National Taxpayer Advocate 2010 Annual Report to Congress (ARC): The Most Serious Problems (MSPs) Encountered by Taxpayers

2010 ARC – MSP Topic #1 – THE TIME FOR TAX REFORM IS NOW

Problem
The most serious problem facing taxpayers – and the IRS – is the complexity of the Internal Revenue Code.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Congress substantially reform and simplify the Internal Revenue Code.	N/A – Congressional Recommendation		
2. Congress direct the IRS to provide all taxpayers with a "taxpayer receipt" showing how their tax dollars are being spent.	N/A – Congressional Recommendation		

2010 ARC – MSP Topic #2 – THE IRS MISSION STATEMENT DOES NOT REFLECT THE AGENCY'S INCREASING RESPONSIBILITIES FOR ADMINISTERING SOCIAL BENEFITS PROGRAMS

Problem

The IRS's current mission statement does not reflect the significant role the IRS is now playing in the administration of social benefits. From an organizational standpoint, there are substantial differences between benefits agencies and enforcement agencies in terms of culture, mindset, and the skillsets and training of their employees. As the IRS prepares to administer large portions of the health care legislation, it will have to shift from being an enforcement agency that primarily says, in effect, "you owe us" into an agency that places much greater emphasis on hiring and training caseworkers to help eligible taxpayers receive benefits and work one-on-one with taxpayers to resolve legitimate disagreements. Finally, from a budgetary standpoint, the IRS will require additional resources if it is expected to administer benefits programs without undermining its ability to perform its critical tax collection role.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Revise the IRS mission statement to reflect two distinct administrative roles of tax collection and social benefits delivery.	The IRS does not agree that the wording of the mission statement is one of the "most serious problems" faced by taxpayers. The IRS is always open to input from stakeholders on the mission and strategic plan of the agency and we will take into account the views of the Office of the National Taxpayer Advocate on this issue. The concept of administering economic and social benefits through the tax code is an implicit part of running the tax system, not something separate and apart.	No	TAS disagrees with the IRS and continues to believe that the failure to have a dual mission statement amounts to a most serious problem. The IRS's statement that the administration of social benefits is an implicit part of running the tax system is confirmation that the IRS does not realize nor plan to address the competing interests of its two distinct roles. Without a formal acknowledgement of these two separate responsibilities, the IRS will continue to struggle to effectively perform both roles

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			which require different skill sets, cultures and mindsets among its employees.
2. Revise Revenue Procedure 64-22 to include the IRS's responsibility as social benefits administrator.	As discussed above in 2-1, the concept of administering economic and social benefits through the tax code is an implicit part of running the tax system, not something separate and apart. Thus, we do not believe that revisions to the Revenue Procedure are necessary or appropriate.	No	As stated above, TAS does not agree with the IRS's narrative response. Revising the revenue procedure would be the first step to ensure that it can adequate perform, and receive sufficient funding perform, its two distinct roles as tax collector and benefit distributor.
3. Create a program office, headed by a new deputy commissioner position, to provide strategic direction for all social benefit programs.	As discussed above in 2-1, the concept of administering economic and social benefits through the tax code is an implicit part of running the tax system, not something separate and apart. Thus, we do not believe that creation of a new office is necessary or appropriate.	No	TAS does not agree with the IRS's narrative response. Creation of a separate office to administer social benefits would acknowledge the magnitude and distinct nature of its role as social benefit administrator. Furthermore, the creation of an office would enable the IRS to retain a centralized source of stored institutional knowledge which would be valuable in the development of future benefit programs.

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4. Determine which distinct components of social program administration warrant separate sub-program offices.	As discussed above in 2-1, the concept of administering economic and social benefits through the tax code is an implicit part of running the tax system, not something separate and apart. Thus, we do not believe that creation of a new office or sub-program offices is necessary or appropriate.	No	TAS disagrees with the IRS's narrative response as stated above.
5. Conduct a comprehensive evaluation of the administration of previous and existing social programs to determine "Lessons Learned" to add value to the planning and implementation of future programs.	The IRS constantly analyzes its programs and administration of various provisions to determine "lessons learned." This allows us to fine-tune best practices and make improvements in implementing other programs. The IRS continues to analyze administration of all tax provisions -- its review is not limited to those related to social programs.	Partial	TAS does not believe that the IRS has already performed this action. While we applaud the IRS for its ongoing efforts to analyze programs for effectiveness, the National Taxpayer Advocate recommended that the IRS take a comprehensive approach to the analysis of all social benefit programs implemented and administered by the IRS in the past. This type of approach is necessary to build a centralized source of institutional knowledge focused completely on benefits administration. If the IRS organizes the information into an easily accessible format,

