiencing and what can be done to address them. The reports by the Taxpayer Advocate are not official legislative recommendations of the Administration; providing official legislative recommendations remains the responsibility of the Department of Treasury.”⁷

⁵ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress (JCS)-12-6*, December 18, 1996, 21.

⁶ It is interesting to note that the proposed Revenue Bill of 1992 proposed that all problem resolution officers be part of the Office of Taxpayer Advocate within the IRS and be under the supervision and direction of the Taxpayer Advocate. (Revenue Act of 1992, H.R.11, 101 Cong. § 5001, Establishment of Position of Taxpayer Advocate within Internal Revenue.)

⁷ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 104th Congress (JCS)-12-6*, December 18, 1996, 21.

Finally, TBOR 2 extended the scope of the Taxpayer Assistance Order (TAO), by providing the Taxpayer Advocate with broader authority “to affirmatively take any action as permitted by law with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws.”⁸ For the first time, the TAO could specify a time period within which the IRS must act on the TAO. The statute also provided that only the Taxpayer Advocate, the IRS Commissioner or the Deputy Commissioner could modify or rescind a TAO; and that any official who so modifies or rescinds a TAO must respond to the Taxpayer Advocate with his or her reasons for such action. Thus, as a result of TBOR 2 changes, the Taxpayer Advocate was a career position within the IRS. Problem Resolution Officers and field employees who worked Problem Resolution cases did not report to the Taxpayer Advocate. In 1997, The National Commission on Restructuring the Internal Revenue Service called the Taxpayer Advocate the “voice of the taxpayer.” In its discussion of the office of the Taxpayer Advocate, the Commission noted: Taxpayer Advocates play an important role and are essential for the protection of taxpayer rights and to promote taxpayer confidence in the integrity and accountability of the IRS. To succeed, the Advocate must be viewed, both in perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the national Taxpayer Advocate is not viewed as independent by many in Congress. This view is based in part on the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position.⁹ In response to these concerns, in the IRS Restructuring and Reform Act of 1998, Pub. L. 105-206 (July 22, 1998), Congress renamed the Taxpayer Advocate as the National Taxpayer Advocate and mandated that the National Taxpayer Advocate could not be an officer or an employee of the IRS for two years preceding or five years following his or her tenure as the NTA. (Service as an employee of the Office of the Taxpayer Advocate is not considered IRS employment under this provision.)

The Restructuring and Reform Act provided for Local Taxpayer Advocates to be located in each state, and mandated a direct reporting structure for local taxpayer advocates to the National Taxpayer Advocate. As indicated in IRC §803(c)(4)(B), each Local Taxpayer Advocate must have phone, facsimile, electronic communication, and mailing address separate from those of the IRS. the Local Taxpayer Advocate must advise taxpayers at their first meeting of the fact that “the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate.” Congress also authorized the Local Taxpayer Advocates, at their discretion, to not disclose the fact that the taxpayer contacted the Office of the Taxpayer Advocate or any information provided by the taxpayer to that office.

⁸ *Id.* at 22.

⁹ Report of the Commission on Restructuring the Internal Revenue Service: *A Vision for a New IRS: Report of the National Commission on Restructuring the Internal Revenue Service*, June 25, 1997, 43.

The definition of “significant hardship” in IRC § 7811 was expanded in 1998 to include four specific circumstances: (1) an immediate threat of adverse action; (2) a delay of more than 30 days in resolving taxpayer account problems; (3) the taxpayer’s incurring of significant costs (including professional services fees) if relief is not granted; and (4) the taxpayer will suffer irreparable injury or a longterm adverse impact. The committee reports make clear that this list is a nonexclusive list of what constitutes significant hardship.

SIGNIFICANT HARDSHIP CRITERIA

Current Criteria

1. Taxpayer is suffering or about to suffer a significant hardship.
2. Taxpayer is facing an immediate threat of adverse action.
3. Taxpayer will incur significant costs if relief is not granted.
4. Taxpayer will suffer irreparable injury, or long term adverse impact.
5. Taxpayer experienced a delay of more than 30 calendar days in resolving an account-related problem or inquiry.
6. Taxpayer did not receive a response or resolution by the date promised.
7. A system or procedure has either failed to operate as intended or failed to resolve the taxpayer's problem.

