

2007 Annual Report to Congress: The Most Serious Problems (MSPs) Encountered by Taxpayers

2007 ARC – MSP Topic #1 – THE IMPACT OF LATE-YEAR TAX-LAW CHANGES ON TAXPAYERS

Problem

In recent years, Congress has made significant changes to the tax code in December that apply to the current tax year (e.g., the “extenders bill” in December 2006 and the Alternative Minimum Tax (AMT) “patch” in December 2007). The IRS currently finalizes Form 1040 and its accompanying instructions in early November, and tax software companies finalize their shrink-wrapped software packages around the same time. If Congress changes the law after those products have been finalized, significant problems arise. Because of systemic limitations and to minimize taxpayer confusion, the IRS generally does not update Form 1040 or its accompanying instructions after initial publication. As a result, taxpayers filing paper returns are particularly likely to complete their returns without taking into account late-year changes. Taxpayers who purchase shrink-wrapped software have the option of downloading a “patch” to update their software, but some taxpayers do not do so. As a result, some taxpayers who prepare their returns electronically also do not take late-year changes into account. In Tax Year 2006, Congress waited until after the Form 1040 package and shrink-wrapped tax software products had been finalized to “extend” several popular tax deductions. Taxpayers ultimately claimed these deductions about 1.4 million times less frequently than in tax year 2005, when the deductions were included in the Form 1040 instructions and built into all tax software. Thus, it appears that numerous taxpayers did not claim tax deductions to which they were entitled simply because they did not know about them.

Late-year tax-law changes also place enormous stress on the IRS’s ability to deliver a successful filing season. The IRS must develop updated forms, develop training materials for its telephone assistors and field assistance personnel, provide instruction for Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) sites and, most significantly, write programming code that allows the IRS to accept returns and perform numerous automated reviews of returns. The programming challenges are particularly time-consuming and have delayed the start of the filing season for millions of taxpayers. Delays in the filing season can create severe hardships. The overwhelming majority of tax returns (more than 100 million) result in refunds, and a delay in processing returns means a delay in issuing refunds to taxpayers, including low income taxpayers who rely on tax refunds to pay essential bills. Among taxpayers claiming refunds and receiving the Earned Income Tax Credit (EITC), the average refund equals *20 percent* of their yearly income. To ensure that members of Congress better understand the filing-season impact of late tax legislation, the National Taxpayer Advocate recommends that the Treasury Department and the tax-writing committees create a formal process by which IRS estimates of the filing-season impact of significant tax legislation are transmitted to the tax-writing committees at several points during the year, perhaps on June 30, September 30, and monthly thereafter.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. To ensure that members of Congress understand the filing-season impact of tax legislation, we recommend that the Treasury Department and the tax-writing committees create a formal process through which IRS estimates of the filing-season impact of significant tax legislation are transmitted to the tax-writing committees at several points during the year, perhaps on June 30, September 30, and monthly thereafter. The estimates should focus on legislation to extend expiring tax provisions.	N/A – Congressional Recommendation			

2007 ARC – MSP Topic #2 – TAX CONSEQUENCES OF CANCELLATION OF DEBT INCOME

Problem

When a taxpayer is unable to pay a debt and the creditor cancels some or all of it, the amount of the canceled debt is generally treated as taxable income to the taxpayer. Debt cancellation arises in numerous contexts, such as when a taxpayer defaults on an automobile loan or a credit card bill, and affects a significant number of taxpayers. In 2006, creditors issued to borrowers nearly *two million* Forms 1099-C, Cancellation of Debt, reporting canceled debts. The tax treatment of canceled debts is extremely complex and poses a significant challenge to affected taxpayers. If the lender incorrectly values property, the amount of canceled debt it reports will be wrong. If the taxpayer is insolvent (*i.e.*, the taxpayer's liabilities exceed the taxpayer's assets), the canceled debt is excludable from gross income up to the amount of insolvency. If the debt is nonrecourse (*i.e.*, the lender's only remedy in case of default is to repossess the property to which it relates), the canceled debt is not income. Our review of IRS forms, instructions, and publications reveals that the IRS does not provide adequate guidance to taxpayers or practitioners. The IRS also has declared the subject of canceled debts "out-of-scope" at its walk-in sites. As a result, IRS personnel at walk-in sites will not answer general taxpayer questions about the tax treatment or reporting of canceled debts, and IRS personnel will not prepare tax returns for taxpayers who have received a Form 1099-C even if the taxpayers are otherwise eligible for such assistance. The National Taxpayer Advocate makes 11 recommendations to provide greater assistance to taxpayers, including a recommendation that the IRS treat questions about canceled debts as "in scope" at its walk-in sites and a recommendation that the IRS develop a publication on the tax treatment and reporting of cancellation of indebtedness income that consolidates all relevant information in one place.

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		Yes/No	Date	
1. The IRS should designate the tax treatment of canceled debts as "in scope" for purposes of preparing tax returns at the Taxpayer Assistance Centers (TACs).	As noted in the NTA's Annual Report, the IRS has developed and issued information on home foreclosures and debt cancellation for taxpayers on IRS.gov and in multiple publications and forms instructions. However, the complexity of the basis issues in determining the taxable portion of the 1099-C poses issues that in many cases may exceed the expertise/grade level of TAC employees. As a result, we designate certain issues as out of scope for TAC return preparation assistance. However, Starting in FY 2009, Field Assistance will bring in scope return preparation for Cancellation of Debt (COD) only as it relates to the forgiveness of qualified principal residence debt governed by provision of the Mortgage Forgiveness Debt Relief Act of 2007. Taxpayers with COD issues that are out of scope for return preparation will be offered tax law assistance.	Yes		
2. The IRS should designate the tax treatment of canceled debts as "in scope" for purposes of answering general questions at the TACs.	Cancellation of Debt (COD) will be in scope for Field Assistance for the FY2009 filing season for answering general tax law questions for individuals. Taxpayers with COD issues that are out of scope, including business and farm issues, will be referred to telephone assistors.	Yes		

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3. IRS should provide specialized training on cancellation of indebtedness issues to a unit of telephone assisters and then "gate" taxpayer calls on these issues to those assisters.	The IRS's Account Management office already has an application (AP135, Complex Individual Issues) that receives training and specializes on answering questions regarding Cancellation of debt, Form 1099C and related topics.	Yes	11/24/08	
4. The IRS should develop a publication that specifically addresses the tax consequences of canceled debts that a taxpayer who receives a Form 1099-C will face. Answers to some of the questions addressed in this discussion can be found piecemeal in various IRS publications, but it is unlikely that a taxpayer or even many practitioners will have the time and ability to ferret out the answers, and some of the questions currently are not answered in any publication.	Completed 5-30-08. The IRS developed new Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments, for this purpose.	Yes	11/19/08	

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5. The IRS should require issuers of Form 1099-C to include a telephone number on the form. The IRS already requires issuers of other forms in the 1099 series, including Form 1099-INT reporting interest income and Form 1099-DIV reporting dividend income, to include their telephone numbers on the form. When a debt cancellation has occurred, the likelihood that a disagreement about Form 1099 reporting is greater and the relationship between the issuer and the taxpayer generally will have terminated, making it less likely that the taxpayer would continue to receive other documents from the issuer including a telephone number.	Completed – pending OK to print. The 2009 Form 1099-C will provide a box for payors to include a telephone number.	Yes	11/19/08	

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6. The IRS should explore the feasibility of requiring issuers of Form 1099-C to indicate whether debt forgiveness relates to a recourse loan or a nonrecourse loan. In light of the significantly different tax consequences, it would be helpful both for taxpayers in determining their tax liabilities and reporting requirements and for the IRS in determining whether a taxpayer has under-reported income to know the type of debt at issue.	Completed – pending OK to print. The 2009 Form 1099-C will include yes and no checkboxes for the lender to indicate whether the borrower was personally liable for the debt related to the reported COD income.	Yes	11/19/08	

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7. The IRS should provide more specific guidance to assist taxpayers in computing insolvency. The explanation should clearly state the IRS's view, which is currently that insolvency means the amount by which a taxpayer's aggregate liabilities exceed his aggregate assets. The guidance should identify the most common types of assets and the most common types of liabilities to provide taxpayers and practitioners with a clearer understanding of what must be included in the calculation.	<p>The IRS agrees to include a definition of insolvency, based on Internal Revenue Code Section 108(d)(3), in Publication 525 for 2008.</p> <p>In addition, Publication 4681, published 5-30-08, provides specific guidance under on insolvency in Chapter 1 at page 4, where examples are given.</p>	Yes	12/15/08	

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8. The IRS should make clear in the Form 1040 instructions that individuals should net the amount of canceled debt eligible for exclusion against the amount of canceled debt reported on Form 1099-C when reporting the canceled debt amount includible in income on line 21 of Form 1040.	An explanation of how to determine the amount of canceled debt eligible for exclusion is beyond the scope of the Form 1040 instructions due to the complexity of the topic. A statement that individuals should net the amount of canceled debt eligible for exclusion against the amount reported on Form 1099-C, although true, would not be helpful since the difficult part is determining the amount eligible for exclusion.	No		

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<p>9. The IRS should revise the instructions for Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment), to make them clearer for individual taxpayers who, despite the title of the form, have neither tax attributes to reduce nor basis to adjust. In our view, the steps the IRS states that it plans to take are inadequate to address the confusion that Form 982 creates. We continue to believe that an initial set of questions or worksheet along the lines we described above would help taxpayers determine whether they must complete this complex form in detail or may simply check a box on line 1 to indicate the basis of the claimed exclusion and list the amount of the claimed exclusion on line 2.</p>	<p>Completed. The IRS added a <i>How To Complete the Form</i> table on page 2 of the instructions for Form 982 (Rev. Feb. 2008) to address the needs of individual taxpayers with simpler tax situations, including cancellation of qualified principal residence debt governed by the Mortgage Forgiveness Debt Relief Act of 2007.</p>	Yes	09/04/08	

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10. When the IRS issues automated underreporter (AUR) notices to taxpayers in response to Forms 1099-C, the IRS should include more information (perhaps a "stuffer") explaining the tax treatment of canceled debt and the various exceptions in detail. If the IRS creates a publication on canceled debt issues, the publication could serve as the stuffer.	The Automated Underreporter program began including a special paragraph that addresses FORM 1099-C, CANCELLATION OF DEBT (COD) with the CP 2000 Notice in 1996. It instructs the taxpayer that under certain conditions, canceled or forgiven debt should be included on the tax return as income. If the taxpayer claims insolvency, they are instructed to provide a breakdown of total assets and liabilities immediately before the cancellation of debt since debt cancellation is excludable only up to the insolvent amount. Additional information is provided on foreclosed or repossessed property that may result in reportable ordinary income from cancellation of debt. Specific IRS publications and IRS.gov are also provided as additional resources for information.	Yes	11/24/08	
11. When IRS issues AUR notices to taxpayers in response to Forms 1099-C, the notices should include information about the availability of Low Income Taxpayer Clinics and TAS to assist taxpayers who need help understanding the issue and responding to the notice.	The Automated Underreporter program will begin including Publication 3498-A in 2501 and CP 2000 Notice mail outs in January 2009. This publication will provide information on the availability of Low Income Taxpayer Clinics and TAS. The Statutory Notice of Deficiency issued by AUR, currently includes a paragraph that provides contact information for the Taxpayer Advocate Office.	Yes		

2007 ARC – MSP Topic #3 – THE CASH ECONOMY

Problem

Income from the “cash economy” – taxable income from legal activities that is not subject to information reporting or withholding – is the type of income most likely to go unreported. Unreported income from the cash economy is probably the single largest component of the tax gap, likely accounting for over \$100 billion per year. Noncompliance in the cash economy is difficult for the IRS to detect. Thus, the IRS should be using different strategies to address this problem than it uses to address noncompliance in other areas. The National Taxpayer Advocate has identified a number of steps that the IRS can take to address this problem without additional legislation. While the IRS can never achieve full compliance, these recommendations should help the IRS make significant progress in improving compliance in the cash economy.

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1. Establish a Cash Economy Program Office to coordinate efforts to improve compliance in the cash economy.	<p>IRS is committed to improving current compliance levels and continuing to address all forms of noncompliance. Accordingly, the IRS in conjunction with Treasury and the IRS Oversight Board, have developed a comprehensive Strategy for Reducing the Tax Gap. The Strategy sets forth steps that will be taken to improve compliance and enhance the IRS' ability to measure compliance.</p> <p>IRS agrees that “income that is not subject to information reporting or withholding” (i.e. what the taxpayer advocate terms as cash economy) is a large component of the tax gap and is accordingly addressing this issue through the Strategy for Reducing the Tax Gap.</p> <p>Rather than establishing a separate “Cash Economy Program Office”, our</p>	No		

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		Yes/No	Date	
	<p>activities will be governed by:</p> <ul style="list-style-type: none"> • The broader, but detailed, Strategy for Reducing the Tax Gap, • Administered through our strategic planning process and accompanying strategic plans • The operating units/programs responsible for implementation. • The recently completed Taxpayer Assistance Blueprint • Service-wide Examination Enforcement Council and Enterprise Examination Plan 			
2. Develop a strategic plan for providing services, education, and outreach to small businesses.	<p>The IRS had previously identified the need to provide education and support to small businesses and has an extensive annual strategic planning process through which the small business owner needs are addressed: Examples include:</p> <ul style="list-style-type: none"> • Each of its operating divisions (including the SB/SE Division) develop and estimate resource requirements needed to achieve functional priorities and performance targets based on budget allocations. • Detailed action plans, which are part of the IRS' strategic planning process, identify specific sub-goals and measures as well as accountable parties, and fully support the overarching Strategy for Reducing the Tax Gap. 	Yes	11/24/08	

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	<ul style="list-style-type: none"> The SB/SE Division's Stakeholder Liaison Headquarters' Task Force to Enhance Small Business Outreach, with Service-wide representation, also recently recommended the development of a five-year outreach strategic plan to more effectively provide outreach and education to the small business community. Development of this plan and deliverables is already underway and it is somewhat of a fluid and living/working document. SB/SE also maintains a database of outreach initiatives to the small business community. The SB/SE Communications Function currently prepares communications strategies in partnership with the SB/SE functions which directly tie into the IRS and SB/SE strategic plans that focus on outreach to small businesses. 			
3. Research and test the effectiveness of a targeted education campaign to improve attitudes about tax compliance.	The IRS had already identified this need and had developed a strategy to resolve the problem by January 31, 2010. IRS agrees that research is essential to identify sources of noncompliance so that IRS resources can be targeted properly and to test the effectiveness of our targeted education campaigns to improve attitudes about tax compliance. HQ C&L is in the early	Yes		

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	<p>stages of determining a course of action to explore the feasibility of this long-term recommendation. Extensive research is required to help with creating the right kind of campaign including appropriate measurements. Budget for the research and campaign will be extensive and may require specific appropriations.</p> <p>In the short term, HQ C&L is reviewing existing products available for educating young taxpayers and undertaking an effort to reinvigorate IRS efforts with those products. "Understanding Taxes" curriculum is currently under review for possible revisions and is available for use in secondary schools, community colleges and to the general public. It features more than 1,100 pages of interactive programs and learning tools to help understand filing and payment obligations, and learn about the history, theory and use of taxes in the United States.</p> <p>SL HQ is leading a Cash Economy Research Project with SB/SE Research aimed at practitioners and small business owners to determine behaviors related to businesses who deal predominantly in cash. The vendor is conducting focus groups with</p>			

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	<p>questions directly related to operating a business with cash. The data from these focus groups will enable CLD (SL HQ and Communications) to develop targeted educational messages to deliver to the practitioner and small business community. These messages can best influence behaviors of small business owners and independent contractors who receive income in cash, so they are more compliant.</p> <p>SB/SE is also conducting research to connect non-compliance issues to specific industries. This research will provide valuable insight to target educational materials for small business owners within those industries. We will also consider research to segment the small business community into other types of social and behavioral categories.</p> <p>We have also completed a number of other studies that aimed to quantify the effect or impact of a particular outreach/education campaign. In the past 4 years, nine such studies were completed, with varying results. For the most part, past research showed either a positive effect, or no apparent effect. Factors which come into play include the target market segment, the timeframe for the message and the</p>			

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	test, the message type and delivery method, the previous tax behaviors, the desired change, and others. Each outreach campaign will combine a different set of factors. There are also many factors which affect how an outreach campaign will be received and the results it will achieve, many of which are uncontrollable and influenced by the current world environment where outreach campaigns are conducted. For that reason, it is often not possible to be certain that observed changes in tax-related behaviors are the direct result of outreach. While it is not operationally feasible to conduct a measurement study for every outreach or education campaign, additional studies on new market segments or using new techniques will add to the knowledge we have about the impact of outreach.			
4. Conduct research to identify tax rules that often confuse taxpayers and provide simplifying guidance. Contract for additional analysis of the reason taxpayers made errors (including errors in interpreting the rules – not just math errors) detected in connection	The IRS had previously identified this as a potential problem and has actions in motion to address the concerns by January 31, 2009. Current plans include research to identify tax rules that often confuse taxpayers and provide simplifying guidance. Several research projects are underway that will attempt to quantify where errors on returns are made, and look at whether errors are intentional or accidental	Yes		

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with the National Research Program (NRP).	<p>(mistakes).</p> <p>A First-Time Schedule C Filers Strategy is also in process and includes both long-term and short term actions and messages to assist this market segment. One activity already completed is an analysis of the math error codes seen on returns where the first-time filer box on Schedule C is checked. This will be expanded into a multi-year study that tracks the math errors made in the first three or five years of business.</p> <p>SL HQ incorporated research data on common filing errors in their outreach to First Time Schedule C Filers. This educational campaign was launched in April 2008 during Small Business Week.</p>			
5. Create an "income" database to help identify underreporting and improve audit efficiency.	<p>IRS concurs that multiple forms of gross receipt information need to be electronically accessible to properly address under-reporting and non-reporting during selection, classification, matching, and examination processes, and continues to work towards that end. However, IRS does not believe that there is presently sufficient evidence that a single database is the best approach. We continue to pursue alternative ways to obtain audit efficiency.</p>	No		

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	<p>In May 2008 the IRS piloted the Compliance Data Environment (CDE). The CDE will provide agents with case building capability for analysis of information including a 3-year return comparison allowing for the identification of income fluctuations. CBRS (Currency & Banking) Info on CTRs, F 8300s and transfer of cash in or out of the country will be available for case building of audit files.</p> <p>Thru Choice Point research, CDE will also provide asset acquisition data. Each file will include Information Return Program data on various F 1099s for multi-year comparison to identify consumption or hiding of cash payments.</p> <p>IRS also has an Integrated Production Model (IPM) project underway which provides common computer data storage for both tax return and tax account information. All of our compliance activities (Collection, Campus, Examination and Specialty in particular) rely on tax return and account data to assist with case selection issues. Rather than creating separate individual databases, IPM is designed to serve as a central repository for this commonly needed</p>			

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	<p>tax data. The IPM data base will continue to grow as new releases are built out—and we expect it to improve case selection for enforcement activity as it houses a broader scope of data for risk identification and workload selection models. While the project is just in initial stages, we anticipate that third party payer information will be added to the data base in FY10.</p> <p>One component of the proposed Tax Gap Legislation will provide the Service with information pertaining to sales made by a company that are paid by the buyer with a credit card (i.e. Internet sales). This will allow the examiner to compare credit card sales and profit margins and extrapolate to total sales.</p> <p>Examiners can access various sites to identify companies selling on the Internet as well as take an Internet address and trace it back to a company or individual. Point of sale training on retailers is available which will assist examiners with identification of the use of software programs to intentionally reduce sales. Availability of most popular small business accounting books software will assist examiners with the identification of internal changes to information recorded in the</p>			

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	books.			
6. Obtain more state and local receipts-related data, match it against income reported on federal income tax returns, and use it to improve audit efficiency.	<p>The IRS had already identified this potential source of information and already has a number of initiatives underway. For example, we are reviewing state sales data to identify discrepancies with gross receipts through the State Reverse File Matching Initiative (SRFMI) project.</p> <ul style="list-style-type: none"> • States match Governmental Liaison Data Exchange Program (GLDEP) returns transaction files against their master files to identify <ul style="list-style-type: none"> – Non-filers: Individuals and businesses who filed state returns but not federal returns – Under-reporters: More income reported on state returns than on federal returns – Taxpayers who filed state returns under amnesty programs • States will send the IRS four SRFMI extracts, each containing non-filers and under-reporters in a uniform format <ul style="list-style-type: none"> – Individual, Corporate (1120 only), Sales, Withholding <p>Four states, (Arkansas, Iowa,</p>	Yes	11/24/08	

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	<p>Massachusetts, and New York) are submitting sales data as part of SRFMI Phase 2. As part of Phase 2, Examination will assign individual, sales, corporate, and withholding cases for examination.</p> <p>The State Audit Report Initiative was implemented in February 2005 to develop policies and procedures to effectively utilize state audit report information. Under this initiative, standard criteria and a request letter template for audit report requests to state tax agencies were developed, along with procedures for receiving and transmitting cases. A centralized process for classifying, working and tracking cases was also established. States now send their audit reports directly to Brookhaven or Cincinnati (specialty tax only).</p> <p>The QETP (Questionable Employment Tax Practices) program allows the IRS and participating state workforce agencies to exchange audit reports, audit plans, participate in side-by-side examinations when appropriate, and collaborate on outreach and educational opportunities. The standardized information exchanges allow the IRS and the states to be more consistent with examination results.</p>			

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	<p>Over 30 states are already participating in this effort and we are meeting with each state to determine the best types of information we can exchange to meet each other's needs. Thus, the program allows us to leverage our resources with the states in a more effective manner than ever, which will allow us to reach more employers and ultimately, help us reduce the employment tax portion of the tax gap.</p> <p>These initiatives are ongoing.</p>			
7. Revise Form 1040, Schedule C to break out income not reported on information returns.	IRS agrees that separating of income from information reporting sources and that generated from business activities with no information source on Schedule C could potentially improve transparency and reporting compliance. However, IRS disagrees to implement this recommendation as known increase in taxpayer burden and transcription costs outweighs the unknown benefits of this recommendation.	No		
8. Revise business income tax return forms to highlight information reporting requirements.	A similar requirement was included on Form 1120 until 1980, but was removed because: (a) taxpayer burden (b) the question did not improve compliance, and (c) it has been the IRS's experience that taxpayers provide the most favorable answer, regardless of whether they completed what was asked of them.	No		

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9. Create a preparer database that tracks errors on client returns and use it for targeted outreach and, if outreach fails, test its effectiveness as a factor in selecting returns for audit.	<p>The Director of the Office of Professional Responsibility (OPR) and SB/SE Commissioner hosted an IRS Return Preparer Summit in September 2007. The summit included functional representatives from Taxpayer Advocate, Criminal Investigation, Research, Electronic Tax Administration, Appeals, and the other three Operating Divisions (W&I, TEGE & LMSB). This was a first step toward creating a service wide Return Preparer plan of action and the recommendation from the Taxpayer Advocate was only one of the items being considered in development of the action plans. The plan has been approved and finalized and we assembled working teams who to identify the actual actions and deliverables needed in order to accomplish the plan. The plan focuses on enhancing our current service and enforcement operations by ensuring maximum collaboration of efforts to increase efficiency and overall effectiveness of program operations and that these programs are built upon a solid foundation of knowledge and supported by the necessary technology.</p> <p>We had previously identified tracking return preparer data on a large scale</p>	Yes	11/24/08	

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	<p>as a possible component of a solution to improve return preparer compliance and we had implemented plans to address this concern as well as others. The preparer “database” is a goal but we have not identified requirements or determined design and whether to link tax return errors to a preparer “profile”. We are pursuing a better data system for preparer information and evaluating ways we might use alternative treatment streams to increase overall interaction with preparers.</p> <p>In addition to actions already planned in support of the Tax Gap and Return Preparer plans, the IRS has a number of initiatives underway.</p> <ul style="list-style-type: none"> • We have identified some trends, issues and errors on paid preparer returns through the Examination Operational Automation Database, and subsequently developed fact sheets and targeted outreach and education to address the issues. • Some of the annual compliance visits to Electronic Return Originators may also be selected based on the frequency of issues and errors identified on e-filed returns. 			
10. Develop a specialized audit program to detect the omission of gross	Tax Gap studies have consistently shown that unreported income is a larger contributor to the tax gap than	No		