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			the IRS could anticipate problems and plan accordingly when it is faced with the task of developing or implementing a new program. The IRS would also be better positioned for meaningful consultations with congressional committee or offices on the strengths and weaknesses inherent in running these programs through the Code. It would also be able to recommend that Congress design statutory provisions in such a way to maximize the effective delivery of benefits and avoid some proven short-comings.

2010 ARC – MSP Topic #3 – IRS PERFORMANCE MEASURES PROVIDE INCENTIVES THAT MAY UNDERMINE THE IRS MISSION

Problem

The IRS employs an extensive set of performance measures. However, a TAS analysis found that the IRS measures place disproportionate emphasis on cycle time. An overemphasis on cycle time creates incentives for IRS employees to take actions quickly, even where doing so produces inaccurate results or delays the final resolution of problems. As a consequence, taxpayers may face inaccurate audit determinations or unwarranted collection actions.

As a separate matter, the IRS measures the return on investment (ROI) of its enforcement activities, but not its taxpayer service activities. Under congressional budget scoring rules, funding for new IRS initiatives is exempt from otherwise applicable spending caps if an initiative is projected to produce an ROI of greater than 1:1. Therefore, because the IRS measures the ROI for enforcement activities but not services, the IRS receives disproportionate funding for enforcement activities. As Congress has given the IRS more benefits programs to administer in recent years (*e.g.,* Economic Stimulus Payments, First-Time Homebuyer credits, Making Work Pay credits, and health care reform), the effects of this incentive are reflected in a decline in critical taxpayer service functions, as discussed elsewhere in this report.

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1. Report disaggregated satisfaction, accuracy, and completeness measures in the quarterly BPRs and consider adding them to enterprise-wide reports.	BPR's and other enterprise reports are utilized only to make high-level assessments of IRS program performance. While operational management will continue to employ an extensive set of measures of satisfaction, accuracy and completeness, there is no clear value in adding further disaggregation to high-level documents.	No	TAS disagrees with the IRS's conclusion that there is "no clear value" in adding disaggregated satisfaction, accuracy, and completeness measures to quarterly BPRs and similar documents. Such metrics could counteract the incentive for IRS programs to place an excessive focus on cycle time.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Report measures in the BPR that reflect the period between the due date of the return and final resolution of any liability (e.g., through full payment, abatement, or compromise), as previously recommended by the National Taxpayer Advocate.	Improving IRS's understanding of the time elapsed between the due date of a return and the resolution of any tax liability is an appropriate topic for research but not for a recurring operational report like BPR. BPR is intended to provide a timely, high-level assessment of IRS program performance, thus it focuses on current measures of operational performance. Developing comprehensive measures of elapsed time across multiple service and enforcement programs is better suited to a dedicated research study.	No	The IRS response seems to mischaracterize the TAS recommendation. TAS did not recommend "improving IRS's understanding" of the time elapsed between the due date of a return and the resolution of any tax liability. We recommended adding such a metric to the BPR. Doing so would improve the incentive for IRS programs to create policies that resolve cases more quickly from the taxpayer's perspective. We believe such a metric could also be helpful in evaluating operational performance.

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3. Report measures in the BPR that reflect the extent to which the IRS's programs completely resolved the noncompliance and prompted the taxpayer to comply in subsequent periods.	The question of whether IRS programs completely resolve noncompliance and prompt future compliance is better suited to a research project than a program measure. We will consider the feasibility of future research in this area, though the effects of any particular program may be difficult to isolate from other factors that drive taxpayer behavior due to the complex nature of taxpayer behavior and the interactions of various IRS activities.	No	TAS disagrees with the IRS's conclusion that the question of whether IRS programs completely resolve noncompliance and prompt future compliance "is better suited to a research project than a program measure." While research in this area would be helpful, the extent to which IRS programs resolve noncompliance would seem to be an important metric that could help the IRS evaluate short term operational performance. For example, if a goal is to provided "one stop" service, the extent to which the IRS's collection program is fully resolving the delinquencies of the taxpayers it encounters should be relevant in evaluating the operational success of the program.