Expanded Criteria – Implementation Scheduled for January 1, 2006¹

The revised and expanded case criteria codes fall into four main categories:

- **Economic Burden** – *Economic burden cases are those involving a financial difficulty to the taxpayer. An IRS action or inaction has caused or will cause financial hardship for the taxpayer.*
- **Systemic Burden** – *Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result, the IRS has failed to timely respond to and/or resolve a taxpayer issue.*
- **Best Interest of the Taxpayer** – *TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment, and that their rights as taxpayers are protected.*
- **Public Policy** – *Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate, and will generally be based on a unique set of circumstances warranting special assistance to certain taxpayers.*

Criteria 1-4 cases fall into the category of Economic Burden:

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

Criteria 5-7 cases fall into the category of Systemic Burden:

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

Criteria 8 cases fall into the category of Best Interest of the Taxpayer:

- **Criteria 8:** The manner in which the tax laws are being administered raise

¹ See Appendix V, Significant Hardship, for additional information.

considerations of equity, or have impaired or will impair the taxpayer's rights.

Criteria 9 cases fall into the category of Public Policy:

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

A tracking code of "0" will be used on TAMIS for cases that TAS will track, but not work.

SIGNIFICANT HARDSHIP

In FY 2005, the Significant Hardship Task force completed its work in examining the way TAS is applying the definition of significant hardship under IRC § 7811 and the Case Criteria TAS uses for acceptance of taxpayers into TAS for assistance in resolving problems with the IRS.

TAS case acceptance criteria will be revised to ensure that TAS operates as Congress intended when it wrote “the Taxpayer Advocate serves an important role within the IRS in terms of preserving taxpayer rights and solving problems that taxpayers encounter in their dealings with the IRS.”¹ Case criteria determine whether a taxpayer’s problem or issue is accepted into the TAS program. Thus, it is crucial that the criteria be expansive enough to ensure that those taxpayers that Congress envisioned as needing assistance actually receive the help Congress intended. The implementation plan for the revised criteria includes additional training on significant hardship determination and use of Taxpayer Assistance Order authority. Case Advocates will be required to make a Significant Hardship determination on each case. As these changes will have a Service-wide impact, the task force worked with subject matter experts to design an implementation plan to address all impacted areas. Implementation of the expanded criteria began in January 2005, with an all TAS Interactive Video Teleconference to introduce the new criteria and philosophy of case acceptance. Negotiations with the National Treasury Employee’s Union (NTEU) are complete and TAS is scheduling training on case acceptance and processing procedures for early FY 2006. TAS will update other impacted systems before the January 2006 rollout to all IRS employees.

¹ Internal Revenue Service Reform and Restructuring of 1998, S. Rep. 105-174

EMERGING ISSUE GUIDANCE FOR CASE ADVOCATES

During FY 2005, TAS established an emerging issues development center in our Indianapolis office to address significant “hot topic” technical issues that have a TAS-wide impact but do not warrant development of formal training. This guidance provides case advocates with a readily accessible point of reference on a particular issue to assist taxpayers. Emerging issue guidance is text-based and available through the TAS intranet website. The site also provides a mechanism for case advocates to elevate potential emerging issues to the development center. In addition to guidance and background on various technical issues, the site also provides up-to-date information regarding various IRS Operating Division reorganization and centralization initiatives that will assist case advocates in navigating the IRS.

ADDRESSING THE TAX GAP IN A COMPLEX AND CHANGING TAX ENVIRONMENT

PROBLEM #15 – IRS COLLECTION STRATEGY, PAGE 226.