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receipts.	<p>overstated expenses, and all of our audit selection tools, examination priorities and program are designed with this in mind. All examination employees are considered to be specialists in the identification and detection on unreported income. Our efforts continue to be focused not only on workload selection and delivery (and identification of returns with the greatest potential for unreported income), but also on training our examiners on identifying and developing unreported income cases. To that end, we have a number of ongoing efforts in this area:</p> <ul style="list-style-type: none"> • SB/SE Examination, Campus Compliance, Fraud, and Collection have many efforts directed at detecting unreported gross receipts and continue to make use of data from multiple sources. • The SB/SE Exam Specialization and Technical Guidance (ESTG) Program has audit technique guides (ATGs) that addresses income issues by industries. One ATG that is undergoing revision focuses on Cash Intensive Businesses. • Revenue Agents, Taxpayer Compliance Officer, and respective managers have been receiving specialized "Toolkit" training on investigative skills, uncovering 			

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	<p>unreported income. This mandatory course is included in the Continuing Professional Education that Examination employees are receiving during FY08.</p> <ul style="list-style-type: none"> • Specific examination initiatives that focus on detection of omitted receipts and issues particularly egregious to our tax system including offshore activities and abusive transactions and the Special Enforcement Program. 			
<p>11. Research the most effective use of IRS audit resources after taking into account the direct and indirect effects of audits on tax revenue.</p>	<p>The steps outlined in the Strategy for Reducing the Tax Gap are, in many respects, only initial steps toward improving compliance. One of the primary challenges that the IRS faces in improving compliance is to get a better understanding of the current sources of noncompliance by improving research in this area. Until that understanding is clarified, efforts to improve compliance may be misdirected and progress may not be measurable.</p> <p>The IRS has taken significant steps in this direction, most importantly through the National Research Program (NRP), which is the source of updated estimates of compliance among individual taxpayers for 2001. The IRS is committed to furthering its work in this area through updated individual</p>	No		

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	<p>taxpayer NRP examinations and a current study focusing on compliance among Subchapter S corporations (S corporations).</p> <p>The impact of compliance activities does not lend itself to traditional revenue-estimating analysis, and it is difficult to quantify the effect that such activities have on taxpayer behavior. And while audits, for example, are a key tool to combat the tax gap, they are not the only one. Recent NRP data and associated legislation proposals have acknowledged that increasing the transparency and visibility of income may be a more effective means of addressing the cash economy tax gap than targeted audits. Reducing opportunities for evasion is one of the key initiatives in our Strategy for Reducing the Tax Gap and our initial efforts will be focused on the steps outlined in the Strategy. Our enforcement efforts otherwise have and will continue to be targeted to coverage in high risk categories.</p> <p>IRS has also developed an Enterprise Examination Plan which establishes and sets Service-wide examination priorities. The Enterprise Plan takes into consideration a number of factors and categories including: externally</p>			

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	mandated priorities (such as the National Research Program), egregious areas of non-compliance, high risk and Service-wide priorities (such as abusive transactions), and additional areas of emphasis such as risk, yield and coverage. Workstreams are first aligned by priority and secondarily aligned by emphasis area.			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
12. Make payment compliance easier by sending out estimated tax payment reminders to businesses that have been late in the past.	<p>The IRS Submission Processing function has developed and implemented a number of programs over the past few years to encourage prompt and electronic payments, including:</p> <ul style="list-style-type: none"> • Express Enrollment- new businesses with depository requirement are pre-enrolled in EFTPS • FTD Coupon Reorders - based on specific requirements, 20% of businesses are pre-enrolled in EFTPS in lieu of receiving an FTD coupon booklet • Individuals making ES payments through Electronic Funds Withdrawal are pre-enrolled in EFTPS and encouraged to make future payments using EFTPS. An enrollment package is mailed to them regarding this program. <p>The IRS already includes detailed estimated payment information in our notices, publications, and form instructions, and the additional resource usage for sending reminder notices would not be practical from a cost/benefit standpoint.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
13. Encourage taxpayers to pay estimated taxes electronically using the Electronic Federal Tax Payment System (EFTPS).	<p>The IRS had previously identified this as a problem and had placed corrective actions in place to address the concerns. IRS agrees that taxpayers should be encouraged to submit their estimated tax payments electronically and has already put functionality into place for 2008 for taxpayers to use a debit card from STAR, Pulse, or NYCE networks to pay their taxes for a \$3.95 flat fee.</p> <p>EFTPS also encourages taxpayers to pay their estimated tax payments both through EFTPS and EFW payment options. Both programs allow the taxpayer to schedule all 4 ES payments at one time. The success of this program is shown in the increase in EFW payments. In addition, new businesses with depository requirements and individuals making ES payments through EFW are pre-enrolled in EFTPS. An enrollment package is sent to each pre-enrolled taxpayer. In addition, 20% of businesses are pre-enrolled in EFTPS in lieu of receiving an FTD Coupon booklet.</p>	Yes	9/23/08	
14. Revise IRS collection policies to offer a reasonable payment alternative to all taxpayers who cannot	IRS disagrees with this recommendation as we believe that current policies and procedures provide sufficient collection alternatives for taxpayers who cannot immediately pay	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
fully pay what they owe.	<p>the amounts due in full. The current “streamlined” installment agreement criteria strike the appropriate balance between efficient accounts management, reduced burden for taxpayers, and the need to arrive at realistic payment arrangements consistent with taxpayers’ ability to pay. Taxpayers are generally granted an installment agreement regardless of their actual ability to pay in full on accounts below \$25,000. We also accept installment agreements for accounts over \$25,000 and in FY07, IRS granted 87,978 installment agreements on accounts over \$25,000. The rate of IAs granted for this population is proportional to the population of these accounts in inventory.</p> <p>Accounts that do not qualify for installment agreements may be resolved through liquidation of nonessential assets, or collection may be suspended to protect the taxpayer from suffering economic hardship. The “currently not collectible” resolution represents several conditions besides the inability to pay. These conditions include accounts where the Service is unable to locate or contact the taxpayer, or the taxpayer is in bankruptcy. Accounts are placed in</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	this status temporarily allowing for consideration in the future when circumstances have changed.			
15. Research what the IRS can do to improve filing compliance among various taxpayer populations.	<p>The IRS had previously identified this as a problem and has completed the actions determined necessary to effectively address the issue. A Service-wide Non-filer Program Plan was developed and focuses on accomplishing three goals:</p> <ul style="list-style-type: none"> • Effectively use enforcement to deter filing noncompliance • Help taxpayers understand and meet their filing obligations • Leverage technology to identify non-filers and remove impediments to filing <p>The Plan was recently approved by the Enforcement Committee and includes the following more specific initiatives:</p> <ul style="list-style-type: none"> • Allocate resources based on a Servicewide approach to ensure end-to-end accountability for Non-filer treatment decisions. • Develop and implement consistent Servicewide performance and outcome measures to determine impact on filing compliance. • Implement a Servicewide Non-filer Communication Program that includes an internal and external focus to address filing requirements. 	Yes	9/23/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<ul style="list-style-type: none"> Expand the use of third party information and research tools to enhance identification, selection and resolution of Nonfiler cases. Ensure Nonfiler cases meeting fraud criteria are referred for civil fraud penalties and/or referred for criminal investigation. Encourage the development and submission of legislative proposals and other regulatory actions to increase filing compliance. <p>The Servicewide Non-filer Program will be governed by an Executive Advisory Council which will ensure achievement of outcome and performance goals.</p>			

2007 ARC – MSP Topic #4 – USER FEES: TAXPAYER SERVICE FOR SALE

Problem

The IRS lacks a consistent strategy for the user fees charged to taxpayers. This makes many basic services unaffordable to the public, in part because the IRS often neglects or is slow to waive fees for lower income taxpayers. The IRS collects about \$180 million in user fee receipts annually, mostly from the installment agreement fee, and it uses this revenue to pay for taxpayer services, information technology, and other program costs. The National Taxpayer Advocate believes that the IRS should employ strong criteria for establishing and setting fees, along with vigilant oversight and review of existing fees. Otherwise, taxpayers' access to service may be reduced and their rights harmed as the IRS establishes new fees and raises others to make up for budgetary shortfalls. The National Taxpayer Advocate makes several recommendations to assist the IRS in establishing and setting fees in the future.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The IRS should publish an analysis of the likely effect of any user fee (or user fee increase) on taxpayers and tax administration before adopting the fee (or fee increase) so the public can be sure the IRS has not put revenue considerations ahead of tax administration considerations when making decisions about user fees.	The IRS complies with OMB Circular A-25 in determining whether to charge a user fee and for determining the cost of providing the service. Fees that lack specific statutory authority are promulgated through a federal regulation allowing for public comment. The IRS also complies with the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Paperwork Reduction Act and provides appropriate background information and the impact on taxpayers during the regulatory process. We address comments received from the public when we publish the final user fee regulation. In the case of fees specifically authorized by statute, Congress has already made the determination that taxpayers should bear the full cost of obtaining the special benefits.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>2. Before establishing or raising any user fee, the IRS should research both the cost of administering it and the effect of the fee (or fee increase) on the demand for the specific service in question. It should also conduct additional research and analysis sufficient to justify the fee and show that:</p> <ul style="list-style-type: none"> • The proposed fee will not have a significant negative impact on voluntary compliance or IRS collections, or otherwise impair the IRS's ability to accomplish its mission (i.e., the IRS should not charge a fee for services that significantly benefit tax administration); • The proposed fee will not cost more to administer than the IRS could otherwise produce by using the same resources on tax administration; • The fee does not 	<p>The IRS complies with OMB Circular A-25 in determining whether to charge a user fee and for determining the cost of providing the service. Our methodology for all fees is subject to audit by TIGTA and the GAO to ensure that proper costing methodologies are used. Fees that lack specific statutory authority are promulgated through a federal regulation allowing for public comment. The IRS also complies with the SBREFA and the Paperwork Reduction Act and provides appropriate background information and the impact on taxpayers during the regulatory process. We address comments received from the public when we publish the final user fee regulation. In the case of fees specifically authorized by statute, Congress has already made the determination that taxpayers should bear the full cost of obtaining the special benefits.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>apply to services that taxpayers have little choice in obtaining;</p> <ul style="list-style-type: none"> • The fee will not deny basic services to taxpayers who cannot afford them (i.e., the IRS should consider a low income waiver); and • The services subject to a fee are provided in a reasonably efficient manner so that the fee is not disproportionate to the value received by the service recipient (e.g., a fee of \$105 to "process payments" should not generally be acceptable). 				

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The IRS should publish the research and analysis described in recommendation 2 (above) along with a specific explanation showing exactly how it computed any proposed fee or fee increase. The IRS should only implement (or increase) a fee after revising its analysis to address comments from internal and external stakeholders.	The IRS complies with OMB Circular A-25 in determining whether to charge a user fee and for determining the cost of providing the service. Fees that lack specific statutory authority are promulgated through a federal regulation allowing for public comment. The IRS also complies with the SBREFA and the Paperwork Reduction Act and provides appropriate background information and the impact on taxpayers during the regulatory process. We address comments received from the public when we publish the final user fee regulation. In the case of fees specifically authorized by statute, Congress has already made the determination that taxpayers should bear the full cost of obtaining the special benefits.	No		

2007 ARC – MSP Topic #5 – THE USE AND DISCLOSURE OF TAX RETURN INFORMATION BY PREPARERS TO FACILITATE THE MARKETING OF REFUND ANTICIPATION LOANS AND OTHER PRODUCTS WITH HIGH ABUSE POTENTIAL

Problem

Tax return preparers use the preparation process to sell a variety of products to their clients. The sale of certain commercial products, such as refund anticipation loans (RALs), refund anticipation checks (RACs), and audit insurance, is disproportionately targeted toward low income taxpayers and may exploit those taxpayers’ trust in their preparers and their own lack of financial sophistication. Some preparers who market RALs also have a financial incentive to inappropriately inflate refund amounts. To the extent that problems arise with a RAL or similar product, taxpayers may incorrectly assume there are problems with the administration of the tax laws. However, despite concerns repeatedly expressed by both internal and external stakeholders, the IRS has declined to conduct any significant research into the impact of commercial products on tax compliance or taxpayer exploitation. Within the existing statutory framework of IRC § 7216, the Treasury Department has the discretion to restrict the ability of preparers to obtain taxpayer consent to either use or disclose tax return information in the marketing of RALs, audit protection, and similar products.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>1. The National Taxpayer Advocate recommends that the IRS conduct research in conjunction with the Office of the Taxpayer Advocate to determine the impact certain commercial products have on tax compliance and taxpayer exploitation. The research should include, but is not limited to, the following items:</p> <ul style="list-style-type: none"> The role commercial products play in retail preparer noncompliance; 	<p>IRS concurs with the need for research and is already committed to an iterative research approach to determine whether: 1) preparers are taking improper positions that cause inflated refunds; 2) if so, how widespread and systemic is the problem; 3) if so, what creates the incentive for preparers to engage in non-compliant behavior; 4) if action is needed, what can IRS do to combat the problem. As part of this research, we will consider the questions raised by the NTA. However, some of this work may take considerable time, will require significant resources, and will thus depend on resource availability to complete. The Research analysis is</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<ul style="list-style-type: none"> • Whether the marketing of commercial products by preparers creates a financial incentive to inflate refunds or exploit taxpayers; • Whether financial incentives received by preparers at the corporate level impact the behavior of preparers at the retail level; • The resulting impact such marketing of commercial products by preparers has on tax administration and the public fisc; • Options to address preparer noncompliance related to the marketing of commercial products; and • Whether taxpayers understand the terms of the commercial products and can separate the act of purchasing the product from the 	being finalized and will be released in late October 2008.			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
return preparation process.				
2. The National Taxpayer Advocate recommends that the Department of Treasury and the IRS, after careful review of findings from the above-mentioned research and public comments, amend Treasury Regulation §301.7216-3 as set forth in the advance notice of proposed rulemaking (ANPR).	This recommendation is premature and presupposes the results of the research suggested above and the outcome of public comment on the ANPR. As a result, we cannot concur until the research recommended above is completed and reviewed. We will also have to consider the responses we received from the ANPR before reaching a conclusion about what, if any, action is needed.	No		

2007 ARC – MSP Topic #6 – IDENTITY THEFT PROCEDURES

Problem

The National Taxpayer Advocate first raised her concerns about the IRS's identity theft procedures in her 2005 Annual Report to Congress. While the IRS has made some improvements, it has not done enough to improve procedures for victims of identity theft or to secure its filing system from fraudulent filers. The IRS's identity theft measures are reactive rather than proactive and require taxpayers to contact the IRS and work their way through layers of employees until they reach someone with authority to adjust their accounts. Too often, victims of identity theft receive more scrutiny from the IRS than perpetrators, such as those who use the electronic filing system and bank account direct deposit to commit refund fraud. The IRS should make a PIN process mandatory for all electronic filers, increase the security of direct deposits, and generally take a more taxpayer-centric approach to identity theft and put procedural and preventive changes on a fast track.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The IRS should develop a dedicated, centralized unit to handle all identity theft cases, as well as a centralized IRM to house all identity theft procedures across the IRS. This IRM would provide various scenarios for account resolution.	-The IRS is establishing the Special Victim Assistance Unit as a single point of contact for taxpayers with identity theft issues - A Comprehensive Identity Theft Manual or IRM Hub will provide consistent case resolution guidance to IRS employees	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The IRS should develop a form that taxpayers can file when they believe they have been victims of identity theft. The instructions on the form should explain which steps the IRS will take and which steps the taxpayer should take (e.g., obtaining an FTC affidavit) to restore the integrity of the taxpayer's account.	-The IRS is developing the capability for taxpayers to self-report non-tax administration instances of identity theft; a marker will be applied to each taxpayer account	Yes		
3. The IRS should issue a soft notice to taxpayers whose refunds have been frozen because of a duplicate filing. A refund freeze can have the same effect as a refund denial if the taxpayer is unaware of the freeze or the reasons behind it.	-The IRS is chartering a team that will conduct further analysis to evaluate the potential delay -The team will use the analysis results to define and recommend solutions -The IRS will report back to the Identity Theft Advisory Committee (ITIM AC) and the National Taxpayer Advocate on October 15, 2008 with a status update on analysis results and recommended solutions.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The IRS should also freeze collection actions when a duplicate filing is present until an investigation can determine the whether an identity theft has taken place.	<ul style="list-style-type: none"> -The IRS is chartering a team that will conduct further analysis to determine the scope of the issue -The team will use the analysis results to define and recommend solutions - The IRS will report back to the Identity Theft Advisory Committee (ITIM AC) and the National Taxpayer Advocate on October 15, 2008 with a status update on analysis results and recommended solutions. 	Yes		
5. The IRS should eliminate Form 8453-OL from the electronic return process and make the personal identification number (PIN) process mandatory because it will increase security, save money, and help eliminate taxpayer burden.	<ul style="list-style-type: none"> - A PIN will be required to process electronic returns Taxpayers filing electronic returns will no longer be able to submit a hand written signature using form 8453-OL -The programming for this process is complete and the form has been updated to reflect the changes. 	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The IRS should also give identity theft victims the ability to take proactive measures such as blocking the e-filing option on their accounts.	<ul style="list-style-type: none"> -The IRS is developing proactive initiatives to enable identity theft victims to reduce future harm; this includes the development of a process for victims to notify the IRS of misuse of PII -The IRS is evaluating additional enhancements to e-file security and functionality - The IRS will report back to the Identity Theft Advisory Committee (ITIM AC) and the National Taxpayer Advocate on October 15, 2008 with a status update on the implementation of proactive initiatives and recommendations for additional enhancements to e-file 	Yes		
7. The IRS should create a prefix for IRS numbers (IRSNs) or some other system so that it does not deny tax benefits to the rightful owner of the Social Security number (SSN). While assignment of IRSNs may be the only way to isolate the fraud taking place under an SSN, it is inequitable to assign the IRSN to identity theft victims and then deny tax benefits that depend on the SSN.	<ul style="list-style-type: none"> -The IRS is conducting an in-depth analysis to identify Scramble process improvements using lean six sigma methodologies -The IRS will define and recommend solutions to the Scramble process based upon the analysis - The IRS will report back to the Identity Theft Advisory Committee (ITIM AC) and the National Taxpayer Advocate on October 15, 2008 with the recommended Scramble process solutions. 	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The IRS should plan an Identity Theft Summit in FY 2008 to bring together all IRS functions that deal with identity theft issues to discuss the problems in a collaborative effort.	-The IRS is hosting an Identity Theft Forum July 21 – 22, 2008	Yes		

2007 ARC – MSP Topic #7 – MORTGAGE VERIFICATION

Problem

When closing on a mortgage, borrowers often must consent to disclose certain tax information in order to verify their income, including signing a *blank* copy of Form 4506-T, Request for Transcript of Tax Return, which gives the lender access to four years of tax information for 60 days from the date on the form. However, the information disclosed is not subject to the same protection and limits on use as other taxpayer information, which raises numerous privacy concerns. The IRS should revise Forms 4506, 4506-T, and 8821 (and their instructions) to state in clear and plain language that taxpayers should not sign a blank or incomplete form. The IRS should also revise the forms to allow a taxpayer to specify the purpose for which the information can be used by third parties.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS revise Form 8821 and its instructions to state in clear and plain language that taxpayers should not sign a blank or incomplete form.	The Form 8821 and instructions have been revised to include the cautionary statements as recommended.	Yes	12/15/08	
2. The National Taxpayer Advocate recommends that the IRS revise the cautionary language on Forms 4506 and 4506-T to state in clear and plain language that taxpayers should not sign a blank or incomplete form.	The current versions of Form 4506 and Form 4506-T contain multiple cautionary statements on the face of the forms.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS revise Forms 4506, 4506-T and 8821 to allow a taxpayer to specify the purpose for which the information he or she is consenting to disclose can be used by third parties.	IRC Section 6103(c) consent-based disclosures are not subject to third party use limitations and the civil and criminal sanctions of the Code do not apply. Practically, it is beyond the jurisdiction of the IRS to monitor the use of information disclosed for non-tax purposes by third parties.	No		
4. The National Taxpayer Advocate recommends that the IRS engage in an outreach campaign to advise taxpayers of their privacy rights and the importance of not signing blank forms.	Existing cautionary statements on Form 4506 and Form 4506-T, with emphasis, and the revisions to Form 8821 and the instructions to include the cautionary statements, as recommended, are satisfactory.	No		

2007 ARC – MSP Topic #8 – TRANSPARENCY OF THE OFFICE OF PROFESSIONAL RESPONSIBILITY

Problem

The IRS’s Office of Professional Responsibility (OPR), which is charged with regulating tax practitioners, has not published sufficient guidance or procedures to assure the public that it operates fairly and independently. If there is any question about OPR's independence from the IRS, practitioners (and taxpayers) may fear OPR will serve as an extension of the IRS enforcement function and arbitrarily target practitioners who are appropriately advocating for taxpayers. This belief would chill zealous advocacy by practitioners and harm taxpayers as well. OPR should improve both the reality and perception of its independence and establish reasonable limits on its discretion by issuing guidance on which practitioners can rely. This guidance should more directly address who is subject to regulation by OPR, what conduct is prohibited, how OPR follows up on referrals, how OPR will adjudicate an allegation (including policies governing practitioner access to information that could bear on the result), and what penalties OPR will seek for a given offense. OPR should develop such guidance quickly using an open process.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the Office of Professional Responsibility (OPR) quickly formalize and publish a more detailed description of its enforcement processes, including the analysis OPR employees use to determine which cases are worth pursuing or what sanctions (or range of sanctions) are appropriate for a given offense.	The Office of Professional Responsibility had already begun drafting a set of internal operating procedures to publish in the Internal Revenue Manual. These procedures are nearing completion and are expected to be circulated both within the Internal Revenue Service and with the OPR Advisory Group by the fall of 2008. OPR is also working to develop publishable guidance on the types of sanctions that are appropriate for given offenses. We are discussing what approach(es) may be most appropriate with our Advisory Committee of tax practitioners.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that OPR establish a timetable for when the guidance referenced in Recommendation 1 will be circulated inside the IRS and ultimately published.	The procedures and guidance are nearly complete as we had begun working on these before the National Taxpayer Advocate's recommendations were drafted. We expect to circulate our IRMs within the IRS in the fall of 2008.	Yes		
3. The National Taxpayer Advocate recommends that OPR expedite efforts to publish examples or other guidance to clarify important rules, including: <ul style="list-style-type: none"> • How to determine whether written tax advice is a "covered opinion;" • What constitutes "willful" conduct for purposes of Circular 230; • Whether a statute of limitations applies to violations of Circular 230; and • What it means to "practice" before the IRS. 	The Office of Professional Responsibility has wanted for a considerable period of time to be able to publish examples and guidance to clarify important rules. To expedite this process, we created an OPR Advisory Group to help us develop scenarios on issues relevant to the private practitioner community. We are looking for the OPR Advisory Group to help us prioritize the types of guidance most desired by practitioners and plan to publish scenarios and guidance on those topics. OPR has also been active in speaking to practitioner groups and using scenarios to illustrate areas of Circular 230. Furthermore, recent amendments to Circular 230 will allow OPR to publish decisions of Administrative Law Judges in actual cases, which will provide additional guidance on interpreting Circular 230.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that OPR work with the Department of the Treasury to amend Circular 230 to incorporate guidance about how the practitioners may obtain exculpatory evidence and how and when they can obtain "open file" discovery.	Circular 230 was amended on September 26, 2007, in section 10.63(d) that requires OPR to provide evidence to the practitioner when the complaint is filed. Prior to that time, OPR routinely turned over information from OPR's file to the practitioner upon request. This step will be part of the internal OPR procedures that are published in the Internal Revenue Manual later this year.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that OPR establish a stand-alone advisory committee under the Federal Advisory Committee Act for OPR so that a diverse array of tax professionals, including those with experience defending practitioners in proceedings against OPR, has an opportunity to serve.	OPR agrees that an OPR Advisory Group is a valuable addition. OPR also agrees that the committee should consist of a diverse array of tax professionals, including those with experience defending practitioners. OPR created an advisory group in early 2008 that consists of members from the American Association of Attorney-Certified Public Accountants, the American Bar Association, the American Institute of Certified Public Accountants, the American Society of Appraisers, the Council for Electronic Revenue Communication Advancement, H&R Block, the National Association of Enrolled Agents, the National Association of Tax Professionals, the National Society of Accountants, the National Society of Tax Professionals and the Tax Executives Institute. OPR has already held multiple meetings with the OPR Advisory Group. Rather than a stand alone committee under the FACA rules, OPR chose to expedite the process and created the group as a subgroup of the IRPAC. We believe the membership of the OPR Advisory Group is broad and diverse enough to sufficiently represent the interests of the practitioner community.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that OPR expand the role of OPR's advisory committee so it can provide advice to OPR on a broad range of issues, including assisting OPR with both the questions and answers to be addressed by hypothetical examples.	The OPR Advisory Group is already working with OPR to create scenarios so that OPR can provide additional guidance to the practitioner community on issues of interest.	Yes		

2007 ARC – MSP Topic #9 – PREPARER PENALTIES AND BYPASS OF TAXPAYERS’ REPRESENTATIVES

Problem

The IRS should more effectively use the tools at hand to address incompetent or unscrupulous tax return preparers. It has collected just slightly more than 20 percent of the preparer penalties it has assessed under IRC §§ 6694 and 6695 during the past six years, and that is inadequate. The IRS also places taxpayers at risk by failing to enforce the civil and criminal penalties under IRC §§ 6713 and 7213. The IRS should also find a way to systemically check whether all individuals identified on Electronic Return Originator (ERO) applications as Principals, Responsible Officials, and Delegated Users have unpaid preparer penalties assessed against them. The IRS’s authority to bypass taxpayer representatives exists to protect taxpayers against incompetent or unethical practitioners. By not providing proper guidance to employees or following its own bypass procedures, the IRS risks depriving taxpayers of their fundamental right to representation. Finally, the National Taxpayer Advocate is concerned about the higher standards of conduct recently added to IRC § 6694, which may affect the way tax preparers dispense advice and create conflicts of interest between preparers and their clients.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS take the following step to improve the enforcement of preparer penalties: In connection with the Servicewide Return Preparer Strategy, create a Return Preparer Executive Steering Committee to provide an oversight function as well as promote coordination of preparer service and enforcement programs throughout the organization.	The IRS had already identified the issue and has taken steps necessary to resolve the problem. Specifically, the IRS established the Preparer Advisory Council (PAC) as the governance mechanism for both the development and implementation of the Return Preparer plan. The PAC reports to the IRS Enforcement Committee. This executive steering committee was established by October 1, 2007. The PAC has conducted regular meetings beginning in October 2007. Membership includes representatives from all of the enforcement divisions as well as the Taxpayer Advocate Service and Counsel.	Yes	9/18/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>2. The National Taxpayer Advocate recommends that the IRS take the following step to improve the enforcement of preparer penalties: Expend resources to collect assessed penalties under IRC §§ 6694 and 6695. The IRS should not focus on the amount of the penalties, due to the cascading effect such collection efforts have on the compliance of the preparers' present and future clients.</p>	<p>The IRS had already identified this problem and had developed a strategy to resolve the issue by January 31, 2009. The IRS agrees that the collection of assessed penalties under IRC § 6694 and § 6695 have an effect on overall compliance of the preparers' clients. All examiners are instructed to solicit payment at the conclusion of an examination. The IRS also employs an inventory delivery system for Collection which uses decision analytics and predictive modeling to insure that the cases with the best collection potential are assigned first. This enables the IRS to maximize collections in consideration of allocated resources.</p> <p>Business rules are also used to identify areas of special emphasis and return preparer cases are identified as "Special Emphasis" because of the compliance nature of the assessment. Programming changes are planned which should allow more preparer penalty cases to be assigned to revenue officers in the collection field function. In accordance with the Corporate Approach to Collection Inventory (CACI), penalty cases for return preparers will be given special emphasis for Revenue Officer assignment.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>3. The National Taxpayer Advocate recommends that the IRS take the following step to improve the enforcement of preparer penalties: Enforce the penalties imposed under IRC §§ 6713 and 7216. The IRS should give utmost priority to the confidentiality of tax return information, and by enforcing these penalties will ensure that preparers appropriately use and disclose such information. Accordingly, the IRS should raise awareness by incorporating detailed information into the appropriate training materials and IRMs on the identification of violations and referrals of potential violations.</p>	<p>Given the nature of the IRC §6713 penalty, it would be on rare occasions that our examiners would uncover situations where this penalty would be warranted. However, to emphasize the importance of confidentiality of tax return information, IRS is taking several actions.</p> <ul style="list-style-type: none"> • Application of the IRC §6713 penalty is outlined in IRM 20.1.6.7.1 and was updated in February 2008. • The IRC §6713 penalty was discussed during a November 2007 conference call with the SBSE Exam Area Return Preparer Program (RPP) Coordinators and Electronic Return Originator (ERO) Coordinators. • The ERO training material will be updated for the IRC §6713 penalty during the FY '09 season and the training will be completed by the end of the first quarter, FY '09. <p>We do not agree with the recommendation as it relates to IRC §7216. IRS Criminal Investigation (CI) historically has not and does not recommend charges under IRC §7216 because the violation is a misdemeanor. CI instead routinely recommends felony charges for return preparers who improperly disclose or use taxpayer information while involved</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	in abusive criminal behavior related to the preparation of false tax returns or use of taxpayer information to file fictitious returns in the attempt to obtain fraudulent refunds.			
4. The National Taxpayer Advocate recommends that the IRS take the following step to improve the enforcement of preparer penalties: Perform tax compliance checks on all individuals listed on Electronic Return Originator (ERO) applications (including Designated Users) at the time of the application as well as on a periodic basis. If the IRS finds outstanding preparer penalty amounts, even relatively small ones, it should deny the designation or suspend the individual's ability to participate in the e-file program, as applicable, if the individual fails to cure the problem after an appropriate time. In addition, the IRS needs to verify the status of applicants claiming to be	The IRS had already identified this as an area of potential abuse; additional enhancements will be in place by January 31, 2009. The IRS already reviews preparer penalties during its Tax Compliance Checks as part of the Suitability Check completed on firms, principals, and responsible officials. Preparer penalties assessed in the last three years over a specified amount and occurring in more than one tax period are considered in determining suitability. Assessments and unpaid balances are identified during processing of e-file applications and on a continual basis after acceptance as an Authorized IRS <i>e-file</i> Provider. When criteria are met during the Suitability Check, the information is reviewed, and appropriate action taken as warranted including denial, written reprimand, suspension, or expulsion from the program. The Automated <i>e-file</i> Application Processing system automates the process of checking and monitoring tax compliance and ensures applicants and approved <i>e-file</i> Providers are current with their tax return filings and tax payments, and	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
not-for-profit services.	<p>those individuals and businesses have not been assessed fraud and/or preparer penalties. ETA periodically reviews suitability criteria.</p> <p>The IRS will begin validating e-file applicants that select "Not-for-Profit" on an e-file application on December 1, 2008, after implementation of the related work request. The application will not be approved until an appropriate IRS validation is completed.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS take the following step to improve the enforcement of preparer penalties: Include the topic of taxpayer representation and bypass procedures in annual mandatory briefings for all employees.	The IRS does not agree with the recommendation that the topic of taxpayer representation and bypass procedures be included in annual mandatory briefings for all employees. Mandatory briefings generally cover broad based administrative and conduct subjects such as safety, ethics, prevention of sexual harassment, and others. The issues of taxpayer representation and bypass procedures are performance based issues. These procedures are covered in employee training materials and are clearly documented in the IRM. Adherence of these procedures is tied to employee critical job elements upon which they are evaluated. Managerial approval of bypass letters is required for any bypass which already ensures consistency and observation of taxpayer rights.	No		

2007 ARC – MSP Topic #10 – TAXPAYER SERVICE AND BEHAVIORAL RESEARCH

Problem

The IRS has more quality research on taxpayer service at its disposal than ever before. As part of the Taxpayer Assistance Blueprint (TAB), the IRS conducted extensive research on taxpayers’ needs, preferences, behavior, and willingness to use certain services. The National Taxpayer Advocate has also commissioned studies to identify ways to improve the tax system. The IRS now needs to test and apply the findings of these studies. The IRS should develop a behavioral research lab that can test and enhance IRS products, thereby improving taxpayer service. By applying existing findings and developing a better understanding of taxpayer behavior, the IRS can also improve voluntary compliance. This approach, in the long run, is likely to result in a more fair and balanced system tax administration.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS enhance its existing research capacities by developing an applied research lab and exploring different approaches to improving tax morale.	The Internal Revenue Service recognizes that there is a need to improve the quality and quantity of research into the question of how service provision affects taxpayer compliance levels (including both intentional and unintentional non-compliance). The Taxpayer Assistance Blueprint project has begun the process of assembling what is known in this area and supplementing that work with original survey research focused on the needs/desires expressed by individual taxpayers about the services they would like to be able to access. In the President’s FY 2008 Budget Request, the Internal Revenue Service included a \$5 million initiative specifically aimed at improving the understanding between provision of services to taxpayers and taxpayer compliance levels. This initiative would allow the Service to embark on a multi-	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>year research agenda that could eventually pay large dividends through improved voluntary compliance levels.</p> <p>However, at this stage of development, there is no single approach in this research area that appears superior to other possible approaches. The Internal Revenue Services intends to use the resources provided under this initiative (if funded by Congress) to undertake several research projects in FY 2008, with the goal of helping to shape future research endeavors in this area. It would be premature to conclude that establishing a cognitive and applied research lab run by the Service is the most effective approach to use the limited resources supplied by this initiative.</p> <p>The “tax morale” hypothesis raised by the Taxpayer Advocate’s report raises some interesting questions about the myriad ways that governmental actions can affect taxpayer compliance levels. The basic insight in the “tax morale” literature is the recognition that a taxpayer’s psychological state might affect their willingness to comply with the tax law, and in turn, affect their actual compliance behavior. Unfortunately, empirical data on this linkage is not sufficient to support firm</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>conclusions about steps a tax administration agency might find effective. At this point, the work is merely suggestive of factors that might come into play and how they could be manipulated to improve taxpayer compliance. Much more research in this area is needed before policymakers can be confident in the implications.</p> <p>In summary, the Service's response to the Taxpayer Advocate's raising of this issue is to acknowledge that more research is needed on the link between provision of taxpayer service and subsequent levels of taxpayer compliance. This research will be carried out if Congress approves the FY 2008 Budget Initiative in this area. The results from these research efforts will shape the future research agenda, enabling it to concentrate on the most promising areas. These results may or may not imply that utilizing a cognitive and behavioral lab will be an effective strategy of advancing research in this area.</p>			

2007 ARC – MSP Topic #11 – SERVICE AT TAXPAYER ASSISTANCE CENTERS

Problem

The development of the TAB helped the IRS learn more about taxpayer needs, preferences, and willingness to use services at the Taxpayer Assistance Centers (TACs or “walk-in sites”). Despite this blueprint and the knowledge that some taxpayers will always need face-to-face service, taxpayers who visit TACs continue to experience difficulties making appointments, obtaining return preparation assistance, and making payments. The National Taxpayer Advocate commends the IRS for a recent change to the Internal Revenue Manual (IRM) allowing any taxpayer visiting a TAC to receive a copy of his or her account transcript (up to the last three years) regardless of urgency or reason. However, the National Taxpayer Advocate recommends that the IRS also take other steps to help taxpayers who travel to TACs, such as providing same-day service and not turning them away or referring them elsewhere.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS conduct a full-scale survey along the lines of the Taxpayer Advocacy Panel (TAP) survey discussed previously which includes responses from taxpayers who were in line for, but ultimately were not served by Taxpayer Assistance Center (TAC) personnel.	The IRS already has a process in place to gauge customer satisfaction. The current process allows taxpayers to provide input on the services received - or not received - at the TAC through the Customer Satisfaction Survey Cards available in all TAC offices. The Customer Satisfaction Survey Card was redesigned with new questions to address whether the IRS is resolving taxpayers' issues or answering their questions when they visited a TAC office. If a taxpayer's issues are not resolved, the taxpayer is asked to identify what they needed that was not available. The new card also enables the IRS to determine the time spent to resolve the taxpayer's issue. The data is collected by an outside vendor. Reports are prepared and sent to IRS for review and monitoring. In addition, IRS uses survey results and other stakeholder feedback to identify and pursue a variety of TAC improvement initiatives aimed at enhancing customer service, reducing wait times, etc. For example, during the 2008 filing season IRS's Field Assistance office maximized assistance to taxpayers through additional hiring, use of the Facilitated Self Assistance Research Project, and other assistor tools, such as the Interactive Tax Law Assistant.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS provide a specific vehicle or process for obtaining stakeholder advice and best practices. Involve TAC employees who will be serving taxpayers in this process.	Completed 10-1-2007. The IRS currently utilizes a variety of channels to secure stakeholder/customer input and best practices. All taxpayers who visit a TAC are given opportunities to provide feedback/suggestions via the customer satisfaction survey. The IRS encourages employee feedback via the formal employee suggestion program and town hall meetings. Best practices are identified during routine program reviews. In addition, the IRS engaged the Taxpayer Advocacy Panel again in FY 2008 to provide input and suggestions on ways to enhance the TAC return preparation process. TAS is also a valued stakeholder and currently has representatives assisting with the TAC Geographic Coverage Initiative which includes analysis/recommendations for service delivery enhancements/options.	Yes	9/23/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>3. The National Taxpayer Advocate recommends that the IRS conduct a full-scale survey to research population segments (low income, elderly, disabled, and limited English taxpayers) across the United States to determine the particular face-to-face out-of-scope service taxpayers need by geographical location, such as farmers, fishermen, foresters and small business self-employed.</p>	<p>The IRS agrees with the need for research and is currently conducting a thorough analysis of in scope and out of scope issues. However, the recommendation to change out-of-scope issues to in-scope and train employees accordingly is premature and we cannot commit to such a change pending the outcome of our research. In this regard, input is being received from both TAC managers and the Taxpayer Advocate Service. Once data is analyzed, the IRS will make recommendations regarding appropriateness of localized/geographic based in scope issues, implementation timelines, and training as applicable. We expect to have this analysis completed by 1/15/09.</p> <p>Completed 4-15-2008. IRS completed a survey to determine face-to-face out-of-scope services needed by geographic locations. IRS made recommendations based on the geographic based scope of services issues, implementation timelines and training. As a result, two tax law topics, Cancellation of Debt and Non-resident Alien issues, were added as in scope for FY 2009.</p>	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS change the tax preparation appointment process at TACs to include the option of scheduling appointments by phone or other user-friendly choices.	The IRS agrees there is a need to reassess the tax preparation appointment process. IRS's Field Assistance office sought the assistance of the Taxpayer Advocacy Panel (TAP) in early 2008 to review current process and the TAP analysis is underway. However, pending the conclusion of that analysis and IRS assessment of any recommendation or options we cannot commit to the NTA's recommendation to include the option of scheduling appointments by phone or other user-friendly choices. We expected to receive the TAP recommendations/options for consideration by 12/31/08 and to make a determination on any appropriate changes by 1/15/09.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS provide same-day service to taxpayers traveling to a TAC and do not turn them away or refer them elsewhere.	In October 2007, the IRS issued guidance stressing the importance of same day service, utilization of traffic management best practices and same day return preparation as available resources allow. The IRS continues to maximize assistance, especially during peak filing season demand, via additional hiring, pilots such as the Facilitated Self Assistance Research Project, and other assistor tools such as Interactive Tax Law Assistant. Every effort is made to assist as many taxpayers as possible on the day they visit the TAC. However, TAC staffing is finite and customer demand on peak days may prevent IRS from servicing every customer seeking assistance at a given site or those that choose not to wait.	Yes	9/23/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS make it a priority of answering calls on published TAC telephone numbers. The IRS should also market telephone numbers to the community by methods such as forms and publications, television, and radio as well as the IRS website.	IRS lists TAC telephone numbers in local telephone directories and on IRS.gov. These local, non-toll free telephone lines are intended solely to assist taxpayers in locating a TAC or to provide information on other issues, such as hours of operation, to learn about available and alternate services, or to reschedule appointments with IRS personnel. In situations where taxpayers have an ongoing, complex tax account problem or a special need, such as a disability, an appointment may be requested. A designated TAC employee, such as the Initial Account Representative (IAR), monitors the line and returns calls when necessary while also providing face-to-face service to customers visiting the TAC. The IRS believes the best telephone service option for large volumes of callers seeking tax law, account, or forms/publications assistance continues to be via IRS' toll free assistance lines. The availability of these toll free lines are already widely publicized and very well known by the public. We believe expanding the marketing of local telephone service or expanding its use beyond the limited purposes outlined above are unnecessary and, more importantly, would reduce the ability of TAC employees to provide face-to-face service, especially in smaller TACs.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
7. The National Taxpayer Advocate recommends that the IRS provide small business representatives at each larger TAC location.	The IRS already provides assistance to small business taxpayers on issues/questions related to Forms 940, 941, 2290 and Schedule C EZ. A core part of TAC service provides account assistance including payment and notices on business returns. We do not agree that it is necessary for IRS to have dedicated small business specialists at each larger TAC location.	No		
8. The National Taxpayer Advocate recommends that the IRS accept all payments presented to the IRS, understanding that cash payments must be converted to money orders.	The IRS's TACs have a long standing practice of accepting all payments presented at TACs, including cash. However, there is an approved Internal Revenue Manual deviation for very small 1-2 person TACs regarding not taking cash due to internal control concerns/segregation of duties as well as adverse impact on customer service when an employee in 1-2 persons TAC must leave the office to convert cash to money orders. The IRS is currently exploring the use of courier services to mitigate the need for employees to leave the TAC for cash conversion, which, if successful, will enable IRS to accept cash payments at all TACs regardless of staffing.	Yes	9/23/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
9. The National Taxpayer Advocate recommends that the IRS ensure that all monies saved from shifting taxpayers to electronic services should be funneled directly into providing face-to-face services at TACs.	The IRS will continue to devote its resources to providing an array of taxpayer services through multiple channels designed to meet the needs and preferences of our customers. This ensures all assistance options are maximized providing optimal taxpayer assistance whether face-to-face, telephone, or electronic.	No		

2007 ARC – MSP Topic #12 – OUTREACH AND EDUCATION ON DISABILITY ISSUES FOR SMALL BUSINESS/SELF-EMPLOYED TAXPAYERS

Problem

People with disabilities have always struggled to find employment, largely because of the numerous barriers facing this population. Some professionals believe there is an increasing trend among people with disabilities to address these barriers by becoming self-employed or owning their own small businesses. One of the most significant obstacles facing these individuals in starting their own businesses is the inaccessibility of business materials and information. Therefore, it is vital that the IRS take steps to ensure that tax administration is not a barrier to disabled individuals entering business, but rather, is a resource for these entrepreneurs.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS utilize the Real Economic Impact (REI) Tour as a vehicle to target outreach to self-employed taxpayers and entrepreneurs with a disability and their community.	Since October 2007, SB/SE has partnered with W&I SPEC and the National Disability Institute in the REI Tour at the national and local levels by participating in audio conferences, formal in-person presentations, and panel discussions regarding relevant tax information related to disability awareness and outreach for the small business community. IRS has received positive feedback for this effort and will continue to participate in the tour. IRS’s presentation provides information on the various tax credits that are offered to those who are disabled and the employers who hire them. IRS will continue to enhance its outreach to include information designed specifically for self-employed taxpayers and entrepreneurs with disabilities which will include various segments of the business community.	Yes	12/15/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS follow up the REI Tour outreach with face-to-face live outreach sessions.	SB/SE continues to focus its outreach through leveraged delivery methods to share tax related messages, products and services. SB/SE will follow-up with interested associations and organizations from the REI Tour and will use those contacts to assist with identifying other organizations at the national and local level to broaden the awareness of key messages and increase distribution channels. SB/SE will accomplish this by face to face contact with these organizations, which will, in turn, leverage our outreach efforts though workshops, seminars, liaison meetings, and other events.	Yes	12/15/08	
3. The National Taxpayer Advocate recommends that the IRS provide accessible laptops at live outreach sessions, rather than requiring taxpayers to bring their own.	Due to budget limitations and competing priorities, SB/SE does not currently have the financial ability to support this recommendation due to the numerous outreach events that are conducted each year. Although some partners have the capability to comply with this recommendation, for others this may impose a significant burden and responsibility as they conduct the workshops. At the current time, visually impaired taxpayers are instructed to bring a laptop to external seminars. In addition, the IRS provides them with a DVD of the Small Business Tax Workshop which has features to accommodate certain taxpayer disabilities.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS use the REI Tour to educate taxpayers regarding the accommodations the IRS provides taxpayers with a disability.	<p>Regarding our outreach efforts to individual business owners with disabilities, IRS currently:</p> <ul style="list-style-type: none"> • Provides information on the leveraged small business workshop flyer for the business owner needing assistance to contact the organizer and indicate what special assistance is needed prior to the workshop, • Provides transcripts of workshop materials for the hearing impaired, • Ensures presentations are 508 compliant, and • Offers educational opportunities via the web such as Tax Talk Today, the Small Business Workshop Streaming Video (also available on DVD) so taxpayers can participate from their own place of business or home, <p>SB/SE will incorporate information on these opportunities into REI events so that those audiences will be aware of opportunities for business owners who are disabled or who hire disabled employees.</p>	Yes	12/15/08	
5. The National Taxpayer Advocate recommends that the IRS include information regarding IRS accommodations for	SB/SE is pursuing the recommendation to include information regarding IRS accommodations for small business taxpayers that hire disabled employees and self-employed taxpayers that are	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
taxpayers with a disability in IRS notices.	<p>disabled in appropriate IRS notices. SB/SE is evaluating and coordinating this effort with the SPOC office and the Notice POCs in W&I. SB/SE is currently working with the BMF Notice Office to identify the appropriate notice to include a stuffer. SB/SE Stakeholder Liaison (SL) is also working with the business owner of the appropriate notice to add a narrative in the text of the notice highlighting the enclosed stuffer. The stuffer will provide information on the various tax incentives and credits that are offered to small business owners who hire employees with disabilities. This will be an annual process that will begin in September 09.</p> <p>SL will also make the stuffer available at all SL external events. In addition, SB/SE will feature articles in the SSA/IRS Reporter. The SSA/IRS Reporter is a quarterly newsletter that is collaborative effort between the Social Security Administration, IRS, and others. It is distributed to millions of small business owners throughout the United States. The Reporter consists of educational news for employers, with an emphasis on encouraging electronic filing and paying of employment taxes, and IRS and SSA products and services.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>SL will ensure that the following information is featured in the articles:</p> <ul style="list-style-type: none"> • Tax Incentives and credits for employers who hire employees that are disabled. • SB/SE information on the REI Tour events. • Information on educational opportunities, to include the leveraged workshops that are taking place and links to the SB/SE CLD Calendar of events. 			
<p>6. The National Taxpayer Advocate recommends that the IRS provide SB/SE's internet small business classroom materials as streaming translation in American Sign Language (ASL) for taxpayers who are deaf or hard-of-hearing.</p>	<p>SB/SE is customer driven and ensures our products and services are 508 compliant. In addition, the IRAP Office, the organization responsible for ensuring that accessibility is implemented in the IRS, has provided guidance indicating captions satisfy the 508 requirements. Transcripts are available for additional convenience. Currently, our small business classroom product is captioned in English, Spanish, and Mandarin Chinese. Also, the small business classroom materials accommodate the hearing impaired through closed-captioning technology.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
7. The National Taxpayer Advocate recommends that the IRS redesign irs.gov so taxpayers have numerous options that will allow them to manipulate the font size and color, or use a speech option to meet their individual needs.	SB/SE is partnering with the Public Portal Branch, responsible for the IRS website to implement the recommended enhancements. ETA has successfully lobbied to fund several new initiatives for IRS.gov this filing season. One of those items is an effort to enable "scalable fonts" on IRS.gov, as suggested in this item and also discussed in the Aging American's task force. Manipulating IRS.gov colors is not an issue that will be addressed. ETA has carefully selected colors on IRS.gov that are discernable by color blind individuals, as well as provide enough contrast to minimize eye strain.	Yes		