National Taxpayer Advocate Recommendations:	Responsible IRS Official	IRS Concurr: Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
1. Develop a collection strategy that harmonizes the best practices of private collection agencies with policies and procedures designed to enhance tax compliance by emphasizing: <ul style="list-style-type: none"> a. person-to-person contact, where appropriate, early on in the collection process; b. the importance of focusing on the <i>why</i> of taxpayer noncompliance; c. identification of the appropriate collection touch for the particular cause of noncompliance; d. utilization of a research-based approach to collections; and e. reduction of the opportunities for noncompliance. 				
2. Since tax debts that are older than three years are on average nearly uncollectible, IRS should prioritize its collection resources by: <ul style="list-style-type: none"> a. emphasizing the use of predictive dialer systems that efficiently contact taxpayers and automatically transfer calls to trained tax professionals; and b. utilizing trained IRS collection professionals, the IRS's most valuable tool, earlier in the collection process. 				

TAXPAYER RIGHTS IN A COMPLEX AND CHANGING TAX ENVIRONMENT

PROBLEM #19 – OFFERS IN COMPROMISE, PAGE 311.

National Taxpayer Advocate Recommendations	Responsible IRS Official	IRS Concurrs Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
1. The IRS should contact taxpayers and allow a reasonable period of time for them to file delinquent returns before returning OICs on that basis. (This recommendation is designed to reduce unnecessary OIC returns.)				
2. Appeals should re-evaluate its definition of complexity to ensure that complex cases are worked by appropriately trained and skilled personnel, regardless of whether the case originates in a campus or involves a low income or EITC taxpayer. (This recommendation is designed to reduce unnecessary OIC returns.)				
3. The IRS should make at least two attempts to contact taxpayers before returning any OIC, and otherwise encourage employees to contact taxpayers by telephone or using face-to-face meetings where appropriate, especially with taxpayers for whom other modes of communication are unlikely to be successful. (This recommendation is designed to reduce unnecessary OIC returns.)				
4. The IRS should give employees discretion to determine that an OIC should not be returned in cases where required documentation is missing if they believe that additional communications would likely produce such documentation. (This recommendation is designed to reduce unnecessary OIC returns.)				
5. The IRS should process OICs received from taxpayers in bankruptcy. It should use the same standards for evaluating whether to accept offers from taxpayers in bankruptcy as it does for evaluating whether to accept offers from other taxpayers unless there is a clearly articulated reason for using different standards. (This recommendation is designed to reduce unnecessary OIC returns.)				

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TAXPAYER RIGHTS IN A COMPLEX AND CHANGING TAX ENVIRONMENT
PROBLEM #19 – OFFERS IN COMPROMISE, PAGE 311.

National Taxpayer Advocate Recommendations:	Responsible IRS Official	IRS Concur: Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
6. The IRS should continue to work with taxpayers and practitioners to reduce taxpayer (and IRS employee) burden and make it easier to understand OIC requirements by revising the Form 656 and its accompanying collection information statements. (This recommendation is designed to reduce unnecessary OIC returns.)				
7. The IRS should review the OIC submissions received before and after implementation of the OIC application fee to determine which types of submissions were deterred by the fee or returned for failure to include it. The IRS should consider abolishing the fee if it has not significantly reduced frivolous submissions and submissions from uncooperative taxpayers or if it presents a significant barrier to taxpayers who are legitimately trying to comply. (This recommendation is designed to reduce unnecessary OIC returns.)				
8. The IRS should revise its Offer in Compromise form (Form 656) to clarify what it means by "doubt as to liability" so that taxpayers know that items such as innocent spouse relief, and interest and penalty abatement requests are made on other forms. When the IRS receives such requests on Form 656, it should immediately contact the taxpayer and route the taxpayer's request to the area responsible for processing it. (This recommendation is designed to reduce unnecessary OIC returns.)				
9. The IRS should research the reasons why OIC rejections have increased and acceptances have declined since implementation of centralized offer processing. (This recommendation is designed to reduce unnecessary rejections.)				

TAXPAYER RIGHTS IN A COMPLEX AND CHANGING TAX ENVIRONMENT
PROBLEM #19 – OFFERS IN COMPROMISE, PAGE 311.