2007 ARC – MSP Topic #13 – EXEMPT ORGANIZATION OUTREACH AND EDUCATION

Problem

The U.S. tax-exempt sector consists of more than 1.6 million organizations (not including most churches). These exempt organizations (EOs) are diverse in size, ranging from large hospitals and universities to small volunteer-run charities. Approximately half of all EOs have all-volunteer staffs and another third have fewer than ten employees. Smaller EOs frequently lack professional tax guidance. The IRS has increased enforcement actions against EOs and the resources dedicated thereto. However, resources devoted to EO education and outreach, which were never adequate, have continued to decline. Existing IRS outreach and education programs for EOs are beneficial. However, the National Taxpayer Advocate believes the IRS can and should do more to help EOs, particularly small organizations, comply with the complex requirements to which they are subject. The National Taxpayer Advocate urges the IRS to conduct research to assess the service needs and preferences of the spectrum of EOs and to develop a strategic plan to enhance the scope and effectiveness of its outreach to these organizations.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>1. The National Taxpayer Advocate recommends that the IRS conduct an exempt organization (EO) Taxpayer Assistance Blueprint (TAB), akin to the servicewide TAB but tailored to EOs, to study their service needs and preferences (by size and type of organization) and develop a plan to improve service to these organizations. The EO blueprint should include a study of the availability of the Internet, how exempt organizations use the Internet. (particularly small, volunteer-staffed entities), and their willingness and ability to change how they use the Internet.</p>	<p>Although TEGE supports this concept, the recommendation is under consideration while we evaluate whether we have the capacity and resources to undertake this project.</p>	<p>Yes</p>		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that after completion of the EO TAB, the IRS conduct further research about the tax-exempt sector, including annual focus groups held at Tax Forums and elsewhere of EO directors, officers, staff, volunteers, and advisors.	EO is conducting focus groups at the 2008 Tax Forums to learn whether the participants are aware of and use EO communication products.	Yes	9/24/08	
3. The National Taxpayer Advocate recommends that the IRS dedicate a group of employees, from both outreach and compliance functions, entirely to small EOs. Such entities have very different needs from mid-sized and large EOs and require a different approach.	Although limited resources do not permit a group of employees dedicated solely to small EOs, EO does have seven employees (from Examination, R&A and CE&O) whose collateral duties focus on working directly with small and mid-size EOs through the Small and Midsize Workshop program. An additional 10-12 employees will be added to this group in September. Through this program, these employees are sensitized to the needs and challenges of these organizations. They also provide their contact information, should these organizations have questions at a later date. In addition, CE&O is developing a special resource web page for small EOs.	Yes	9/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS staff the tax-exempt telephone line at sufficient levels to generate a high level of service and make training of the staff a high priority, with TE/GE approving the content of the training.	We note that the Call Center for TEGE customers is now operated by W&I; however, TEGE and W&I continue to coordinate to address operational concerns, including training materials. The Call Center has taken many steps to improve service and, despite an increase in the number of calls, has improved the level of service.	Yes	9/24/08	
5. The National Taxpayer Advocate recommends that the IRS provide a mechanism for one-on-one telephone interaction between the tax-exempt specialist assigned to an R-mail and the person asking the question before the specialist begins research, if desired by the questioner or the specialist.	EO Determinations contacts taxpayers by phone in order to answer the R-mail. In FY 2007, 90% of the R-mail messages were closed by phone.	Yes	9/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS develop a directory of institutions that offer courses in nonprofit management and a teaching toolkit for the small to medium nonprofit that instructors at such institutions can use.	EO CE&O has developed a directory of institutions that offer non-profit management courses and will develop and offer a teaching toolkit that such institutions can use.	Yes		
7. The National Taxpayer Advocate recommends that the IRS make a sufficient number of a variety of EOs outreach materials available in print (non-electronic format) to preparers, Local Taxpayer Advocates, Stakeholder Partnerships, Education and Communication (SPEC), community foundations, state attorneys general and charities bureaus, and others for distribution.	These materials are currently provided and their availability is advertised at Tax Forums, Workshops and various speeches. TAS/SPEC offices can order bulk materials through the IRS Distribution Center, and external stakeholders can order them at no charge through CE&O. Public charities and private foundations automatically receive Pub. 4221 when they receive their determination letters.	Yes	9/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS develop a multi-faceted approach to measure the effectiveness of education and outreach activities and use the results to modify existing programs and plan new initiatives.	This year's Tax Forum focus groups will provide valuable feedback on our educational efforts. This input will supplement the evaluations EO receives from StayExempt.org, the Tax Forums and the Small and Midsize Workshop program and comments on educational efforts from ACT members. In addition, a CE&O representative participates on the EO Strategic Planning Working Group where projects and initiatives are considered for the workplan.	Yes	9/24/08	
9. The National Taxpayer Advocate recommends that the IRS permit small EOs to file the e-Postcard at Taxpayer Assistance Centers (TACs), either on computers provided for taxpayer use (if any) or with the help of TAC assistors, and publicize this alternative widely.	E-Postcard has been successfully rolled out with some assistance from the TAC. We are unsure whether we should expand their involvement, and will re-evaluate and discuss further with W&I after the end of the filing season.	Yes	9/24/08	
10. The National Taxpayer Advocate recommends that the IRS train TAC employees to answer questions about how to complete and submit the new e-Postcard.	CE&O provided training to TAC employees in 2008.	Yes	9/24/08	

2007 ARC – MSP Topic #14 – DETERMINATION LETTER PROCESS

Problem

Unreasonable delays in the processing of applications for exemption from federal income tax have persisted for several years. Three years after the National Taxpayer Advocate raised concerns about these delays in the 2004 Annual Report to Congress, the processing time for many organizations' applications still exceeds the IRS's goal. These delays can have a serious, detrimental effect on charitable organizations' finances and activities. The IRS has employed a number of measures to fix the problem but must do more to eliminate processing delays and keep organizations informed about the status of their applications.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS implement procedures for upper-level review of cases as soon as they surpass 120 days, and at regular intervals thereafter, to ensure that agents are properly working cases and following up with applicants in a timely manner.	The age of all open cases in inventory (both assigned and unassigned) is reviewed on a weekly basis by the Manager of EO Determinations. In addition, with regard to assigned cases, all EO managers must report monthly to their area managers all cases that have been assigned to specialists for more than 90 days.	Yes	9/24/08	
2. The National Taxpayer Advocate recommends that the IRS include in managers' quality ratings a measure of their completion of the 120-day and other regular case reviews.	Managers are reviewed annually based on their performance expectations, which include their case reviews.	Yes	9/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS analyze the 120-day review information to determine why delays occur and take the necessary action to avoid future delays.	EO is continually looking at ways to make the determinations process as expeditious as possible, bearing in mind that certain areas and types of organizations warrant in-depth review to guard against abuse. For example, EO has implemented an application screening process and issued guide sheets to EO Determinations specialists on how to process certain applications.	Yes	9/24/08	
4. The National Taxpayer Advocate recommends that the IRS require agents to contact the organizations whose applications are assigned to them to establish regular "next contact dates" and "follow up dates" throughout the application process. Utilize "next contact dates" and "follow up dates" to increase timeliness and quality of taxpayer responses and IRS actions.	The EO Determinations quality standards presently set forth several specified time periods that require agents to contact and follow up with organizations whose applications are assigned to them. We will review the Determination process to ascertain additional areas where follow up and contact dates should be incorporated.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that for applications where processing has exceeded 120 days, the IRS provide applicants a letter estimating when they may expect to receive a determination and the reason why it is delayed.	EO Determinations began issuing a status notice in September 2007 to organizations whose applications are scanned into our electronic case processing system and cannot be closed through the Screening Program. In addition, at the "Where Is My Exemption Application?" page on irs.gov, EO informs applicants what month the applications currently being assigned were received. Because all applications must be evaluated based on their unique facts and circumstances, it is difficult to accurately predict when any particular organization will receive a determination. Applicants are sent a notice when their applications are assigned, and the agent communicates with the applicant while developing the case.	Yes	9/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS revise the application acknowledgement letter (Notice 3367), the interim letter (CP 5104), and the "Where Is My Exemption Application?" link and application process flowchart on the IRS website to provide a timeframe for the issuance of determination letters in cases that require additional development.	<p>The "Where is My Application" page on the IRS website provides a detailed explanation of the Determinations process, including a description of how different types of cases are handled. It also provides current status information about applications requiring development.</p> <p>Applications are processed based on the facts and circumstances involved in each application. Complete development of all of the facts and circumstances often requires several rounds of communication with the applicants, some of whom are less sophisticated than others and need more assistance from our staff. For that reason, we are unable to predict when the processing of the application will be completed.</p>	No		
7. The National Taxpayer Advocate recommends that the IRS track the numbers of expedited requests received, granted, denied, and not acted upon; the reasons they are granted and the reasons they are denied; and use the results to evaluate and improve the process, and educate applicants.	While EO tracks some expedite requests, variations in the processing of different case types means we do not track all of them. For example, if a case can be closed during the screening process, the expedite request becomes moot and is never considered. EO will review a sample of those expedite requests that are actually processed and approved or denied to evaluate and improve the process and educate applicants and staff.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS evaluate staffing needs and maintain a staffing level commensurate with application receipts.	EO is constantly evaluating application receipts and staffing needs and attempting to strike the proper balance between workload and resource availability. It also continually looks for ways to improve the application process.	Yes	9/24/08	
9. The National Taxpayer Advocate recommends that the IRS conduct training to develop multiple specialized agents per specialty area.	EO Determinations trains designated agents on identified specialty areas, and provides guide sheets on some specialty areas to all agents. Allocation of staffing to specialty areas is subject to resource constraints.	Yes	9/24/08	
10. The National Taxpayer Advocate recommends that the IRS utilize the TE/GE Advisory Committee as a resource to measure customer needs and preferences to address concerns of exempt organizations (EOs).	TE/GE continues to utilize the TE/GE Advisory Committee as a resource to measure customer needs and preferences and to address concerns of exempt organizations. Quarterly face-to-face meetings and monthly conference calls are held with the EO committee members.	Yes	9/24/08	

2007 ARC – MSP Topic #15 – EITC EXAMINATIONS AND THE IMPACT OF TAXPAYER REPRESENTATION

Problems

Many taxpayers have difficulty navigating the IRS examination process, particularly in regard to the EITC. A study requested by the National Taxpayer Advocate found that taxpayers retain significantly more of their EITC if they have representation during the examination. The results suggest the IRS examination strategy is flawed. Changes to the existing strategy are necessary to ensure that procedural barriers do not prevent taxpayers from receiving the EITC to which they are entitled. To ease the process, the IRS should increase communication with taxpayers, simplify correspondence, address the needs of English as a Second Language (ESL) and disabled taxpayers, adopt the use of affidavits, and improve the process of transferring cases from campuses to field offices. In addition, the IRS should work to promote available taxpayer services, including the Low Income Taxpayer Clinics (LITCs), TAS, and TACs.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. National Taxpayer Advocate recommends that the IRS conduct additional testing on the use of affidavits in examinations.	Although the IRS analysis of the three-year EITC certification test is complete and under review, the IRS is conducting further research analysis on the use of affidavits to determine what, if any, additional testing may be necessary. The IRS must review all research results before making decisions regarding the need for additional testing. The IRS maintains its concern that the IRS testing of residency affidavits for the certification test did not replicate “real world” conditions under which affidavits might be used.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS expand the use of the affidavit to all Earned Income Tax Credit (EITC) examinations.	The 2009 EITC Research Plan includes a study to expand the use of affidavits. Upon conclusion the IRS will determine whether additional testing is warranted. In addition, prior to any expansion, it will be necessary to develop a comprehensive approach to identify and prevent submission of false affidavits. Although the residency affidavit form used in the certification test is not used in correspondence examinations, taxpayers can still submit letters from third parties along with other documentation to support their claims. The newly revised Form 886-H-EIC clearly lays out the various options available for taxpayers to document that they meet the EITC requirements.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS test other potential methods of proof in IRS examinations to determine which methods are most accurate and best suited for meeting IRS and taxpayer needs.	The IRS already provides numerous documentation options to taxpayers that meet statutory requirements. The Form 886-H-EIC, newly revised with input from the Taxpayer Advocacy Panel (TAP) and other stakeholders, clearly lays out these various options available for taxpayers to document that they meet the EITC requirements. We implemented the 80/20 concept that focuses on examining the vital few issues and making decisions early in the audit where resolution can be based on administrative discretion. And, the use of new examiner professional decision making authority makes the documentation process more flexible and less burdensome for taxpayers.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS provide continual training to examiners on the topic of exercising "judgment" in taxpayer cases using real case examples.	IRS already provides annual CPE training on the topic of exercising professional judgment using practical, real-life based situations. However we do not plan to use real case examples due to the need to safeguard Personally Identifiable Information (PII) and the requirement to limit disclosure of confidential tax information only to those employees with a need to know. Nevertheless, our annual training serves to reinforce the previously implemented professional decision making concept, which gives examiners the latitude and encourages them to use sound professional judgment to make decisions on the adequacy of documentation based on taxpayers' unique individual situations during the audit process. This concept reduces taxpayer burden and provides better taxpayer service.	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS make additional attempts to obtain taxpayer telephone numbers for follow up contact in resolving cases.	As the NTA's report notes, procedures have already been implemented to encourage telephone contact to resolve EITC examination issues. These procedures have been in place since January 2004. If a taxpayer does not provide a telephone number, examiners already appropriately research telephone listings and directory assistance prior to sending correspondence. Taxpayers also have the option of initiating a toll-free call if they have questions or need additional guidance.	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS replace boilerplate language in correspondence with taxpayer-specific information explaining what that specific taxpayer needs to do to resolve his or her case.	The IRS uses standard language in the initial contact letter with EITC taxpayers and includes the revised Form 886-H-EIC, <i>Documents You Need to Prove You Can Claim an Earned Income Credit On the Basis of a Qualifying Child or Children</i> , as an enclosure to provide all taxpayers with the broadest set of options to document their eligibility for EITC. However, if a taxpayer responds, examiners already tailor their follow-up letter to the individual taxpayer's unique situation. Additionally, in our continual quest to improve communications with taxpayers, we have formed a multi-functional team, with TAS representation, to revise Publication 3498-A, <i>The Examination Process (Examination by Mail)</i> , for 2009 to provide clearer and more focused information on correspondence examinations to help taxpayers better navigate the process. We expect the revised publication to be ready for distribution by January 2009.	No		
7. The National Taxpayer Advocate recommends that the IRS make IRS correspondence, forms and publications available in languages besides English and Spanish.	IRS relies on its Stakeholder Partnerships, Education and Communication (SPEC) organization, which leverages its partnerships with organizations who provide outreach, education and assistance to taxpayers in diverse communities. These organizations already translate EITC	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>products for their clients into more than 27 languages including Somali, Bosnian, Russian, East African, and Vietnamese. SPEC has developed a Hispanic Limited English Proficiency (LEP) outreach and education strategy and is developing a broader strategy for other LEP communities. For example, the 2008 EITC Awareness Day, presented in partnership with community based organizations throughout the country, included expanded efforts specifically designed to reach and assist English-as-a-Second-Language (ESL) taxpayers.</p> <p>IRS also continues to improve and expand the services it provides for ESL taxpayers during the correspondence examination process. For example, campuses currently maintain listings of bi-lingual employees who volunteer to assist with translating written correspondence when the need arises. We are also testing an online translation service in our Kansas City site for Filing and Payment Compliance. Although it is too early to determine if this test will be successful, this initiative has the potential to provide yet another option for assisting ESL taxpayers during correspondence examinations.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS expand the interpretation services available on the toll-free telephone lines.	Spanish speaking IRS tax examiners already assist Spanish speaking taxpayers under audit and our new corporate call routing allows for quicker response times. Our toll free telephone service also provides assistance in Spanish. Our efforts and resources have focused on the Spanish speaking since they make up the majority of the ESL population seeking assistance through these channels.	No		
9. The National Taxpayer Advocate recommends that the IRS increase publicity about the Alternative Media Center and taxpayers' ability to obtain Braille copies of forms and publications.	Because the Alternative Media Center (AMC) could not continue to provide quality service to taxpayers if demand rose substantially, IRS does not plan to increase publicity at this time. Taxpayers, however, may continue to request any form, publication, notice or bill in Braille or alternative format and IRS employees will continue to refer taxpayers to the AMC for assistance. Also, the IRS continues to review its policies and procedures with regard to taxpayers with disabilities to identify opportunities to further assist them. For example, currently, IRS.gov provides over 250 forms and publications in Braille and text formats for the visually impaired. Other IRS.gov products, such as the new on-line searchable version of Publication 17 and "Where's My Refund" have been designed specifically to support the needs of the visually impaired.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>IRS uses leveraged partnerships to address the important needs of disabled taxpayers. As one of IRS Stakeholders, Partnerships, Education and Communication's (SPEC) key national initiatives, the Disability Initiative works through national and local disability organizations and coalitions to educate taxpayers with disabilities on available tax credits and deductions, and provide free tax preparation. During the 2007 Filing Season, this initiative was active in 54 cities, engaged 10 national and 355 local partners, produced 36,275 tax returns, resulted in refunds of approximately \$33 million, and made over 1 million outreach contacts.</p> <p>In addition, the IRS has partnered with advocacy groups to conduct a research project to further determine the needs of taxpayers with vision impairments. The IRS will use the results of the research project to develop a long-term strategy, expected in 2009, to assist the blind or senior taxpayers with vision impairments.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
10. The National Taxpayer Advocate recommends that the IRS give taxpayers the option of specifying that they would like to receive correspondence in Braille, particularly in the context of IRS compliance activity.	IRS will continue to provide correspondence in Braille for specific individual taxpayer requests. However, at this time IRS does not have the capability to provide all subsequent correspondence in Braille. In addition, the IRS will continue to review its policies and procedures to identify opportunities to assist them. It should be noted that IRS telephone assistors who make referrals to our Alternative Media Center to provide copies of notices in Braille, also put a hold on balance due accounts when appropriate, to allow taxpayers with disabilities additional time to respond to IRS. Additionally, IRS provides assistance to all taxpayers with compliance issues at our Taxpayer Assistance Centers, where taxpayers with disabilities can make appointments via telephone, eliminating the burden of waits.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
11. The National Taxpayer Advocate recommends that the IRS reexamine current guidance regarding the transfer of cases from the campus to field offices to ensure that in cases where a face-to-face meeting or local knowledge is helpful in resolving the case, taxpayers' requests for a transfer are not ignored due to resource and statute of limitations issues.	IRS recently reviewed and updated the guidance contained in IRM 4.19.13.14, Transfers to Area Office Examination or Appeals Office, as of March 27, 2008. The updates clarify procedures when the statute of limitations is imminent and provide additional guidance to examiners when a taxpayer indicates there are voluminous records. The update also includes a newly created Transfer Alert Checksheet which will enhance transfer quality and consistency. Because the campus environment is generally more conducive to EITC examinations, examination procedures continue to direct examiners to call a taxpayer who has requested a transfer to ensure the taxpayer understands the audit issues at hand, including the documentation needed to substantiate the issue, and answer any questions. Generally, issues can be resolved more expeditiously through correspondence, however, if a taxpayer still requests a transfer, we generally grant the request.	Yes	9/29/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
12. The National Taxpayer Advocate recommends that the IRS identify additional publications and notices that would benefit from the inclusion of language related to the Low Income Taxpayer Clinics (LITCs) and Taxpayer Advocate Service (TAS).	<p>The IRS agrees that taxpayers should be aware of the services offered by LITCs and the TAS. Multiple avenues are already used to disseminate this important information, including IRS publications, taxpayer correspondence, outreach and education efforts, and irs.gov.</p> <p>IRS will continue to look for additional opportunities to include this information as additional notices and publications are revised or created. Also, TAS may refer specific suggestions to IRS. However, pending identification and agreement on specifically which additional notices and publications would benefit and the exact language involved, we cannot commit to implementing this recommendation.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
13. The National Taxpayer Advocate recommends that the IRS work with Field Assistance to determine when taxpayers should be referred to a Taxpayer Assistance Center (TAC) in cases where they may need assistance in obtaining documentation necessary to resolve their cases.	<p>As noted in the response to Recommendation 15-3, IRS already provides numerous documentation options to taxpayers. Form 886-H-EIC, newly revised with input from the Taxpayer Advocacy Panel (TAP) and other stakeholders, clearly lays out these various options for taxpayers to document that they meet the EITC requirements. As noted in the response to Recommendation 15-5, taxpayers also have the option of initiating a toll-free call if they have questions or need additional guidance.</p> <p>The IRS agrees that taxpayers should be made aware of the services offered at TACs. However, IRS already uses multiple avenues to disseminate this important information, including IRS publications, taxpayer correspondence, outreach and education efforts, and IRS.gov. A separate referral process related to EITC examination documentation requirements is unnecessary.</p>	No		