National Taxpayer Advocate Recommendations:	Responsible IRS Official	IRS Concur: Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
<p>10. The IRS should revise the current methods of determining Reasonable Collection Potential (RCP) by taking the following steps:</p> <ul style="list-style-type: none"> a. Allowing expenses for delinquent state tax payments. b. Estimating future income based upon the best estimates available, rather than rigidly adhering to an income-averaging approach. <p>(This recommendation is designed to reduce unnecessary rejections.)</p>				
<p>11. The IRS should revise the IRM and job aids to more clearly state that the months of future income to be used in determining the offer amount should never extend beyond the statute of limitations expiration date. (This recommendation is designed to reduce unnecessary rejections.)</p>				
<p>12. The IRS should more clearly communicate the forms of documentation that will be acceptable for purposes of deviating from the expense guidelines, especially in cases where receipts are unlikely to be available or where estimates of future expenditures are involved. However, IRS should be careful not to eliminate an employee's discretion to accept alternative documentation. (This recommendation is designed to reduce unnecessary rejections.)</p>				
<p>13. Appeals should promptly execute its plan to routinely and systematically identify areas where Appeals and SB/SE have frequent disagreements so that SB/SE can focus its training and guidance efforts accordingly. Appeals should track the reasons for reversing SB/SE's OIC rejections on a computer database so that SB/SE can quickly identify problem areas and take immediate corrective action. (This recommendation is designed to reduce unnecessary rejections.)</p>				

TAXPAYER RIGHTS IN A COMPLEX AND CHANGING TAX ENVIRONMENT
PROBLEM #19 – OFFERS IN COMPROMISE, PAGE 311.

National Taxpayer Advocate Recommendations:	Responsible IRS Official	IRS Concur: Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
14. The IRS should evaluate ETA offers and doubt as to collectibility offers with special circumstances using the analysis described in the Key Legislative Proposal entitled Offer In Compromise: Effective Tax Administration in the 2004 National Taxpayer Advocate Annual Report to Congress. Similarly, the bases for offers submitted on more than one basis (combination offers) should be analyzed in the order requested by the taxpayer, as provided in the legislative proposal. (This recommendation is designed to reduce unnecessary rejections.)				
15. The IRS should survey taxpayers and practitioners who submit OICs to determine how to best to improve the OIC program. (This recommendation is designed to improve cycle time, quality measures, and performance as well as reduce taxpayer and practitioner misuse of the program.)				
16. The IRS should measure cycle time by type of disposition (e.g., return, acceptance, rejection, withdrawal or termination). OIC cycle time measures should also systematically track the time expended by the IRS and taxpayers when the IRS returns an OIC that is later resubmitted. If this is not possible, IRS Research should conduct a study to estimate such periods. (This recommendation is designed to improve cycle time and quality measures.)				

TAXPAYER RIGHTS IN A COMPLEX AND CHANGING TAX ENVIRONMENT
PROBLEM #19 – OFFERS IN COMPROMISE, PAGE 311.

National Taxpayer Advocate Recommendations:	Responsible IRS Official	IRS Concur: Y/N	Proposed Implementation Date	IRS Status of Recommendation or Reason for Not Concurring
<p>17. The IRS should evaluate whether the new Embedded Quality Measurement System (EQMS) provides the proper incentives to employees and enables it to rapidly identify specific systemic problems that could be addressed through training or guidance. IRS should also determine ways of converting CQMS quality measures into EQMS measures so that it can track recent quality trends. For example, will EQMS effectively alert management to an increasing number of errors in financial analysis even if such failures do not usually affect the ultimate decision to accept or reject an offer? Will employees be encouraged to take shortcuts that will not be reflected in the EQMS measures? (This recommendation is designed to improve cycle time and quality measures.)</p>				
<p>18. Because the IRS is changing the way it measures quality for the OIC Program from the Collection Quality Measurement System (CQMS) to the EQMS, the IRS should also determine ways of converting CQMS quality measures into EQMS measures so that it can track recent quality trends. (This recommendation is designed to improve cycle time and quality measures.)</p>				