2007 ARC – MSP Topic #16 – NONFILER PROGRAM

Problem

In fiscal year (FY) 2006, the IRS established an executive group to oversee an enterprise-wide strategy to address nonfilers, but it has not implemented sustainable plans to increase filing compliance. The present IRS emphasis on automated systems and reductions in face-to-face service contributes to high rates of default assessments (in the Automated Substitute for Return program), low collection percentages, and downstream consequences in the form of TAS casework. The National Taxpayer Advocate urges the IRS to develop a more balanced strategy of research, service, and enforcement to increase filing compliance.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS conduct behavioral research to assess filing compliance risks of differing taxpayer segments and develop strategies for each segment.	The IRS already has several efforts underway that are in line with this recommendation. Pending the conclusion and analysis of these efforts, we do not agree there is a need for additional behavioral research in this area. Current efforts include: Multi-City Study – designed to examine service usage and the relationship between service and compliance in a controlled environment. The service channels that will be tested are telephone, walk-in assistance, and IRS.gov web assistance. The research will utilize an experimental design in which participants will complete a mock tax return that is similar in content to their own tax situation. Participants will be randomly assigned to one of five groups 1) no assistance, 2) toll-free assistance, 3) walk-in assistance, 4) web-assistance, 5) toll-free, walk-in and web assistance. All participants	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>will have access to publications applicable to their scenarios. Participants' interactions with service will be recorded in order to better understand their needs. The recordings will be analyzed to determine which questions from the mock tax scenarios taxpayers ask and how those questions and answers relate to taxpayer errors. The objective of this task is to gather and utilize accurate and meaningful data from an experimental design that will allow the IRS to explore the relationship between service and compliance and also examine customer service preference and usage data.</p> <p>Uniquely Common Tax Events – This research will examine how individuals handle unique or new (for them) but common tax events, such as buying a house, moving, having a child, buying stock, receiving 401k distributions, etc. The research will examine how taxpayers handle these tax events, what services they need and use, and how these events impact compliance. We will gather quantitative data using controlled laboratory studies and qualitative data through in-depth structured interviews with taxpayers.</p> <p>Notice Improvement/Effectiveness Measures – a multi-faceted approach that includes: comprehension testing of</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>notices and letters; effectiveness measures; insert effectiveness; and focus groups. Comprehension testing includes controlled testing of a document's communications goals, structured interview questions, and minimal interaction. Effectiveness measures evaluate a product's ability to reach its communications goals, and aid in better understanding how taxpayers use and understand information. Insert effectiveness is a multi-functional effort designed to reduce the number of inserts, save postage, ensure communications packages are effective and reduce burden while facilitating compliance. Focus groups are designed to gather qualitative data regarding elements of notices and letters, with the intent to better understand which elements increase compliance and influence behavior.</p> <p>International Taxpayer Customer Satisfaction Survey – designed to identify the needs, preferences, and behaviors of taxpayers who live outside the contiguous United States (we refer to this population as International Taxpayers). Through this effort, we will be able to identify barriers International Taxpayers face in meeting their compliance responsibilities. Our efforts begin with conducting Tax Forum focus</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>groups with practitioners who service International Taxpayers so that we may learn more about this unique population. Their input will guide the development of a customer satisfaction survey we plan to field during the summer of 2009.</p> <p>We believe the projects mentioned above will assist in identifying differing taxpayer segments and the development of treatment strategies designed to facilitate compliance with Federal tax laws – including filing compliance.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS launch a public information campaign to remind taxpayers of what taxes are really about: the price we pay for a civilized society.	<p>IRS will continue to focus its efforts on effective enforcement strategies to reduce the tax gap, while seeking to improve and tailor service delivery channels in a way that reduces barriers to individuals remaining compliant. These include expanding taxpayers' ability to file electronically, providing them additional methods for making payments, and making it easier for them to obtain filing information through IRS publications, the internet, and local community partners.</p> <p>Additionally, we think any such campaign would have a better chance of success if sponsored and launched by the private-sector as a public service. For the IRS to do so could possible be viewed as self-serving and, as a practical matter, would require the appropriation of significant funds for creation and product placement that are not available in the current IRS budget.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS develop a tax course for high school students that promotes financial literacy and tax responsibility.	The IRS already has such a program. IRS started "Understanding Taxes" (UT) in 1954. UT is a tax course designed for middle, high and college students to promote tax responsibility. In 2003, UT was converted to an online product available on irs.gov. The program features over 1,100 pages for learning about the history, theory and application of taxes in the United States. UT was taken down from irs.gov in January 2008 due to technical internet security concerns related to formatting. However, the site should be available again by the end of June 2008. Future plans call for marketing UT as a financial education tool for use at all levels of education (kindergarten thru college). In this regard, IRS plans to form partnerships with school boards and community groups to incorporate UT into classroom curricula and local financial-literacy initiatives.	Yes	11/19/08	
4. The National Taxpayer Advocate recommends that the IRS establish measurable achievements such as number of returns filed, recidivism rate, and the effects of outreach and education efforts on filing compliance.	We currently have reports to measure returns filed and recidivism. We do not have a method to measure the effectiveness of outreach and education, but we are working to increase our outreach and education particularly with potential refund nonfilers. The Nonfiler Executive Steering Committee is also in the process of developing Corporate	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>measures, including a measure for returns filed. Stakeholder Partnerships, education and Communications (SPEC) also has a measurable achievement for returns prepared. Strategy 4 of the Non-filer Strategy proposes capture of returns filed using targeted outreach to individual non-filer taxpayers in targeted areas. In order to capture the recidivism rate, it requires a controlled group, monitored over a period of time. Strategy 4 will also show the effects of outreach on the targeted non-filer group.</p> <p>SPEC has also proposed changes to its measures for 2009 - 2010 to ensure alignment between the W&I Strategy and Program Plan (SPP), Taxpayer Assistance Blueprint (TAB) measures and existing SPEC measures. The proposal includes eliminating non-media outreach contacts as part of the critical measure, introducing a "taxpayer value" measure, and procuring contractor support to identify the impact of outreach on taxpayer behavior and filing compliance.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS establish a compliance file marker to identify single year and repeat nonfilers, skip filers, and stop filers who may require different treatments to increase filing compliance.	<p>The IRS had already identified this problem and had developed a plan to resolve the problem. We do identify taxpayers who are single year and repeat nonfilers, skipfilers and stopfilers. We segregate these taxpayers into different categories and apply different treatments according to results obtained and measured.</p> <p>One of the key initiatives included in our Service-wide Nonfiler Plan is allocation of resources based on a Servicewide approach to ensure end-to-end accountability for nonfiler treatment decisions. Specific supporting actions also include: Implementing the Business Master File (BMF) Case Creation Nonfiler Identification Process (CCNIP) in FY 2008. The purpose of this action is to improve the quality of BMF nonfiler workload selections. BMF CCNIP is currently scheduled for production in December 2008.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS re-establish and promote National Filing Days to assist taxpayers with delinquencies.	<p>We are currently working to determine appropriate methods to communicate and educate taxpayers, especially those who may be due refunds.</p> <p>The approved Servicewide Nonfiler Plan includes an action to Implement a Servicewide Nonfiler Communication Program that includes an internal and external focus to address filing requirements. The Nonfiler Executive Advisory Council, in which the Taxpayer Advocate Service participates, will determine if there is further need for National Filing Days.</p>	Yes		
7. The National Taxpayer Advocate recommends that the IRS establish more corporate partnerships through W&I (SPEC) so large employers provide free tax return preparation for their low income, disabled, elderly, and limited English proficiency (LEP) employees.	The IRS has a Large Employer Partnership group that works with large corporate organizations to build national partnerships based on a shared mission of serving low-income clients and/or employees. Our activities within this existing channel will be increased as we implement each of our national initiatives, including the Rural, Limited English Proficiency (LEP) and Disability initiatives. The strategy includes tax outreach, tax preparation assistance, and asset-building.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS initiate more partnerships with industry groups that have filing compliance issues and develop strategies to increase compliance.	Previous nonfiler research has identified several industries that have filing compliance issues. These industries include retail, real estate, construction, transportation, service, and businesses with low-profile income. The Stakeholder Liaison (SL) organization will pursue new partnerships with organizations and associations representing these industries to jointly address the non-filing issue. Strategies to increase compliance will be developed in partnership with not only these newly established partners, but also existing stakeholders in these industry segments.	Yes		
9. The National Taxpayer Advocate recommends that the IRS enhance data sharing with states when they issue business and professional licenses. Mail new businesses a "welcome packet" that describes their obligations and provides a contact number for questions.	<p>The IRS had already identified this problem and had developed a plan to resolve the problem. The IRS has multiple efforts underway that are directed to informing and educating new businesses about their federal tax obligations.</p> <p>Government Liaison (GL) conducted a major, nationwide outreach to small businesses through state business and professional licensing agencies. The outreach was completed in May 2007 and resulted in outreach partnering agreements with 94 agencies in 32 states. A key component of this</p>	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>outreach was the development of a new publication designed specifically to educate new small businesses on their tax responsibilities. This publication, Publication 4591, Small Business Federal Tax Responsibilities, was provided to agencies for distribution to new businesses through direct mailing and electronic delivery with license issuance and license renewals. Initial distribution was made to over 200,000 businesses. Partnering agencies were also given information on how to re-order Publication 4591 when needed. Contact numbers were not included in the publication since it was designed to refer taxpayers to appropriate IRS.gov web addresses for information and current contact information.</p> <p>Stakeholder Liaison (SL) has significant interaction with small businesses and industry groups. From October 1, 2007 through March 31, 2008, SL participated in 520 industry events with 24,100 participants.</p> <p>During this same time period, SL hosted 52 Small Business Forums with 2,348 participants. A total of 496 leveraged Small Business Workshops were conducted in 37 states. Coverage for these workshops increased from 20 to 37 states this</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>fiscal year and will continue to expand. SL also conducted 187 E-File Seminars with 9,835 direct participants.</p> <p>SL also partners with SBA on both local and National Webinars.</p> <p>SL created an Industry Team that is charged with enhancing the focus for outreach to industry and small businesses.</p> <p>SL Industry Liaison Chief led the development of an educational outreach strategy for 'First Time Schedule C Filers' (new businesses or relatively new businesses). The strategy has several components and will kick off in April 2008 during Small Business Week. This is a very significant strategy and the outreach will be implemented over several months.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
10. The National Taxpayer Advocate recommends that the IRS mail "soft" notices to delinquent taxpayers and remind them of their obligations as well as the opportunity to file without significant consequences, and provide a contact number.	<p>The Servicewide Nonfiler Executive Advisory Council (NF EAC) addressed this recommendation in March 2008. A decision was made to postpone sending "soft" notices in order to mitigate the Economic Stimulus Package's influence on 2008 data validity. The Council agrees that soft notices can be an effective tool and will revisit the issue for next year.</p> <p>We also plan to conduct a project to work with potential refund taxpayers which is also on hold for a year due to the impact of Economic Stimulus.</p>	Yes		
11. The National Taxpayer Advocate recommends that the IRS rigorously pursue intentional nonfilers and promoters who undermine the tax system and widely publicize convictions as a deterrent to others.	<p>IRS does rigorously pursue intentional nonfilers and promoters who undermine the tax system. Convictions of notorious and flagrant nonfilers are publicized, internally and externally. Efforts to pursue promoters of illegal schemes have been undertaken in every compliance organization. Emphasis is placed on identification of fraud, and efforts are continually made to ensure that cases meeting fraud criteria are appropriately referred for applicable fraud penalties or for criminal investigation. The Servicewide Nonfiler Plan includes initiatives to ensure end-to-end accountability for Nonfiler treatment decisions. This Servicewide approach has been in place since 2006.</p>	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
12. The National Taxpayer Advocate recommends that the IRS pursue authority for voluntary withholding agreements between independent contractors and service recipients, which will address one of the causes for nonfiling, namely the inability to pay tax due on the return.	The IRS does not agree with pursuing authority for voluntary withholding agreements in an independent contractor – service recipient relationship. We are unaware of any evidence or study that indicates independent contractor service providers would take advantage of such a voluntary program. Further, current mechanisms already exist to enable prepayment of tax by independent contractors, including the option to submit estimated tax payments. The effort required to develop, administer, monitor, or enforce such voluntary agreements also has the potential to be very costly due to the large number of variables covering a huge population that would need to be strictly defined, such as the types of services, payment thresholds, etc. Such a program also has the potential to create a burden for service recipients who may or may not understand withholding, filing and/or reporting requirements.	No		

2007 ARC – MSP Topic #17 – AUTOMATED UNDERREPORTER PROGRAM

Problem

The Automated Underreporter (AUR) program plays a critical role in reducing the nation's tax gap by verifying reporting compliance for taxpayers who have filed returns and potentially failed to report all income. In FY 2007, AUR closed more than 4.5 million cases and assessed \$5.1 billion in additional tax. Given that AUR maintains an inventory of over 15 million cases at any given time, it is important for both the IRS and the taxpayer that the program be as accurate and effective as possible. Yet AUR has the highest rate of abatement of any compliance program and generates large numbers of TAS cases, most of which result directly from the IRS's failure to adequately or timely address taxpayer responses to AUR contacts. The National Taxpayer Advocate recommends that the IRS make every effort to ensure that only those taxpayers who have underreported income are affected by the program, respond timely to correspondence, promptly process amended returns, and significantly improve the level of service on the AUR toll-free telephone lines.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>1. The National Taxpayer Advocate recommends that the IRS revise the current Automated Underreporter (AUR) programming to ensure taxpayers are not needlessly affected by AUR. Take the actions suggested by the 2007 Government Accountability Office (GAO) audit, to begin obtaining all return line items when returns are transcribed to enhance compliance. This is especially detrimental in the AUR process, where having all the return information available would ensure AUR only includes taxpayers who have truly underreported income.</p>	<p>The IRS does not agree that there is a need to transcribe all line items from returns and Automated Underreporter (AUR) procedures are already in place to ensure taxpayers are not needlessly affected. AUR inventory is created by matching filed returns i.e. transcribed lines, to third party payer documents. The resulting mismatches make up the AUR inventory. However, an additional analysis of the return is conducted in the analysis phase in AUR processing to ensure the discrepant income or credit amount was not incorrectly reported on a different line of the return, thereby reducing taxpayer burden and maximizing the effectiveness of our limited AUR resources. AUR also conducts ongoing analysis of inventory selection methodology to ensure only bona fide cases are worked each year.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS enhance systemic processing to eliminate the need for tax examiner screening. Implement quality review and measures for the current AUR manual screening process in order to establish historical data for program improvement possibilities.	IRS is already involved in expanding the automated generation of notices in the AUR program, which eliminates the need for tax examiner screening. In Fiscal Year 2005, AUR began testing the automated generation of the CP 2000 Notice (Auto Notice) on one income type, Unemployment, by identifying approximately 31,000 cases that could bypass tax examiner manual screening based on specific programming criteria. In Fiscal Year 2008, AUR expanded auto notice to include ten income types and identified 300,000 cases that qualify to receive an auto notice. IRS already conducts In-depth analysis of the auto notice results, business rule enhancements and programming updates to support further expansion of auto notice into a larger percentage of the underreporter inventory each year. Evaluation of the quality and effectiveness of manual screening is already part of this process. In FY 2009, AUR plans to increase the number of cases eligible for an auto notice.	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS include Failure to Pay (FTP) computations in the AUR notices issued so taxpayers will not receive an additional balance due notice after they have paid the AUR tax assessment.	AUR began pursuing the inclusion of a final balance due amount in the CP 2000 Notice with MITS (Penalty & Interest Explanation Function (PINEX) and AUR System Programmers) in FY 2005. Currently the FTP is calculated on Masterfile after the AUR assessment (TC 290) posts. In April 2008, AUR HQ, Servicewide Penalty and PINEX/IDRS analysts reconvened to discuss the strategy for the calculation of the FTP penalty and agreed to submit a Work Request to allow a Common Service Module (CSM), a centralized location where all calculations will be completed and provided to other systems such as IDRS and Masterfile, that will allow AUR to accurately calculate the FTP penalty for inclusion in AUR notices. The CSM Module should be functional by 2010 (TY08) after which AUR will need to submit a Work Request for programming for the AUR system to link with the CSM to calculate the FTP penalty. AUR could realize this full capability for TY10.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS ensure that when a taxpayer agrees to the AUR assessment and provides the required tax payment that the payment will not refund to the taxpayer prior to the AUR assessment on the account, necessitating additional contact with AUR.	Currently, if a taxpayer submits a payment in reply to a CP 2000 Notice and includes the Response page, the payment will post with transaction code (TC) 640. This transaction code will freeze the payment until an assessment is made (TC 300 or TC 290). AUR submitted a Work Request to MITS in December 2007 to also freeze any payment made in advance of an AUR assessment when accompanied by a new interim letter (4314C), which would essentially accomplish what the NTA is recommending. MITS completed this programming and it will be available for FY 2009 AUR processing.	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS provide AUR assistors with the skills to establish Installment Agreements (IA) when AUR taxpayers call and request agreements to resolve their tax debts, or have a message directing the taxpayer to the appropriate toll-free line to handle an IA.	Since 2003, the CP 2000 Notice has included Form 9465, Installment Agreement Request which the taxpayer may complete if they are in agreement with the proposed tax change and need additional time to pay the balance due. Upon receipt of Form 9456, AUR forwards the completed form to the Collection function and sends the taxpayer Letter 1802C advising of this action. If a taxpayer opts to call instead of or prior to mailing the enclosed a Form 9465, the form instructions direct them to the 1-800-829-1040 help line and also references the option to apply on-line via IRS.gov. If the taxpayer nonetheless calls the AUR toll-free number and requests an installment agreement, they are directed to call 1-800-829-1040, where their call will be routed to IRS employees specifically trained to handle such requests.	Yes	11/19/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS provide AUR toll-free assistors with the training to allow computation of the total balance due (tax + penalty + interest) as a result of the AUR assessments or program this information into AUR notices.	In order for an AUR phone assistor to accurately compute a full payment amount, the Failure to Pay (FTP) and the Estimated Tax (ES) penalties would need to be accurately calculated. Currently the FTP is calculated on Masterfile once the AUR assessment (TC 290) posts. As noted in our response to recommendation 17-3, a Work Request has been submitted to provide the ability to issue notices with accurate full pay figures and to accurately compute the pay off figure while assisting the taxpayer via telephone. AUR, however, will not realize full capability until 2010.	Yes		
7. The National Taxpayer Advocate recommends that the IRS determine if the taxpayer has experienced a tax benefit as a result of state refunds through the systemic process to exclude AMT filers and state refund issues when they have not.	AUR requested programming changes in a December 2007 work Request to exclude AMT filers who have not received a benefit from the Schedule A deduction for their State Income Tax Refund. However, due to MITS programming challenges, systemic exclusion is not available for working TY07 cases in AUR during FY 2009. To minimize adverse taxpayer impact, an Alert will be issues to the AUR sites by November 1, 2008, to delete any State income tax refund issues that surface based on incorrect programming. AUR plans to submit a Work Request for TY08 to request revised AMT calculations.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS include a total income test when AUR evaluates reported income. If the total income reported on the return as a whole matches that reported by third party Information Return Processing (IRP) documents, the IRS should not pursue the case. This policy would ensure that the AUR program does not needlessly pick up taxpayers who simply report income on incorrect lines on their returns.	The IRS disagrees with the recommendation to compare total income reported on information returns to total income reported on the filed return. To do so would greatly erode the IRS' effort to encourage full compliance. Discrepant income, such as non-employee compensation impacts the total amount of self-employment tax due; premature retirement plan distributions are subject to a 10% penalty, and numerous other underreported income types impact allowable deduction and credit amounts. However, during the initial computer matching of Forms 1040 to Information Return data, an overall "offset" of income types (regardless of where they are reported) is performed and these receive low or no consideration for inventory selection. In addition to the overall computer match, prior to issuing a CP2000 Notice, AUR conducts manual screening to review the entire return to determine if the discrepancy, including underreported wages, can be resolved without taxpayer involvement. Also see our response to recommendation 17-1.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
9. The National Taxpayer Advocate recommends that the IRS provide IRS data systems with the same information that payer forms provide to taxpayers so the IRS can avoid taking unnecessary action on taxpayers' accounts. This can be accomplished by changing programming to pick up cost basis when provided by payers, many of whom already provide the required information.	AUR inventory is created by matching filed returns with related fields on payer documents. Recent GAO and TIGTA audits have pointed out the need to standardize the reporting of the cost basis for determining the tax amount associated with stock sale transactions. Currently stock brokers, the principal payers involved, are not required to report the cost basis. Additionally, the broker oftentimes is not privy to a stock's full life cycle to accurately determine cost basis, which could lead to erroneous cost basis information being reported to the Service. As a result, pending adoption of a standardized method for computing and a requirement for reporting cost-basis, IRS does not agree that we should reprogram our systems to pick up cost basis when voluntarily reported by payers.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
10. The National Taxpayer Advocate recommends that the IRS take the necessary steps to provide and improve toll-free service for AUR. AUR should also consider enhancing and expanding policy and procedures to include oral statement resolution, making better use of the resources expended for toll-free service.	The AUR program currently has Oral Statement authority to accept the taxpayer's explanation why the return, as filed, is correct. However, if the taxpayer agrees with the proposed assessment via a telephone call, referred to as Oral Agreement, the taxpayer must send via fax or mail, a signed statement as proficed on page 2 of the CP 2000 notice.	Yes	11/24/08	
11. The National Taxpayer Advocate recommends that the IRS establish universal account access for the AUR system, thus providing any AUR toll-free assistor with the ability to access and take appropriate case actions on taxpayer accounts. Implementation of universal access would improve customer service, reduce resource expenditure, and improve timeliness for AUR.	AUR implemented universal case work in Fiscal Year 2006. Universal case work allows any AUR assistor to work a case to conclusion unless the taxpayer insists on a transfer, or the content of a related paper file requires site-specific handling. With plans to move into correspondence imaging and increased e-filing of returns, transfers should be completely eliminated in the future, leading to reduced burden for taxpayers and quicker closures for the IRS.	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
12. The National Taxpayer Advocate recommends that the IRS improve correspondence, notice, and return processing to meet the established IRM 30-day requirement to prevent default assessments and subsequent reconsideration in the AUR program.	Even though the CP 2000 notice states that the taxpayer has 30 days from the date on the notice to respond, the AUR System is currently programmed to allow the taxpayer a total of 45 days to respond prior to AUR initiating the Statutory Notice of Deficiency (Stat Notice). Once the Stat Notice is issued, the taxpayer has 105 days from the date on the Notice to respond prior to a default assessment, though the Notice indicates a 90 day response time. The additional 15 days programmed into the system allows for mailing and delivery to AUR.	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
13. The National Taxpayer Advocate recommends that the IRS consider establishing a consolidated AUR site for correspondence and return handling to improve timeliness and accuracy.	<p>We do not agree with this recommendation for several reasons:</p> <p>1) It would not be cost-effective due to the fluctuation in correspondence receipts during the year.</p> <p>2) AUR inventory is composed of nearly 45% paper-filed returns that would require mass transshipment of files from screening sites to any centralized correspondence and return handling site.</p> <p>3) Consolidation of the distinct W&I and SB/SE AUR operations would need to occur prior to any such centralization.</p> <p>4) The screening phase of AUR accounts for 40% of the direct time while 60% goes to the response phase; i.e. more complex correspondence, telephones, and reconsideration issues. Centralization of 60% of the current staffing at one location would adversely impact 5 of the 6 existing AUR sites and likely result in position management consequences for the remaining employees that would no longer be involved in the more complex aspects of AUR work.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
14. The National Taxpayer Advocate recommends that the IRS provide more clear instructions to clearly include prior year state or local tax refunds to Line 7 of the 1040A and Line 1 of the 1040EZ instructions to reduce the chance of involuntary noncompliance.	We disagree with this recommendation. Line 1 of Form 1040EZ and line 7 of Form 1040A are used SOLELY to report wages and other compensation. We require state and local tax refunds, when taxable, to be reported on line 10 of Form 1040. They cannot be reported on Form 1040A or 1040EZ. In many cases, the refund is NOT taxable or only partially taxable. Taxpayers who did not itemize in the prior year have no taxable refund; the vast majority of Form 1040EZ and 1040A filers fall into this category. Explaining how to calculate the taxable part requires a full page of instructions in the Form 1040 instructions, including a 7-line worksheet. Adopting the recommendation would add significant and unnecessary complexity to Forms 1040EZ and 1040A and likely increase erroneous reporting by the filers of these forms.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>15. The National Taxpayer Advocate recommends that the IRS provide clear instruction in the CP 2000 notice such as that in the soft notice to include, but not be limited to:</p> <ul style="list-style-type: none"> • Do not file an amended return for the year in question. Call or write if you dispute only the income attributed to you in this notice. • Do file an amended return if you have deductions or expenses that offset the proposed income item attributed to you if you agree that such income is properly attributed to you. Do not file an amended return if you dispute the income attributed to you in this notice. • If the income attributed to you stems from an error on your part and that error has occurred in other years, file an amended return for those tax years for which the same error occurred. 	<p>We disagree with this recommendation. The CP 2000 Notice currently includes the following language in the Frequently Asked Question (FAQ) section as it relates to filing an amended return.</p> <p><i>“You do not need to file an amended federal tax return to include the proposed changes shown on this notice. We will correct this tax year when we receive your response. If you choose to file an amended tax return, write “CP2000” along the top of the 1040X, attach it behind the Response Form page and send to the address shown on this notice.”</i></p> <p>The objective of the concise 1040X information in the FAQ section of the CP 2000 Notice is to simplify the instructions for the taxpayer. The content of the Soft Notice Letter was drafted with the same intent to reduce complexity and taxpayer burden.</p>	No		

2007 ARC – MSP Topic #18 – THE ACCURACY-RELATED PENALTY IN THE AUTOMATED UNDERREPORTER UNITS

Problem

The IRS has been increasing its reliance on the AUR program to systemically match payments that third parties report on Forms W-2s, 1099s, and similar documents against income that taxpayers report on their tax returns. The AUR program is vital to tax administration and reducing the nation’s tax gap. However, the AUR’s practice of automatically imposing the negligence penalty without the exercise of discretion by IRS personnel is problematic. The law requires IRS managerial approval of all penalties before assessment unless the IRS is able to “automatically calculate[e] the penalty through electronic means.” The IRS takes the position that if within the past three years the taxpayer failed to report amounts from the same type of information return which is at issue in the current year, the AUR may automatically impute negligence. This is a *per se* negligence standard. Negligence is a finding that requires an analysis of the taxpayer’s intent and a review of whether the taxpayer had reasonable cause. It is doubtful that Congress, which sought to ensure managerial review for penalty determinations in general, intended to provide a different rule for the negligence penalty. Taxpayers and the IRS would clearly benefit from some form of human review. Further, data suggests that while the AUR is proposing negligence penalties more frequently, the AUR experiences a high reversal rate – substantially higher than the IRS campuses or Field Examination units. The National Taxpayer Advocate urges the IRS to add a level of human review to the proposed AUR negligence penalty and develop a comprehensive program to review the overall effectiveness of utilizing the AUR to assess the penalty.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that IRS employees should make individual determinations when proposing and assessing the negligence portion of the accuracy-related penalty in the Automated Underreporter (AUR) program.	IRS does not concur with this recommendation – If a taxpayer responds to an AUR notice, a tax examiner will manually review the response and has the authority to waive penalties if the taxpayer provides evidence to establish they do not apply. If the tax examiner believes accuracy-related penalties should be asserted, written managerial approval is required in accordance with the general rule of section 6751(b)(1).	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS should retain data pertaining to the AUR negligence penalties that it proposes and does not assess, and the reasons for the non-assessment.	The IRS already identified this problem and submitted a Work Request to MITS in December 2007 to request the ability to track all cases in AUR on which accuracy-related penalties have been waived. MITS completed the programming of this change and it will be available beginning with TY07 AUR inventory worked in FY 2009.	Yes	11/24/08	

2007 ARC – MSP Topic #19 – AUDIT RECONSIDERATIONS

Problem

In FY 2006, the IRS closed audit reconsiderations of tax assessments exceeding \$1.7 billion by abating over \$1.2 billion of those original audit assessments. The audit reconsideration process constitutes rework, since the IRS previously audited the taxpayers and assessed tax on the same tax period(s). The IRS's strategic goals of reducing cycle time and improving detection of noncompliance need to be balanced against taxpayers' need to receive clear communication and accurate resolution of tax controversies. The IRS's failure to convey its goals to employees in a balanced fashion results in rework in the form of audit reconsiderations. The National Taxpayer Advocate urges the IRS to promote one-stop customer service among employees and to utilize the most effective means of communication to resolve tax issues in a timely manner.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS establish a joint TAS/IRS working group to study the correspondence examination process and address taxpayer and practitioner concerns with premature notices.	SB/SE CRC Examination will form a joint working group with TAS, W&I Examination and SB/SE Examination. We will study the correspondence examination process and address taxpayer and practitioner concerns with premature notices in this collaborative effort.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS conduct research with TAS to identify effective use of locator services and other Internet based address searches when taxpayers do not respond to initial audit contacts.	SB/SE CRC Examination Policy and Planning/Monitoring will work with TAS and W&I Examination to identify and evaluate the additional costs and related benefits associated with effective use of locator services and other Internet based address searches when taxpayers do not respond to initial audit contacts. At the conclusion of the analysis, we will solicit Counsel advice and make a business decision as to whether we will and can legally implement the recommendation.	Yes		
3. The National Taxpayer Advocate recommends that the IRS immediately cease use of the combination letter except in the two instances the National Taxpayer Advocate agreed to in 2005: <ul style="list-style-type: none"> • Tax on premature withdrawals from an Individual Retirement Account; and • Self-employment tax on business income. 	SB/SE CRC Examination Policy and Workload Selection and Delivery (WSD) will study, in conjunction with W&I Exam, the appropriateness of the use of the combination letter in all correspondence examination workload inventories. We commit to ensuring consistency between Operating Units/BODs while protecting taxpayer rights.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS survey taxpayers who completed the audit reconsideration process to determine why the initial audit process failed.	SB/SE CRC Examination Policy will initiate a Research request in collaboration with W&I Examination and SB/SE Examination. We will support Research in a study of survey results to determine why the initial audit process failed; requiring an audit reconsideration to be filed.	Yes		
5. The National Taxpayer Advocate recommends that the IRS establish a measure of overall audit effectiveness that includes audit reconsiderations.	SB/SE CRC Workload Selection and Delivery (WSD) and Planning/Monitoring will work with W&I Examination to develop a methodology (to extent feasible and based on use of existing systems) to measure overall audit effectiveness and analyze/evaluate the types of workloads for trends which generate audit reconsiderations. This information will be considered to effect improvements in case selection, communications with taxpayers and procedures with conducting the audit, as applicable. This information will also be utilized to ensure resources are in place to timely resolve audit reconsiderations.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS study the effectiveness of the mixture of face-to-face versus correspondence examination processes and their related audit reconsideration requests to develop the best approach to maximizing voluntary compliance.	SB/SE CRC Examination Policy will initiate a Research request in collaboration with CRC Workload selection and Delivery (WSD), W&I Examination and SB/SE Examination. We will support Research in a study to determine the effectiveness of the mixture of the two examination processes and their related audit reconsideration requests, and the resource impact of using face to face versus correspondence, to develop the best approach to maximizing voluntary compliance.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
7. The National Taxpayer Advocate recommends that the IRS review IRS procedures for advance payments and determine if the IRS is justified in closing a case agreed without the taxpayer's signature on a report or other affirmative reply.	<p>W&I has recently sought Counsel advice on this item. Because a taxpayer must indicate that a payment is a cash bond to restrict interest pending the appeals of the assessment, the process of treating the full payment of proposed liability with no indication of how the payment is to be applied, will be treated as an agreement. Currently cases reject systemically from suspense for closure when a payment is received. Placing these cases back into the batch process is an ineffective rework of cases.</p> <p>SB/SE CRC Examination Policy will work with W&I Examination and SB/SE Examination to ensure legal and procedural consistency in closing cases agreed between Operating Units/BODs.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends that the IRS make IRM 21.3 Job Aid, CP2000, obsolete since it contradicts IRM 21.3.1.4.4 with regard to advising a taxpayer to file an amended return to claim additional expenses.	The IRM 21.3.1.4.4 provides CSRs with instructions to address caller inquiries relating to the CP09 EIC. CP09 is not related to the CP2000 issued by AUR. A review of the 12/19/07 revision of the 21.3, CP2000 Job Aid does not reveal any statement instructing the CSR to “direct taxpayers to agree with the unreported income, then file an amended return to claim additional expenses against the unreported income.” (see page 291 of the 2007 ARC). The only references to Form 1040X that appear on the 21.3, CP2000 Job Aid are as follows: step 6: Advise not to file a 1040X for changes they agree with and step 7: Advise to review subsequent years for potential changes that may need a 1040X. These two statements do not contradict Form 1040X filing information provided in IRM 21.3.1.4.58(4).	No		
9. The National Taxpayer Advocate recommends that the IRS study the demographics of audit reconsideration cases to determine if there are common issues, procedures, or taxpayer characteristics that can be addressed to relieve taxpayer burden.	SB/SE CRC Examination Policy will initiate a Research request in collaboration with W&I Examination and SB/SE Examination. We will support Research in a study to determine if there are common issues, procedures, or taxpayer characteristics that can be addressed to relieve taxpayer burden. At the conclusion of the analysis, we will assess feasibility of implementing the recommendations.	Yes		

2007 ARC – MSP Topic #20 – AUDITS OF S CORPORATIONS

Problem

While the IRS is struggling to develop a comprehensive strategy to address S corporation noncompliance, taxpayers are burdened by the S corporation election process and K-1 matching program errors. In addition, a significant number of S corporations classify all payments to their officers as “distributions” rather than “wages,” effectively avoiding employment tax liabilities. The National Taxpayer Advocate urges the IRS to increase the number of S corporation asset ranges to improve classification and return selection, and establish a tracking system to assess the final tax effect of S corporation adjustments and related issues such as employment tax results. The IRS also should establish an outreach campaign and a soft contact letter test to address the officer compensation issue.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS expand classification criteria to include high income individual taxpayers with flow-through income or losses.	<p>The IRS had already identified this as a problem and had developed a plan to resolve the issue as the IRS currently does use tools to select high income individual taxpayers with flow-through income or losses with the highest audit potential. For instance, we have specific projects where we incorporate yK1 data which considers flow through entities. LMSB currently has an online classification system where users have access to yK1.</p> <p>IRS does agree that additional enhancements may be helpful in identifying and focusing compliance issues more effectively and we plan to have these enhancements in place by July 15, 2009. A Compliance Data Environment (CDE) in SB/SE is currently being tested and will incorporate K-1 data and have yK1 data available for classification of returns.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the IRS conduct additional research at the Form 1040 level to assess compliance risk of tiered entities.	<p>The IRS has previously identified this issue as a potential problem and has taken steps to develop a plan to continue our enhancements of the 1040 National Research Program (NRP) currently in process which is assessing risk on taxpayers having ownership interests in flow through entities. Data from the 1120S NRP is also being reviewed for compliance issues at both the corporate and 1040 levels. Results from both the 1120S and 1040 NRP studies will be analyzed to identify compliance risks, and additional actions that can be taken to enhance compliance and decrease taxpayer burden. We plan to have these enhancements in place by July 15, 2010.</p> <p>Examination and NRP training materials continue to be updated to focus on corporate and shareholder issues. Continuing professional education being conducted for examiners in FY08 also includes modules on flow through and enterprise risk issues.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS establish cross-functional teams of revenue agents of various grade levels to conduct enterprise examinations.	<p>We agree that specialization is beneficial and effective for some situations and is used in some situations; however, with competing Examination priorities, resource and geographic limitations, a team approach is not always plausible. We have made similar attempts in the past with mixed success.</p> <p>Flow-through groups in SB/SE have been established to gain knowledge of specific issues and to assist with skills transfer. Although some benefits have been found, there have also been challenges since these cases are highly complex and often result in over-age and high time compared to general program groups.</p> <p>Coordinated Industry Cases are generally enterprise cases. LMSB continues to test ways to overcome limitations in data and case delivery/management systems in order to address enterprise cases effectively.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS increase the number of S corporation asset range codes to enhance classification and return selection. Because over 78 percent of S corporation filings report assets under \$250,000, additional strata for this segment of the population could yield valuable workload selection information.	The IRS has previously identified this as a potential issue and we have taken steps to develop a plan to address a majority of S-cases that have less than \$250K in assets. But, because they are not required to file a balance sheet, this limits the ability to stratify based on asset size. However, IRS will utilize NRP compliance results to evaluate stratification of these entities based upon "Income/Loss Reconciliation", which is the last line of Schedule K (negative and positive). We plan to have updated information available by July 15, 2009.	Yes		
5. The National Taxpayer Advocate recommends that the IRS validate Schedules K-1 as returns are filed to eliminate unnecessary notices.	<p>The current process does verify that the payee and payor identification information matches what is on our system(s). This automated system corrects most of the K-1s.</p> <p>The IRS previously considered validating payee EINs on the few that are not corrected by the automated system and determined that this was not cost effective and would not improve notice accuracy, since notices are not issued related to those Schedules K-1.</p> <p>Matching income from the S-Corp K-1 to the shareholder is complex due to the tax law provisions for flow-through entities. Often, the K-1 income is</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	properly reflected by the individual shareholder, but it is offset by prior losses which are suspended due to passive activity losses, at-risk, or basis. Verifying that taxpayers are correctly reporting K-1 income as returns are being processed is also not possible given the differences in return due dates between the Forms 1120S and 1040 (1120S due 3/15 and 1040 due 4/15) as, Forms 1040 are often filed significantly later than the corporate return. Verifying that all the K-1 income adds up to what is reported on the Schedule K is possible—but based on offsets and other factors, is not practicable as returns are filed.			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends that the IRS address disregarded entities by initiating a Fed-State initiative for sharing LLC registrations.	<p>We disagree that there is a need for the IRS to address disregarded entities by initiating a Fed-State initiative for sharing LLC registrations.</p> <p>Currently the instructions to the Schedule K indicate that the 1120S K-1 be issued to the owner of a Disregarded Entity (DE). In addition, DEs with TINs generally have a cross reference to their owner on IDRS. Most taxpayers do properly reflect the owner information on the K-1 and for those that do not, we often have the data to identify the owner.</p> <p>LLCs are often created in order to limit an individual's potential liability. LLCs can be created to own property which may not have any income tax consequences. To tie down the owners of all LLCs with each state would be a labor intensive process in which the end would not justify the means.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
7. The National Taxpayer Advocate recommends that to address the shareholder wage issue, the IRS should initiate an outreach campaign that addresses factors considered in establishing reasonable compensation. This campaign should include factors such as time spent working for the business, minimum salary versus distribution ratio, comparable salary to highest paid employees, and salary set by an objective board of directors.	<p>IRS continues to address significant issues relative to S corporations as well as other flow through entities through research, training, outreach, and other compliance activities. Guidance has been issued, both internally and externally, concerning the shareholder wage issue. Articles have frequently been published.</p> <p>In addition to examination activity, we had previously utilized a soft letter approach to resolve this issue, but that effort was not fruitful. Although we agree this is a significant compliance challenge, there is little that can be done outside of legislative change.</p>	No		
8. The National Taxpayer Advocate recommends that the IRS conduct a "soft contact letter" study of single shareholder S corporations with no officer's compensation to test for awareness of the issue and behavior changes in future tax periods.	IRS previously tested a soft letter approach to resolve this issue, but it was not productive since the issue is somewhat subjective. The letters can only explain that payments for services should be wages and indicate that the compensation should be "reasonable"; we can not give a specific amount or percentage for the compensation.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
9. The National Taxpayer Advocate recommends that the IRS enhance the reason code tracking system to assess the final tax effect of S corporation adjustments and related issues (e.g., basis, employment tax, etc.).	<p>The IRS had already identified this as a problem and had taken necessary action to address the issue. Our current reason code tracking system already assesses the final tax effect of S corporation adjustments and related issues.</p> <p>The use of reason codes, along with correct disposal codes and related return information, is being emphasized through:</p> <ul style="list-style-type: none"> ○ FY08 Revenue Agent and Tax Compliance Officer Continuing Professional Education ○ Report Generation Software (RGS) newsletter <p>Through RGS, or its successor, the IRS has plans to make the flow through reason codes mandatory input when adjusting items on Schedule E.</p>	Yes	10/1/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
10. The National Taxpayer Advocate recommends that the IRS establish an enterprise S corporation "touch" measure to provide more detailed coverage data. In addition, such measure may have an indirect effect on compliance when taxpayers know the increased risk of examination at one level or another.	IRS currently has procedures and systems in place to emphasize and indirectly measure enterprise examinations. The intent of our reason codes is to capture the impact of flow through entities adjustments on the individual taxpayers.	No		

2007 ARC – MSP Topic #21 – FPLP LEVIES ON SOCIAL SECURITY BENEFITS

Problem

The IRS has a legal right to attach federal payments of taxpayers not meeting their tax obligations through the Federal Payment Levy Program (FPLP). However, the IRS must employ proper safeguards to ensure that taxpayers with the greatest potential for hardship are identified and removed from the program before the IRS issues a levy. Although the IRS agreed to conduct additional research to address the National Taxpayer Advocate’s longstanding concerns with the FPLP, these efforts are not keeping pace with the rapid increase in FPLP levies on taxpayers’ Social Security benefits. In FY 2007, the IRS received in excess of 1.74 million levy payments that attached to Social Security benefits – an increase of almost 24 percent from FY 2006. Yet rather than developing an automated process to screen out low income or other taxpayers who are experiencing economic hardship, the IRS is actually seeking to expand the FPLP to other federal payments commonly associated with a taxpayer’s sole or primary source of income. The National Taxpayer Advocate strongly recommends that the IRS postpone FPLP expansion on any payments associated with retirement income until a suitable “low income and hardship” filter has been created and successfully tested.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS finalize its current Federal Payment Levy Program (FPLP) research study and move forward with the development and implementation of suitable controls and filters to systemically screen out taxpayers who depend on Social Security benefits for their health and welfare. Once the study is completed, the IRS should then determine if it could then extend these same	The IRS has always had processes and procedures in place to provide the proper relief as warranted for each and every taxpayer regardless of income level when a hardship is identified. Without a filter, however, the identification of hardship situations can only be correctly determined by an appropriate and up to date financial evaluation of each taxpayer’s individual claim. The challenge with using any filter is the necessity to consider non-income assets owned by the taxpayer. Since non-income assets are not identified on tax returns, it has been a challenge to identify an indicator that can be used with a high degree of accuracy to predict financial hardship. IRS will gladly test any filter identified	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
controls and filters to accurately predict hardships for all other FPLP income sources and apply them accordingly.	by the Taxpayer Advocate, however, its reliability must be assured before implementation. The Research project concluded in the final report issues June 24, 2008, that the data available does not lend itself to provide a model that has a reasonable degree of confidence. This project was unable to identify a method by which SSA beneficiaries at risk for financial hardship could be systemically filtered from the FPLP. Also see our response to Recommendation 21-3.			
2. The National Taxpayer Advocate recommends that the IRS postpone any plans to expand the FPLP to Railroad Retirement Benefits (RRBs) and any other federal payments related to retirement income until a suitable "low income and hardship" filter has been created.	IRS worked with the Department of Defense to include Military Retirement payments in the FPLP but decided not to implement Military Retirements levies at this time. Railroad Retirement Benefits are on schedule to be included in FPLP in January 2009. The taxpayer may resolve the delinquent account at any time during the notice process and may stop or prevent the FPLP levy by contacting IRS. The IRS also has procedures to provide relief to taxpayers in hardship situations.	No		
3. The National Taxpayer Advocate recommends that the IRS apply its "low income and hardship" filter, when available, to all FPLP payments commonly associated with a	IRS Research is attempting to develop a low income FPLP filter for taxpayers with Social Security Benefits. This is very difficult since even if Social Security or single salary-type payments appear to be a taxpayer's sole source of income, they may very well have non-income assets not reported to the	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
taxpayer's primary or sole source of income, including salary-type payments. The screen should also be modified if necessary.	IRS that can be used to satisfy their tax delinquency. (See our response to Recommendation 21-1). IRS cannot agree to implement a low income and hardship filter for Social Security or other sole source types of income without a reasonable ability to assess the availability of any non-income assets. The Research project concluded in the final report issued June 24, 2008, that the data available does not lend itself to provide a model that has a reasonable degree of confidence. The project was unable to identify a method by which SSA beneficiaries at risk for financial hardship could be systemically filtered from the FPLP.			
4. The National Taxpayer Advocate recommends that the IRS conduct additional research regarding how FPLP notices are issued. Rather than simply mailing them to the taxpayer's last known address, the IRS should consider other options to ensure that notices of intent to levy on Social Security benefits via the FPLP program are mailed to the best	Currently when IRS sends Taxpayers a balance due notice and it is returned undelivered, the Service conducts address research and sends a letter to all potential addresses. The addresses from the Forms 1099 filed by SSA to document Social Security payments are used if different from IRS's addresses of record. If the taxpayer responds, IRS updates the address of record and sends any additional mailings to the new address. If the taxpayer does not respond, IRS continues to use the address of record as required by the Internal Revenue Code.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
address available. At a minimum, the IRS should utilize address research resources that are readily available via the Internet, and coordinate with SSA to determine if the IRS's last known address for the taxpayer matches up with SSA records.	An IRS/TAS team is already reviewing alternative solutions when the taxpayer does not respond to our attempts to secure a better address. However, we cannot agree to any changes in current procedures pending the successful outcome of this effort.			
5. The National Taxpayer Advocate recommends that the IRS conduct outreach efforts that specifically target taxpayers receiving Social Security benefits or other federal pension or retirement income.	The IRS identified this issue and is already engaged in outreach related to the FPLP. Publication 594, <i>The IRS Collection Process</i> , that is sent with the FPLP notice contains FPLP information, as does IRS.gov. As noted in the IRS comments included in the NTA's Annual Report for Congress, we are also expanding mass communications efforts to improve our ability to reach potentially impacted taxpayers before a FPLP levy becomes effective. This communication strategy includes using disbursing offices to distribute information directly to their payees regarding tax obligations for income received and the potential for IRS levy action when the proper steps are not taken to resolve delinquencies. For example, Defense Finance and Accounting Service (DFAS), the agency responsible for Defense Department federal civil service employee salaries, agreed to include	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	an alert containing this information in the leave and earnings statements of its payees. IRS also piloted a promotional program aimed at military retirees that includes a DVD that explains post-retirement federal tax obligations. IRS continues to explore additional outreach efforts along these lines. However, these efforts are works in progress and we are not prepared to commit to specific implementation dates.			
6. The National Taxpayer Advocate recommends that the IRS establish mandatory FPLP training for all public contact employees to better educate them about the intricacies of the entire FPLP process (pre- and post-levy) and deliver this training by the end of FY 2008.	ACS and ACSS employees will have mandatory FPLP training during 2008 Continuing Professional Education. FPLP training was completed in CPE by September 30, 2008, for al ACS and ACSS employees.	Yes	11/18/08	

2007 ARC – MSP Topic #22 – THIRD PARTY PAYERS

Problem

When third party payers do not file required employment tax returns or make required deposits, employers remain liable for the underlying tax, interest, and penalties and may face significant economic difficulties. The IRS generally has no recourse other than to initiate collection of unpaid employment taxes from the employers. Not only are employers forced to pay the amount of their employment tax liability twice (once to the failed third party payer and again to the IRS), but they may also be liable for interest and penalties. The National Taxpayer Advocate recommends that the IRS assume a greater role in protecting taxpayers' interests and assisting taxpayers in third party payer cases by developing "global" remedies for situations where large numbers of taxpayers share common facts. A global approach would provide a common starting point for relief, regardless of where the case is worked within the IRS.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate raises concerns about misappropriation of employment taxes by third party payers and urges the IRS to assume a greater role in protecting the taxpayers' interests and assisting taxpayers in third party payer cases and recommends defining a third party payer and separately defining every category of payroll agents and subagents.	The IRS is working to educate taxpayers to ensure that they have a better understanding of each type of Third Party Payer (TPP) and associated risks. Each type of authorization or designation form clearly addresses the specific authorization being given to the TPP. IRS will post comparative information on third party payroll payers on the IRS.gov website, and which will reflect the appropriate designations forms, authorizations, designations and consequences for each. The changes to irs.gov have been submitted and should post in early November.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends creating a separate form for designating a third party payer that covers all types of employment tax agents and providing enhanced disclosures about the consequences of using a third party payer.	Each third party payer fulfills a different role for an employer and follows different processes. There are different procedures for each type of TPP designation along with different IRS required information because each TPP is fundamentally different. Authorizations, responsibilities, and liabilities for employment taxes may be different depending on the specific type of TPP, and the four types can not realistically be lumped together into one definition or one-size/form-fits all approach. IRS will, however, post comparative information on the different types of third party payroll payers to the IRS.gov website, and which will reflect the appropriate designations forms, authorizations, designations and consequences for each. The changes to irs.gov have been submitted and should post in early November. The IRS is working to educate taxpayers to ensure that they have a better understanding of each type of TPP, associated risks and consequences, and will continue to enhance our outreach efforts in this area.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends developing additional communication products in a brochure format, including sufficient disclosures about the potential risks of using a third party payer on appropriate employment tax forms authorizing the use of a third party payer.	<p>Current IRS forms provide specific authorization given to third party payers and advise the taxpayer of the potential risk of using a third party payer in the event of default. The IRS had already identified this problem and developed and distributed outreach and educational information regarding the effective use of third party payers.</p> <p>The IRS plans to continue to work through outreach and education to encourage employers to use reputable TPPs enrolled in and using EFTPS as part of our normal ongoing activity. IRS developed information in late FY07 regarding the benefits and convenience of using EFTPS and posted in to IRS.gov. The IRS currently provides many EFTPS circulars and publications to the public.</p>	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends discontinuing the practice of changing the employer's address to that of the third party payer unless there is clear authorization from the employer.	The Internal Revenue Code requires IRS to use the address of record, which is the one noted on the last filed return. Rev-Proc 2001-18 addresses the use of the address of record and the ability to use specific returns to make address changes. IRS Submission Procession procedures do require that <i>if it can be determined</i> by the tax return that it was completed by a TPP, a Form 8822, Change of Address must be signed by the taxpayer and submitted to the IRS prior to the address being changed. Otherwise, Form 2848, Power of Attorney and Declaration of Representative, must be signed by the taxpayer to give the authority to a TPP to change the address. IRS will continue to assess current address change procedures in place using Form 8822 to ensure the proper procedures are being followed.	No		
5. The National Taxpayer Advocate recommends providing annual refresher training for Submission Processing employees.	The IRS had already identified this problem and, in January 2007, Submission Processing employees received refresher training on address change procedures and will continue to receive annual refresher training in the future.	Yes	11/24/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
6. The National Taxpayer Advocate recommends issuing a notice to taxpayers when making address changes.	The IRS had already identified this problem and acknowledges that there are systemic problems resulting in the TPPs ability to change the employer's address to their own without notifying the client/employer. The IRS is in the process of researching the feasibility of implementing change of address notices to all business taxpayers that use a TPP.	Yes		
7. The National Taxpayer Advocate recommends issuing duplicate collection notices to affected employers and the third party payer.	Preliminary research indicates that it is not feasible to implement duplicate collection notices to all business taxpayers that use a TPP. The IRS found that there is no way to identify this population with any degree of accuracy. Plus, the complexity and cost of the systemic and process requirements that would have to be changed and put in place for a very small population when compared to the population of all employers far outweigh any benefit.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
8. The National Taxpayer Advocate recommends assuming the responsibility to notify affected taxpayers when the IRS becomes aware of a defunct third party payer.	<p>The IRS had already identified this problem and had developed a plan to continue to work through outreach and education to encourage employers to use reputable TPPs enrolled in and using EFTPS. The IRS also encourages employers using TPPs to verify and confirm timely deposits by utilizing EFTPS. However, if the employer is unable to sign up for EFTPS, the same information is available to the employer by calling the toll-free number.</p> <p>The IRS had developed a plan to enhance the Early Warning Report to provide information that is more accurate and reliable in clearly and promptly identifying employers who have outstanding balances. However, given that the total population of defunct TPPs is unknown, the IRS would not have a means to ensure full compliance with this recommendation.</p> <p>Additionally, the disclosure issues inherent in this recommendation would need to be resolved, or the action would be prohibited by law. Assuming this recommended responsibility and attempting to work out disclosure issues even for those that come to the attention of IRS would require major cost for what would be a very small population.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
9. The National Taxpayer Advocate recommends establishing procedures for prompt identification and notification of affected employers in cases involving third party payer failures.	<p>The IRS had already identified this problem and developed a plan to resolve the problem by working to enhance the Early Warning Report to provide information that is more accurate and reliable in clearly and promptly identifying employers who have outstanding balances. We are consistently exploring available avenues to monitor Federal Tax Deposits (FTDs) of previously compliant taxpayers. However, given that the total population of defunct TPPs is unknown, the IRS would not have a means to ensure full compliance with this recommendation.</p> <p>Additionally, the disclosure issues inherent in this recommendation would need to be resolved, or the action would be prohibited by law. Assuming this recommended responsibility and attempting to work out disclosure issues even for those that come to the attention of IRS would require major cost for what would be a very small population.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
10. The National Taxpayer Advocate recommends establishing uniform guidance for using effective tax administration offers in compromise to relieve affected employers – victims of third party payer failures.	The IRS had already identified and resolved this problem. Guidance for using effective tax administration offers in compromise for victims of third party payer failures was distributed in December 2007. Additionally, the form 656 (rev 02/2007) was rewritten to clarify the definition of an ETA offer and when an ETA offer would be appropriate. ETA offers are also discussed on IRS.gov.	Yes	11/24/08	
11. The National Taxpayer Advocate recommends temporarily suspending collection of the accounts of affected employers to provide them a sufficient opportunity to explore payment alternatives.	The IRS had already identified this problem and resolved it by acknowledging that the employees currently have the authority and discretion to suspend collection on a case based on the unique facts and circumstances of each individual case. Third party payer situations are addressed based on the unique facts and circumstances of the case involved. Each Collection Field Area has a designated central point of contact to ensure consistent treatment of cases with similar circumstances.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
12. The National Taxpayer Advocate recommends developing “global” remedies for situations where large numbers of taxpayers share common facts, to ensure a common starting point for relief, regardless of where the case is worked in the IRS.	The IRS had already identified this problem and had developed a plan to resolve the problem. While a coordinated approach would be preferred, it is not an available remedy for all situations based on the distinctions of each case and the nature of the TPP role. This approach has worked favorably in some instances and the IRS will continue to explore the use of a coordinated approach where situations warrant. IRM guidance will be provided to ensure appropriate and consistent treatment of taxpayers whose accounts were not handled correctly by TPPs.	No		

2007 ARC – MSP Topic #23 – EMPLOYMENT TAX TREATMENT OF HOME CARE SERVICE RECIPIENTS

Problem

Many elderly and disabled individuals receive home care and support services administered through a variety of state and local government health and welfare programs. Often, elderly and disabled home care service recipients (HCSRs) who participate in these programs fall into the category of common law employers, and they are required to apply highly technical and complex employment tax rules to determine their employer tax status and responsibilities. Elderly and disabled HCSRs can suffer substantial financial hardships when state and local government agencies contract out program responsibilities, including payroll functions, to intermediary service organizations (ISOs) that fail to properly report, file, and pay employment taxes. As a result, the elderly and disabled HCSRs – as the common law employers – remain liable for the tax, interest, and penalties. The National Taxpayer Advocate proposes a legislative change and a series of administrative steps that, if adopted, will complement and bolster the actions taken by the IRS to significantly mitigate the problems affecting HCSRs and minimize the downstream impact of ISO failures on elderly and disabled individuals.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS take the following actions to help elderly and disabled home care service recipients (HCSRs) and their agents to better understand employment tax responsibilities and minimize the downstream impact of intermediary service organization (ISO) failures on elderly and disabled individuals: Issue a Collection Policy statement to indefinitely suspend assessment and collection of employment tax from elderly and disabled HCSRs resulting from ISO defaults, while actively pursuing collection of the unpaid employment tax liability from the ISOs that are jointly and severally liable under IRC § 3504.	The IRS had already identified this problem and worked closely with TAS and other stakeholders to develop a plan to resolve the problem as well the cases resulting from this issue. To that end, in September 2006, Collection Policy issued a memorandum to its field offices alerting Collection personnel to the issues surrounding HCSW (home care service workers) and HCSR (home care service recipients) and advising them to “stop collection activity until you determine the facts and circumstances of the case, and whether or not collection activity is appropriate.” The memorandum also urged employees to “use the utmost caution and discretion on these accounts to determine the validity of the liability before taking action to secure returns or payment.” Collection continues to work with TAS and Office of Taxpayer Burden Reduction to identify HCSR cases that may need corrective action or suspense on the account.	Yes	11/24/08	
2. The National Taxpayer Advocate recommends that the IRS develop	The IRS has identified this problem and developed a plan to resolve the problem through the Home Health Care	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>analytical materials that can be used to analyze facts in a given HCSR case and determine whether an employer-employee relationship exists, based upon grouping relevant facts and circumstances attributable to the HCSR - home care service worker (HCSW) relationships.</p>	<p>Service Recipient (HHCSR) Team. A cross functional team was established to address issues related to Home Health Care Service Recipients (HHCSR) and the team will consider the NTA recommendations. The team will address systemic issues that may cause unwarranted notices on accounts as well as aggregate FUTA issues.</p> <p>However, absent legislative change, we are bound to current law as to the application of the common law test, which provides us with the relevant facts and circumstances in making these determinations. The common law test applies factors to ascertain whether the HCSR has the right to direct and control the HCSW. The common law test is not unique to in HCSRs and HCSWs; it applies to all taxpayers. The IRS does not have the authority to deem a party in any employment situation to be the common law employer. The particular facts of each employment relationship must be examined in order to reach a conclusion about whether an employer and employee relationship exists. In addition, section 530 of the Revenue Act of 1978 precludes the IRS from issuing revenue rulings or regulations on employment status.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS proactively develop outreach and educational materials for the home health care industry.	The IRS has identified this problem and developed a plan to resolve the problem through the Home Health Care Service Recipient (HHCSR) Team. A cross functional team was established to develop outreach and educational materials, including enhanced web site information, concerning issues related to Home Health Care Service Recipients (HHCSR).	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS simplify its processes for state and local agencies managing welfare-funded home care programs for HCSRs and develop uniform and mandatory third party application and filing guidelines for use by IRS campuses across the country.	The IRS has identified this problem and developed a plan to resolve the problem through the Home Health Care Service Recipient (HHCSR) Team. The IRS agrees that HCSR processes should be simplified and uniformly applied by all governmental agencies. Contacts are currently being made with State and other governmental agencies to discuss mandatory or uniform guidelines concerning HCSR programs. The variation in program operation across the fifty states (e.g., who has discretion to select the individual who will be the HCSW, who has discretion to prescribe the tasks to be performed and the way they should be performed, who controls the bank account from which the HCSW is paid, who can exercise discretion on the HCSR's behalf if the HCSR is not capable of communicating for him or herself), may produce different answers under different programs. To provide some assistance with the reporting and payment of employment taxes where the HCSR is determined to be the common law employer, the Service has proposed guidance (Notice 2003-70) on how a third party, such as an ISO, can be involved in the reporting and payment of the employment taxes.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS implement appropriate computer programming that can currently determine whether the correct amount of taxes is reported and paid by the ISO on behalf of the HCSRs and link the accounts of the HCSRs and the ISO for Forms 2678 filed prior to January 1, 2007.	The IRS had already identified this problem and is working on a resolution. SB/SE Specialty Employment Tax is developing a schedule, which will link the related clients of the fiscal agents and provide an allocation of the tax liability for the aggregate Form 941 return. All anticipated activities including processing and programming activities are expected to be completed by Jan 2010. Once implemented, all clients will be identified by agent and resubmission of Form 2678s prior to 2006 should not be necessary.	Yes		

2007 ARC – MSP Topic #24 – OFFERS IN COMPROMISE

Problem

The IRS's Offer in Compromise (OIC) program is no longer being used to any significant extent as a viable collection alternative. Between FY 2001 and FY 2007, offer receipts declined by 63 percent and the number of accepted offers declined by 70 percent. The National Taxpayer Advocate believes that the long-term success of the OIC program is best served by maximizing the number of cases in which the IRS is able to complete the investigation and make a decision to accept or reject the offer on its merits. However, for the IRS to achieve its policy goals and reap the benefits of a successful OIC program, it must first minimize the extent to which policies intended to deter taxpayers from submitting incomplete or unrealistic offers do not also discourage taxpayers from submitting good ones. In order to do so, the National Taxpayer Advocate recommends the IRS ensure all IRS Collection employees can identify when accepting an OIC is a "win-win" situation for taxpayers and the government. Moreover, the IRS should revitalize its OIC outreach efforts to taxpayers and practitioners to better assist them with the submission of reasonable and appropriate offers. The key to success of the OIC program is to identify those taxpayers for whom an offer is an appropriate collection alternative and ensure they are aware of the OIC process and do not face unreasonable barriers in the submission of an offer.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS provide taxpayers with the right to appeal to the IRS Appeals function the IRS's decision to return an Offer in Compromise (OIC) before or after accepting it for processing. The IRS could use the existing Collection Appeals Process, which allows it to review appeals in just five days. The IRS should also conduct a comprehensive review of	<p>The return procedures that are currently in the IRM are necessary to ensure that valuable resources are not expended working cases in which taxpayers do not respond to requests for information or are not in compliance with current filing or deposit requirements. Collection and Appeals agree that it will benefit neither the taxpayer nor the IRS to send a case to Appeals that has not progressed to the point that a resolution can be reached. Current procedures provide taxpayers with an opportunity to have a return decision reconsidered.</p> <p>The not-processable rate has declined from 26% in FY 06 to 19% in FY 07</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
OICs that were returned as both not processable and processable to ensure employees are in fact making the correct decision.	<p>and is currently at 10%. We believe that our revised processability criteria implemented in July 2006 are effective and guide employees in making correct decisions. These decisions are reviewed by management during the course of normal employee work reviews.</p> <p>We are diligent in conducting reviews of return dispositions. Group managers are required to approve the majority of return decisions. Returned offers are already included in our operational reviews of the program. In addition, a TIGTA review of returned offers found the returns they reviewed to be appropriate.</p>			
2. The National Taxpayer Advocate recommends that the IRS give taxpayers credit for Tax Increase Prevention & Reconciliation Act of 2005 (TIPRA) payments associated with prior offers returned, rejected, or withdrawn within the preceding 24 month period on the basis that the new offer should really be regarded as part of the same debt resolution process.	We are currently working with IRS Counsel on issuance of the OIC TIPRA regulations and to determine what period is appropriate, if any, to give credit for prior payments.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>3. The National Taxpayer Advocate recommends that the IRS revitalize its OIC outreach efforts to taxpayers and practitioners and to better assist them with the submission of "good" or reasonable and appropriate offers and clearly state that OICs are an acceptable collection alternative. Additionally, the IRS should ensure that low income taxpayers are made more fully aware that they are exempt from the \$150 OIC user fee and TIPRA payment requirements. We strongly recommend that the IRS partner with TAS and the Low Income Taxpayer Clinics, in particular, to help convey this important guidance. The IRS should also conduct a study to determine why taxpayers who qualify for the waiver do not request it.</p>	<p>We maintain a strong commitment to education and outreach and are continuing our efforts to educate the public and encourage the use of the offer in compromise program as a collection alternative. We believe that outreach efforts, which have included representatives from Low Income Tax Clinics, such as our National Phone Forums, external OIC SME presentations, the media release associated with the redesign of Form 656, Offer in Compromise, and OIC information pages on IRS.gov have led to a better understanding of the Offer in Compromise Program.</p> <p>Waiver submissions have increased sharply since the implementation of the new guidelines. As of February 2008, the percentage of processable offer receipts submitted with a Form 656-A has increased to 31.6% as compared to 6.8% in FY 2006. As evidenced by the rapid increase in 656-A submissions, we feel that our outreach efforts are already effectively communicating waiver eligibility and TIPRA payment requirements to low income taxpayers. However, as opportunities arise, we will participate in outreach efforts involving Low Income Taxpayer Clinics, and ensure understanding of all collection issues.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS ensure that OIC training is a mandatory topic in FY 2008 for all Collection personnel responsible for taxpayer contact (e.g., Revenue Officers and ACS employees) to heighten employee awareness of OICs being a "win-win" situation for taxpayers and the government, given the appropriate set of circumstances, and partner with TAS to develop such training.	Existing policy and procedures require ACS employees and field employees to be aware of and understand the OIC process as well as its use as a collection alternative. IRS collection personnel, both Field and ACS, receive OIC training in basic training as new hires. In addition, information with respect to offers in compromise is fully detailed in IRM 5.8 and IRM 5.19.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS issue guidance that includes several realistic examples of offer resubmissions that are not deemed solely to delay collection.	IRS had already identified the need to supply realistic examples, had already updated the IRM to include these, and had already sent the IRM through clearance. These IRM changes had been discussed with TAS. We have revised the language in IRM 5.8.3.19 to provide more clarity. IRM 5.8.3.19.1 lists specific instances when an offer would be considered materially different and therefore would not qualify for return as solely to delay, and IRM 5.8.3.19 outlines two instances when return as solely to delay would be inappropriate. We feel that these references along with the examples of when returning due to solely to delay would be appropriate adequately address this issue. Only a small number of offers have been returned under the solely to delay criterion, and in fact the percent of offers disposed due to solely to delay collection accounted for only 1.7% of total offer case dispositions in FY 05 and FY 06, and was reduced to 1.3% in FY 07.	Yes	11/24/08	

2007 ARC – MSP Topic #25 – INADEQUATE TRAINING AND COMMUNICATION REGARDING EFFECTIVE TAX ADMINISTRATION OFFERS

Problem

Although the IRS has the ability to accept an OIC on the basis of “effective tax administration” (ETA), it has done very little to educate the public or its employees about how or when it will use this authority. As a result, eligible taxpayers may not be applying for OICs based on ETA, and IRS employees may not recognize situations when these offers are appropriate. Thus, the IRS needs to do more to ensure that all collection employees know when an ETA offer may be a viable collection alternative. The IRS also needs to conduct more in-depth external outreach to educate taxpayers and practitioners about when the IRS will accept an ETA offer.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS update all IRS internal guidance (including the IRM) which discusses available collection options to include a section on both hardship and non-hardship effective tax administration (ETA) offers. This is necessary to ensure that all offer in compromise (OIC) and non-OIC employees have the proper guidance to assist them with recognition of when an ETA offer may be appropriate. The guidance should also include a discussion of economic hardship (per	<p>The IRS has updated internal guidance and the IRM with respect to both hardship and non-hardship ETA offers. IRM 5.8.11 was sent for clearance in September 2007. We are still waiting for the NTA to clear this document. (Feedback was recently received and is currently being reviewed.) In the meantime, interim guidance has been issued.</p> <p>In addition, the form 656 (rev 02/2007) was rewritten to clarify the definition of an ETA offer and when an ETA offer would be appropriate. ETA offers are also discussed on IRS.gov.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>IRC § 6343). Additionally, the IRS should provide more specific guidance and examples of situations where it is appropriate to accept an ETA offer on future revisions of Form 656 and the section of the IRS website devoted to OIC and ETA offers.</p>				
<p>2. The National Taxpayer Advocate recommends that the IRS require all IRS Collection employees to consider whether an ETA offer might be an appropriate collection alternative before determining to seize or recommending foreclosure on a personal residence.</p>	<p>An ETA offer is not appropriate in all cases in which seizure or foreclosure is considered. Current IRM 5.10 and 5.17 procedures already require alternative collection remedies to be thoroughly considered before recommending seizure or foreclosure on a personal residence.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS train all Compliance, Counsel, and Appeals personnel to ensure they can determine when it may be appropriate for the IRS to accept an ETA offer or refer an offer to the specialized ETA offer group for further analysis.	We are in the process of developing an Articulate ETA training module that will be a mandatory course for FY 2008 RO CPE. The training module will be shared with Appeals, Counsel, and ACS contact employees. In addition, the training module will be shared with all OIC external presenters.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS conduct additional and more in-depth external outreach to better educate taxpayers and practitioners about when the IRS will accept ETA offers. It should focus outreach on taxpayers most likely to be eligible for ETA offers, such as delinquent taxpayers whose tax deposits have been embezzled by a payroll service provider, those located in areas devastated by natural disaster, and those who are about to lose their primary residence to foreclosure.	We have developed an Articulate ETA training course that will be shared with the presenters who conduct outreach presentations. In addition, an ETA example will be added to the “notes” section of the FY 2008 OIC Outreach PowerPoint used by the OIC external presenters.	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
5. The National Taxpayer Advocate recommends that the IRS ensure that employees who answer the phone when taxpayers dial the toll-free number listed in Form 656 have the training to provide the necessary assistance to taxpayers who may be eligible for ETA offers.	We are in the process of developing an Articulate ETA training module that will be a mandatory course for FY 2008 RO CPE. Additionally, this training module will also be shared with all personnel having taxpayer contact, including Toll Free Assistors, Appeals, Counsel, ACS contact employees and OIC external presenters. COIC personnel received ETA training when the ETA Non-economic Hardship Memorandum was issued in FY 2007. They will also receive additional training during FY 2008 CPE.	Yes		

2007 ARC – MSP Topic #26 – ASSESSMENT AND PROCESSING OF THE TRUST FUND RECOVERY PENALTY (TFRP)

Problem

Employers are responsible for withholding and remitting to the IRS certain trust fund taxes, including income and Federal Insurance Contributions Act (FICA) taxes from payments to employees, as well as certain federal excise taxes. When these monies are not paid as required, the law provides for the assessment of a TFRP, which can have disastrous economic consequences for those deemed to be responsible persons. However, the IRS has failed to consistently adhere to its own quality standards for investigating these cases. Despite almost a decade of negative findings by the Government Accountability Office (GAO), the IRS has yet to implement an effective or reliable system for the accounting and application of payments, credits, and offsets. The National Taxpayer Advocate makes several recommendations designed to improve the timeliness, fairness, and quality of the process.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. To supplement the initiatives undertaken by the IRS to address our concerns, the National Taxpayer Advocate recommends that the IRS, prior to implementing any further changes to the TFRP process, should confer with the National Taxpayer Advocate and other stakeholder functions, such as the Office of Taxpayer Burden Reduction (OTBR) to assess the potential impact on taxpayers. The IRS should also consult external stakeholder	IRS generally solicits stakeholder input before any new initiative or significant changes are implemented. The Small Business/Self-Employed Division's (SB/SE) Stakeholder Liaison Headquarters' Task Force to Enhance Small Business Outreach, with Service-wide representation, also recently recommended the development of a five-year outreach strategic plan to more effectively provide outreach and education to the small business community. This initiative already covers stakeholder involvement and TFRP will be included as a topic.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>groups and partners to ascertain their perspective on the change. This approach would serve several purposes:</p> <ul style="list-style-type: none"> • To determine if there is a less intrusive alternative; • To leverage the resources of the National Taxpayer Advocate and outreach functions such as SB/SE Communications, Liaison & Disclosure to communicate to external stakeholders the "when, how, and what" of the change, and to offer suggestions for dealing with it in an effective and efficient manner; and • To determine downstream workload increases or impact on both internal and external customers. 				

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
2. The National Taxpayer Advocate recommends that the 45-day period for routing TFRP cases to Appeals should be a requirement, rather than a suggested timeframe and should be enforced.	There may be issues raised in a protest that call for inquiries requiring longer than 45 days to resolve. Managers now receive reports and follow up on TFRP cases not sent to appeals within 60 days of protest receipt.	No		
3. The National Taxpayer Advocate recommends that any appeal that is not forwarded within 60 calendar days should undergo a mandatory review and the reason for the delay should be documented.	IRM 5.7.6.1.6(4) (4/13/2006) already requires case history documentation if additional case development to resolve a protest will exceed 45 days. There may be issues raised in a protest that call for inquiries requiring longer than 60 calendar days to resolve. Managers now receive reports and follow up on TFRP cases not sent to appeals within 60 days of protest receipt.	No		
4. The National Taxpayer Advocate recommends that revenue officers be required to acknowledge and begin processing a request for an appeal within ten business days.	IRM 5.7.6.1.6 (4/13/2006) already requires revenue officers to “review the (protest) request within 10 days of receipt.” Acknowledgement of the protest within that time frame adds an unnecessary step which could confuse taxpayers. A separate acknowledgement is already required when the revenue officer either agrees with the protest (IRM 5.7.6.1.7(3) or (4)) or forwards it to Appeals (IRM 5.7.6.1.8(1)c).	No		
5. The National Taxpayer	The temporary guidelines to input TC	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>Advocate recommends that the IRS cease inputting a freeze on the SSN of the non-liable spouse until computer or systemic processes are in place to monitor and freeze only those refunds that are due persons filing joint tax returns. Additionally, the Computer Paragraph 44 (CP44), a generic notice sent to taxpayers whose refund has been or will be frozen, should be rewritten to contain detailed and clear instructions on how a taxpayer can contest the freeze and apply for injured spouse relief when the refund is due from a jointly filed return. A Form 8379, Injured Spouse Allocation, should be attached to the notice CP44 and the notice should list the name and number of the IRS employee who can explain the process, answer questions, and appropriately address the</p>	<p>130 on the primary SSN of the non-liable spouse of a person responsible for the TFRP (in accordance with a GAO recommendation) expired in January 2008. In January 2008, systemic IDRS programming took effect that offset joint income tax refunds to TFRP liabilities of the secondary SSN on the tax return. Because the offset is now systemic, there is no CP44 generated and therefore no need to re-write it relative to TFRP cases. Additionally, if a non-liable spouse files a separate return and is due a refund, the refund is not frozen for TFRP purposes and therefore negates any need for a review of these cases to release a TFRP-related freeze.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>taxpayer's concerns. Most importantly, the IRS should be prepared to conduct an expedited review of cases where the non-liable spouse has filed separately and is due a refund, which was frozen under the new policy, in order to release the freeze code and have the refund issued promptly. The IRS should not rely on usual freeze release procedures, which could delay the refund for eight weeks or longer. We must note that the non-liable spouse who files separately does not qualify under injured spouse provisions, which are limited solely to refunds arising from jointly filed returns. The National Taxpayer Advocate is not reassured that the review process noted in the IRS response will prove effective or preclude the expenditure of significant resources by both the</p>				

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
IRS and TAS, not to mention the burden imposed upon the taxpayers.				
6. The National Taxpayer Advocate recommends that the IRS update the training provided to revenue officers using actual case examples, provided by Appeals, TAS, and the campuses, which would reflect both ideal and unacceptable case actions. The training should include a specific discussion of the impact on internal and external stakeholders when case actions are not timely, appropriate, or fail to meet minimum quality standards. TAS would support this effort by reviewing the proposed training materials and offering suggestions and feedback.	The TFRP training material contained in Revenue Officer Unit II Module G was revised in February 2008 (prior to this report). We believe the content sufficiently addresses the issues raised in this recommendation. In addition, disclosure rules prevent use of actual case examples in training material. However, the TFRP Module G does include some comprehensive case studies to develop the students' TFRP abilities and foster specific discussions of the impact on internal and external stakeholders when case actions are not timely, appropriate, or fail to meet minimum quality standards.	Yes	11/24/08	

2007 ARC – Status Update Topic #27 – PRIVATE DEBT COLLECTION

Problem

The Private Debt Collection initiative is failing in most respects. It is not meeting revenue projections; its return on investment is dismal; the private collection agencies (PCAs) are no better at locating or collecting tax liabilities than the IRS itself; the IRS has failed to require the PCAs to disclose their taxpayer-related procedures to the public to the same extent as the IRS, which shields the program from adequate congressional and public scrutiny; and the IRS is sending the PCAs new cases (because the number of “easy” cases is smaller than projected) and these new cases may require the exercise of discretion and judgment in collection matters that is appropriately the sole province of the IRS. For these reasons, the National Taxpayer Advocate once again calls for the initiative’s repeal.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS include a provision in the new or extended Private Collection Agency (PCA) contract that requires PCAs to disclose all materials that impact taxpayers and their contacts with PCAs, including instructions to staff, the content and format of taxpayer letters, and calling scripts.	<p>Modifications were incorporated into the task orders signed by the PCAs in February 2008 that require disclosure of all materials to the IRS. Specifically, the language incorporated states “<i>the Government shall be afforded full, free, and uninhibited access to all facilities, installations, technical capabilities, operations, documentation, records, and data bases...</i>”.</p> <p>The information from the PCA is shared within the IRS on an as needed basis. Even with the full disclosure to the IRS, there is still some information that the IRS Counsel has deemed proprietary and, as such, cannot be shared with the general public. However, proprietary information has been, and will continue to be, shared with TAS for review and comment.</p>	Yes	10/1/08	

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>2. The National Taxpayer Advocate recommends that the IRS recall taxpayer cases that were placed with the PCAs at the inception of the initiative so the IRS can conduct an analysis of the PCAs' success in locating taxpayers and collecting tax liabilities. These cases should be analyzed by a variety of key measures, such as cycle time for account resolution, the timeliness of taxpayer contacts, and others used by the IRS to measure the performance of the Automated Collection System (ACS), which will result in a better picture of the PCAs' performance.</p>	<p>Cases that were placed with the PCAs at program inception will begin to be recalled in November 2008. The IRS will review metrics for these cases similar to those used to measure performance in other areas of the IRS. Because the IRS does not work these cases currently and the procedures and tools available to ACS and the PCAs are different, comparisons between ACS and PCA performance would be inappropriate and potentially misleading.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
3. The National Taxpayer Advocate recommends that the IRS require the PCA calling scripts to inform taxpayers, after their identity has been authenticated, about their right to opt out of the Private Debt Collection (PDC) initiative.	At the request of TAS, opt out language was added to the PCA initial contact letters and the language was strengthened in the IRS initial contact letter. In addition to these two modifications, the IRS also published the opt out provisions on an irs.gov webpage geared towards taxpayers that have had their account placed with a PCA. We will continue to explore ways to ensure taxpayers are aware of their opt-out rights. It should be noted that PCA procedures are in place so that if taxpayers request to opt out of the program, they receive the information necessary to enable them move forward with opting out of the program.	No		
4. The National Taxpayer Advocate recommends that the IRS add a component to the Cost Effectiveness Study test that limits the IRS test group's authority to use its enforcement powers in order to determine whether IRS employees would be more effective than PCA employees in collecting outstanding tax.	The data collection phase of the Cost Effectiveness Study has been completed, so it is not feasible to incorporate this recommendation into the parameters of the study. The Cost Effectiveness Study report is scheduled to be released in November 2008 and TAS has been an active participant in the working group formed to perform the study and analyze results.	No		

2007 ARC – Status Update Topic #28 – IRS COLLECTION STRATEGY

Problem

The National Taxpayer Advocate has continually urged the IRS to employ a collection strategy that effectively and efficiently balances the goals of tax collection, taxpayer service, and tax compliance. We are mindful of the difficulties the IRS faces when carrying out its collection strategy and properly administering the tax system, which requires a delicate balance between customer service and enforcement. Although the IRS’s collection strategy has improved over the past year, significant work remains to be done. We continue to believe that more emphasis by the IRS on providing timely service to taxpayers with tax delinquency problems and employing more flexibility in the use of available collection payment alternatives (e.g., installment agreements, partial payment installment agreements, and OICs), are necessary to deliver an effective, balanced, and service-oriented program. By better understanding the needs of taxpayers and its own employees, the IRS can make significant headway toward fostering voluntary compliance and achieving maximum revenue.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS continue to explore methods to better prioritize and assign collection cases, fully recognizing the impact of elapsed time on collectibility and taxpayer service. The IRS should brief TAS on these efforts and invite TAS to participate.	<p>The Collection program is currently flexible in its design and allows for targeted shifts in inventory to meet defined objectives of civil enforcement provisions. Collection leadership has an on-going practice of discussion and analysis regarding case prioritization and assignment, and initiates adjustments where necessary. Delinquent taxpayers have the opportunity to self-correct during the initial notice stream; those that do not are then subject to receive more intense collection activity.</p> <p>This activity is prefaced by the Inventory Delivery System (IDS) which employs decision analytics and the use of predictive models to help determine the best treatment stream for the</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>delinquency. Risk categories identify case attributes that represent current operational priorities and account for issues that pose greater risk to overall voluntary compliance. We recognize that an increase in elapsed time on assessments may decrease collectibility, and age is a primary factor in our assignment processes. IDS ensures a high degree of efficiency in routing cases to the operation which is likely to be the most effective in handling them.</p> <p>Collection is currently developing enhanced analytical models for use in the IDS and leveraging a customized rules-based engine to further increase the efficiency of routing collection work at the Enterprise level. Additionally, Collection is studying the feasibility of applying IDS analytics to delinquencies during the notice stream (versus after), which will provide an opportunity for earlier involvement to more effectively deal with delinquent taxpayers who are unlikely to self-correct through the notice process.</p> <p>Collection has in the past, and will continue to, brief TAS on significant procedural changes and invite TAS to participate on teams established to explore issues such as early</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	intervention. Five such teams are currently in process and include TAS representation.			
2. The National Taxpayer Advocate recommends that the IRS tailor the delivery of collection inventory to recognize the differing needs and characteristics of different types of taxpayer cases. The IRS should conduct studies, with the involvement of TAS, to identify opportunities to expedite personal contacts, where it is evident such actions will achieve mutually successful resolutions.	<p>The Inventory Delivery System (IDS) employs decision analytics and the use of predictive models to help determine the best treatment stream for the delinquency. IDS ensures a high degree of efficiency in routing cases to the operation which is likely to be the most effective in handling them.</p> <p>Risk categories identify case attributes that represent current operational priorities and account for issues that pose greater risk to overall voluntary. Compliance risk level methodology accounts for type of tax and entity, age of delinquency, and dollar value or potential dollar value. Collection is currently enhancing the analytical models for use in the IDS and leveraging a customized rules-based engine to further increase the efficiency of routing collection work at the Enterprise level.</p> <p>IRS is also studying the feasibility of applying IDS analytics to delinquencies during the notice stream (versus after), which will provide an opportunity for earlier involvement to more effectively deal with delinquent taxpayers who are unlikely to self-correct through the</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	notice process. We are also currently working with TAS to identify treatment streams, such as early intervention techniques, that could help successfully resolve delinquencies earlier in the collection process.			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>3. The National Taxpayer Advocate recommends that the IRS move forward with its revision or development of program measures that accurately reflect the true age of its accounts receivables. These measures should reflect the age of collection accounts from the taxpayer's perspective, i.e., the due date of the tax return.</p>	<p>We have seen a decline for the third year in a row of our total unpaid assessments over four years old, and the percentage of inventory we are working which is less than two years old has continued to increase. These results show that we continue to focus on the currency of our inventory.</p> <p>Our current program measures regarding age are designed to identify aging trends at each point in the Collection workstream, and have served very well to identify both positive and negative operational trends regarding aging of cases. Case age is a regular focus for all levels of management and operational trends are addressed as warranted.</p> <p>Because a tax return does not legally become an account receivable until it is assessed and unpaid, whether it's an initial assessment or an audit assessment, use of the due date of the tax return in an aging measure for accounts receivable would not be appropriate. However, we will determine the feasibility of developing a Collection end-to-end enterprise-wide measure of age for Collection balance-due cases based on the date of assessment.</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
4. The National Taxpayer Advocate recommends that the IRS continue to assess and revise its current policies regarding the use of collection payment alternatives, i.e., installment agreements, partial payment installment agreements, and offers in compromise. The IRS should set clear policy guidance, as follows: In instances involving taxpayers seeking to resolve tax delinquencies, the IRS should approve a payment option that is reasonable and realistic. TAS will continue its involvement in any task groups or studies that address IRS collection payment alternatives.	Collection offers reasonable and realistic payment alternatives and works with taxpayers who need to resolve tax delinquencies. While it is clear that demand has decreased in the offer in compromise program, our data reflects that there has been a ten times greater increase in the use of collection alternatives than the decrease in offers. Partial payment installment agreements entered into in FY2007 were about double the number granted in FY2006. This trend indicates that we are reaching resolution for a greater number of taxpayers. The total number of installment agreements entered into by the Service has continued to increase year-over-year, and has more than offset the decline in accepted offers in compromise. Thus, use of collection payment alternatives continues to increase and is trending toward more of those agreements providing for full payment. We believe that this is a very positive trend for both taxpayers and the Government. However, we are currently working with TAS to study possible enhancements for payment alternatives.	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>5. The National Taxpayer Advocate recommends that the IRS continue to revise the Allowable Living Expense (ALE) standards. TAS has committed to partner with the IRS in this venture and recommends that the IRS solicit the input of external stakeholders, particularly Low Income Taxpayer Clinics (LITCs), for future changes.</p>	<p>The latest revisions to the allowable living expense standards reflect significant improvements in both the accuracy and fairness of the standards. In particular, the changes resulted in higher allowances for many low-income taxpayers and taxpayers with larger households.</p> <p>We do not agree that the standards are a barrier to case resolution. In more than 95% of agreements reached with taxpayers, the standards are not applicable because the Service and taxpayers are able to reach agreement without the need for in-depth financial analysis. Where the standards are applied, our experience and reviews have shown that employees deviate from the standards when appropriate.</p> <p>We have invited stakeholders, including representatives from Low Income Tax Clinics, to provide examples of situations in which deviation from the standards should be considered and will take these examples into account when revising the IRM. We are currently working with TAS and Research to continue to improve both the standards and their application.</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>6. The National Taxpayer Advocate recommends that the IRS remove the "solely to delay collection" standard from all collection decisions, and instead implement the "delay or impede tax administration standard" that Congress enacted in 26 USC § 6702(b)(2)(A)(ii). Nonetheless, whatever criterion it adopts, the IRS must provide clear guidance that encourages taxpayers to resolve their outstanding tax debts and avoid potential rejections and sanctions.</p>	<p>The authority to return offers in compromise or proposed installment agreements submitted solely to delay collection is intended to be used with discretion. In FY 2007, offers returned as solely to delay collection accounted for only 3 percent of all return dispositions, and 1 percent of total offer case dispositions. Offers returned for this reason require the manager's concurrence and signature.</p> <p>Examples of situations where returning an offer as solely to delay collection is appropriate are included in IRM and available to IRS employees for use as guidance when making a determination to return a case as solely to delay collection.</p> <p>We recently revised the language in the IRM to provide more clarity.</p> <p>Guidance issued does encourage taxpayers to resolve their tax delinquencies at the earliest possible time and specifies the steps that must be taken to avoid rejections.</p>	No		
<p>7. The National Taxpayer Advocate recommends that the IRS devise measures to track the number of installment agreement (IA) proposals</p>	<p>There is no indication that large numbers of installment agreements are being declined on the basis of solely to delay collection. Collection does not have and has not received data or anecdotal information from any part of</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
<p>that it denies under its solely to delay collection criteria. A possible solution would be to consider the input of a transaction code to IRS computer systems when the IRS denies an IA for this reason, similar to the situation in which a taxpayer requests an abatement of a penalty and the IRS employee denies such abatement. Grant administrative appeal rights to allow taxpayers to contest determinations of installment agreements deemed to be submitted as solely to delay collection, offers returned for any reason (including solely to delay collection), as well as IRS penalty assessments.</p>	<p>the IRS or from TAS reflecting that “solely to delay” determinations regarding IAs are being made in any significant numbers or being made imprudently.</p> <p>If an IA request is denied due to “solely to delay” collection, the taxpayer has the right to appeal to the manager, to request an appeal to a resulting levy action, or to contact the Taxpayer Advocate. These options are clearly laid out in IRM 5.14.3.2. Because an IA submitted solely to delay collection is not a legitimate proposal to resolve the account, the taxpayer is not entitled to an independent review (other than the manager) or a CAP appeal.</p> <p>Offers disposed due to solely to delay collection accounted for only 1.7% of total offer case dispositions in FY 05 and FY 06, and was reduced to 1.3% in FY 07. Because it is clear that the solely to delay standard is used only with discretion, an additional tracking measure is not warranted. Proposed case resolutions can change a number of times according to case facts as they are uncovered. The actual resolution is the appropriate datum to track, and which the IRS does track.</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	Concerning the issue of appeal rights for OICs, the majority of returns on otherwise processable offers are made because the taxpayer failed to submit the information that is necessary to properly evaluate the OIC in a timely manner or because the taxpayer is not currently in compliance with filing or payment requirements. It will benefit neither the taxpayer nor the IRS to send a case to Appeals that has not progressed to the point that a resolution can be reached. We believe that the currently established procedures to reconsider such decisions are adequate. However, as part of a recently established working group that includes representatives of TAS, we have committed to reexamining OIC return procedures to ensure that adequate safeguards are in place, along with a number of other Collection program issues.			

2007 ARC – Status Update Topic #29 – QUESTIONABLE REFUND PROGRAM

Problem

The IRS established the Questionable Refund Program (QRP) in 1977 to prevent the payout of false refund claims. Historically and presently, the IRS’s Criminal Investigation (CI) function has managed the program, though the vast majority of the work is civil. In the 2005 Annual Report, the National Taxpayer Advocate identified the QRP as the second most serious problem facing taxpayers, and documented fundamental flaws with the program. While CI and the IRS responded with improvements, QRP cases still rank among the top five reasons that taxpayers seek TAS assistance. The National Taxpayer Advocate recommends that the IRS expeditiously transfer oversight of the program to the civil side of the IRS and further reduce the volume of legitimate taxpayer refunds that the QRP inappropriately delays. In an effort to further improve the program, CI and the IRS have agreed to support a TAS study in 2008 to determine whether refund claims that the QRP concluded were false were correctly decided.

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
1. The National Taxpayer Advocate recommends that the IRS expeditiously transfer primary responsibility for the Questionable Refund Program (QRP) to the Pre-Refund Program Office (PRPO). The PRPO should implement a distribution system to refer cases to the appropriate pre-refund compliance operations for resolution. CI should remain involved, but its emphasis should be limited to criminal matters and schemes.	<p>During the past year, IRS Criminal Investigation and the Wage and Investment Operating Division have collaborated to address the long-term concerns about the Questionable Refund Program (QRP). To achieve the goals of the new Pre-Refund Program (PRP), the IRS established three important initiatives to identify enterprise-wide improvements. These initiatives evolved into separate task force teams (Fraud Detection Center (FDC) Transition Team; the Refund Crimes Concept of Operations (CONOPS) team and the Pre-Refund Program CONOPS team) which worked in concert to identify enterprise-wide needed improvements.</p> <p>The FDC Transition Team studied the FDC processes to identify work</p>	Yes		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>currently residing within the FDCs that could be realigned to W&I. The ultimate goal of this study is to determine which work and associated resources could move to W&I during FY 2010, allowing FDC personnel to refocus on criminal scheme development and supporting ongoing criminal investigations.</p> <p>The Refund Crimes and PRP CONOPS Teams have focused on a 3-5 year vision of future operations for their respective offices. Criminal Investigation Refund Crimes will refocus its mission on criminal scheme development and field support for high impact criminal tax and related financial investigations. The PRPO will be responsible for the development of an enterprise vision and strategy for IRS pre-refund activities.</p> <p>The PRP CONOPS developed a PRP lifecycle that features 3 phases (detection, prevention and resolution) and a program management function: The program management function is the coordinating body that handles the strategic planning, research and policy, and internal and external communications activities of the PRP.</p> <p>The detection phase identifies improper</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>refund returns and ensures the timely release of legitimate refunds. Once improper returns are identified, the resolution phase enables disposition of the case based on the issues detected.</p> <p>The resolution phase will utilize a suite of systemic and resource driven treatments to increase the number of cases that can be worked; it will expand treatments options to balance workload and resource capacity, propose treatment options that focus on data-matching and eliminate hand-offs, enhance taxpayer communications by allowing transparency throughout the resolution process, and supports improvement of future pre-refund activities through the capture of outcomes and performance.</p> <p>The prevention phase seeks to eliminate the improper refund returns before they begin.</p> <p>In May 2008, the co-chairs of the FDC Transition Team and the executive leadership of CI and W&I briefed the IRS Deputy Commissioner on the team's recommendations for realigning certain FDC work processes to W&I. Their specific recommendations included aligning to W&I Accounts Management (AM):</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<ul style="list-style-type: none"> • Scanning and Verification • Operation Assistance Requests • Form 4442 Inquiry Referrals • ID Theft Adjustments <p>All parties including the IRS Deputy Commissioner agreed in principle with the team's recommendations, the IRS corporate decision was to defer making any final decision on how or when to realign this work until after the 2009 filing season. The decision was deferred for several reasons, but primarily because W&I is currently facing some tremendous challenges resulting from the 2008 filing season, and expects these to continue into the 2009 filing season.</p>			
2. The National Taxpayer Advocate recommends that the IRS reduce the automatic refund resequencing of 14 days (two Integrated Data Retrieval System (IDRS) processing cycles) to seven days (one IDRS processing cycle). The IRS must also ensure that it notifies all taxpayers of refunds that it freezes beyond the initial resequencing period.	<p>EFDS generates a Transaction 971 action code 052 to resequence the posting of returns that meet the CI workload and resequencing tolerances. This is necessary to give CI Analysts time to screen all refund returns to identify potentially fraudulent refunds.</p> <p>In November 2004, a Request for Information Services (RIS) was submitted to request that the current resequencing timeframe of 1 cycle (7 days) associated with the CI TC 971 AC052 is extended to 2 cycles (14 days).</p> <p>At that time, it was expected that the</p>	No		

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>benefit of extending the resequencing to 2 cycles would increase the false refund deletion rates which at that time was 71%.</p> <p>In 2005, the deletion rate was 77.87% to include, 132,945 .Returns Identified, 103,537 Returns Deleted for a deletion rate of 77.87%</p> <p>In 2007, the deletion rate increased slightly to 78.99% to include 240.406 Returns Identified, 189,915 Returns Deleted for a deletion rate of 78.99%.</p> <p>As of 5/27/08, the deletion rate increased to 83.37% to include 228,693 Returns Identified, 190,673 Returns Deleted for a Deletion Rate of 83.37%.</p> <p>Current Verification statistics indicate that the 2 cycle resequencing has also helped to improve other processes. The number of income documents sent to verification has increased as well as the number of income document verifications completed. Additionally, it should be noted that the percentage of fraudulent income documents completed has increased 35% since 2005.</p> <p>CI currently verifies the return as a</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>legitimate claim or as a “potentially fraudulent” claim within 14 days. On average, 70% are verified within the initial resequencing period. CI completes 89% of all verifications within 35 days.</p> <p>Workload Volumes- Resequenced returns are delayed for a period of two weeks but not all of these returns were held for further verification. The numbers have decreased over the past few years and resequenced returns affect a very small percentage of the population of filers. Per IRS Statistics there were 78,795,000 returns filed as of 3/27/08. The resequencing process has affected only .33% of the filing population (less than ½ of 1%).</p> <ul style="list-style-type: none"> • 2002-1,942,089 • 2003-740,216 • 2004-463,222 • 2005-512,297 • 2006-0 • 2007-506,797 • 2008-266,975 (3/30/08) <p>EIC- The number of EIC filers affected by Refund Crimes processes has also decreased. In 2004, the percentage of fraudulent returns with EIC was 53.84% In 2005, the percentage increased to</p>			

NTA Recommendation	IRS Response	IRS Addressed		TAS Assessment
		Yes/No	Date	
	<p>57.75% However; in 2007 this percentage decreased to 37.71% and is currently at 39.77%.</p> <p>The FDC's provides written notifications as follows:</p> <p>CP05 when the following occurs was implemented in cycle 200611:</p> <ul style="list-style-type: none"> • A return unposts due to an existing prior year CI freeze (TC916/918) • The FDC inputs a P or Z-Freeze <p>This notification informs the taxpayer that the refund is being held for further review. This notice will generate through an automatic process done through master file programming.</p> <p>The notice also informs the taxpayer that if they do not hear from the IRS in three weeks and/or receive their refund that they may call Customer Service.</p> <p>The FDC will also issue CP05A notifications. This notification was implemented in the processing year 2007 and will automatically generate a notice from master file. This file will be extracted through a WMS query and will be placed on a server for automatic notice generation. This notice will be</p>			

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	<p>issued to all filers when their return is verified false and has been added to STARS. The CP05A notice replaces the FDC requirement to send a 4115C letter to all returns being referred to AM, except when multiple documents are involved. In this case, the Memphis FDC will issue Letter 4115C</p> <p>Letter 4115C (Withholding Verification Request) will be issued to all taxpayers whose returns will be forwarded to AM (only in the instance described above involving multiple documents).</p> <p>CI is confident that the 14 day resequencing will have a minimal effect on the overall population of taxpayers. The FDC's have diligently worked to improve their automation processes, thereby improving their overall efficiency and effectiveness. Consequently, there was an efficiency improvement of 59% in the workload transfer process from Processing Year 2007 to Processing Year 2008. Below is a summary of other significant results:</p> <ul style="list-style-type: none"> Identified 126,224 potentially fraudulent claims that were forwarded to AM and Examination for civil disposition. Average fraudulent claim detected was \$5,530 			

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	<ul style="list-style-type: none"> Using EFDS, identified more than 132,000 potentially fraudulent returns claiming more than \$711 million in refunds. Stopped over \$630 million in fraudulent claims. Efficiency improvement of 16% in verification due to centralization of processes Improvement of 51% in the preparation of returns for referral due to automation <p>Additionally, the PRP agrees that taxpayer's legitimately due refunds should have them issued as quickly as possible. However, PRP suggests that metrics should be developed that measure the total time it takes for a taxpayer's proper refund to be paid from the filing date. PRP remains committed to reducing the total time that questionable but good refunds are frozen.</p> <p>These metrics will help IRS measure the planned improvements and make any necessary adjustments.</p> <p>Also The Treasury Inspector General for Tax Administration (TIGTA) in a report on the QRP program, dated May 31, 2007 found that CI's resequencing (that delays refunds for 2 weeks) has</p>			

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	minimal impact on taxpayers, and is an appropriate balance to allow the IRS time to screen refunds for fraud. (TIGTA report "Actions Have Been Taken to Address Deficiencies in the Questionable Refund Program; However, Many Concerns Remain, With Millions of Dollars at Risk" p. 10.) Note this comment is in the public domain.			
<p>3. The National Taxpayer Advocate recommends that the IRS establish a goal of improving its pre-refund case screening criteria, including all available databases such as Electronic Fraud Detection System (EFDS), Dependent Data Base (DDb) and the National Directory of New Hires (NDNH) (from the Department of Health and Human Services (HHS)).</p> <p>We support and recommend that IRS continue in their efforts to improve refund verification, fraud detection and resolution</p>	<p>Criminal Investigation (CI) and the Pre-Refund Program Office (PRPO) collaborated with the EFDS Project Office to identify enhancements to the current case screening criteria for the current year as well as for future enhancements to FY 09. In summary, ELF (non-prisoners) returns deemed as suspicious' scan ratio has an average improvement of 16%. This indicates that the data mining model for 2008 is continuing to do very well. Additionally, the enhancements also resulted in a decrease of approximately 23% fewer receipts and 29% fewer external leads.</p> <p>Redundancy as well as further delay to taxpayers was lessened during current year processing by utilizing a file generated from the Dependent Data Base (DDb) for returns that also hit EFDS. If a return "hit" both systems, the return was not brought into CI</p>	Yes	10/7/08	

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<p>activities by incorporating the business processes and reengineering improvements they have identified when using SSA, IRP, URP and third party, prisoner data files.</p>	<p>workload and eliminated from the EFDS workflow. This reduced workload duplication.</p> <p>The Department of Health and Human Services (HHS) maintains the National Directory of New Hires (NDNH), which is a database that contains up-to-date new hire, quarterly wage, and unemployment compensation information.</p> <ul style="list-style-type: none"> • The National Directory of New Hires (NDNH) (from the Department of Health and Human Services (HHS)) was utilized this year to reduce the volume of verifications. • However, the constraints within this program such as providing information only for electronically filed returns that have earned income tax credit (EITC) issues, as well as, not providing withholding information limits the usefulness of this application. • NDNH data could prove to be a significant validation tool on <i>all</i> EITC filings. • Overall, for the total number of return inquiries sent to HHS and the format in which the responses received were 			

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	<p>substantiated by the CI manual verification process, the indication is that the use of the NDHD program is a successful tool in determining potential fraud or substantiation of income on EITC returns.</p> <p>Additionally, the PRPO identified several business process and reengineering improvements to enhance our utilization of data for improved refund verification, fraud detection and resolution activities:</p> <ul style="list-style-type: none"> • Improved use of SSA data, by the timing and availability of this data. • Expanded use of Information Returns Processing (IRP or AUR) data, to improve the modeling capability and the accuracy of identifying compliant and non-compliant returns. • Increase efficiencies in using third party data from internal and external sources. • Improve use of the prison/prisoner data file. 			