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4. Ensure that the IRS is conducting the research it needs to be able to estimate the ROI of service initiatives.	IRS has begun a Servicewide research effort (with the Office of the NTA's participation) to estimate the impact of our service and enforcement activities on the voluntary compliance of taxpayers. However, this research is unlikely to yield specific revenue estimates, though it will improve our understanding of taxpayer needs to better support voluntary compliance.	Partial	TAS agrees that some research is "in progress." However, our recommendation was for the IRS to ensure that research will enable it to "estimate the ROI of service initiatives." Will the research enable the IRS to do so? The IRS response does not seem to address this issue directly.

2010 ARC – MSP Topic #4 – THE WAGE & INVESTMENT DIVISION IS TASKED WITH SUPPORTING MULTIPLE AGENCY-WIDE OPERATIONS, IMPEDING ITS ABILITY TO SERVE ITS CORE BASE OF INDIVIDUAL TAXPAYERS EFFECTIVELY

Problem
As the largest IRS operating division, Wage and Investment (W&I) supports servicewide operations such as submission processing, toll-free telephones, accounts management, and electronic services. These servicewide responsibilities interfere with W&I's ability to meet the needs of individual taxpayers, who are W&I's core customers. Particularly as the IRS gears up to administer health care reform, W&I's ability to focus on its core mission of serving individual taxpayers must be strengthened. Additionally, we are concerned that the structure of the IRS budget masks the relatively small amount of money spent on taxpayer service activities.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Create a new division under the Deputy Commissioner for Services and Enforcement – Servicewide Customer Account Service. This new division would contain Media and Publications, and CAS.	Delivery of world class taxpayer service is a key component of the work of the IRS and is an essential part of each operating division. The IRS does not agree that creating a fifth operating division would either enable the IRS to better assist individual taxpayers or aid in providing more resources to pre-filing and education activities.	No	The National Taxpayer Advocate does not agree that the processing of tax returns is customer service. Creating of a new division dedicated solely to customer service would allow W&I to focus on its core taxpayer base instead of being distracted by activities that benefit the entire service, such as return processing.
2. Remove funding for Submission Processing from the Taxpayer Services budget and place it in the Operations Support account.	The congressional definition of Taxpayer Service includes funding for "filing services". For the majority of taxpayers, filing their return is their only contact with the IRS. Those taxpayers define effective service as	No	Commissioner Shuman stated "I have been clear since my first day on the job, that I thought transparency and increased information flow were the key to the future of sound, fair and efficient tax

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	timely, accurate processing of their return and, for most taxpayers, delivery of their refund. Conversely, the activities funded by the Operations Support appropriation do not include the outward taxpayer service responsibilities of the IRS. Funding the Submission Processing function from the Operations Support appropriation appears to be contrary to the fundamental purpose and intent of this congressional appropriation. Moreover, we do not believe that moving Submission Processing to another appropriation would materially affect the funding for any other IRS activity, including pre-filing assistance and education. Transferring Submission Processing to another congressional appropriation would not provide any additional resources or funding flexibility for the other activities remaining in the Taxpayer Service		administration. (Tax Executives Institute 60th Mid-year Meeting, April 12, 2010). The inclusion of processing returns is a business requirement that does not provide "taxpayer service" or assist the taxpayer with understanding their rights and obligations under the tax law. Inclusion of return processing in the taxpayer service appropriation paints a distorted picture of how much taxpayer service the IRS performs. Of the $2.3 billion allocated to "Taxpayer Services", the amount allocated for "pre-filing Taxpayer Assistance and Education" is relatively small at only $685 million. (Department of the Treasury, FY 2011 Budget in Brief at 1.)

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	appropriation.		
3. Divide the budget for Field Assistance and other similar organizations that perform both service and compliance activities on the basis of the percentage of their activities that are assistance, outreach, and education as opposed to enforcement or operations support. This will provide a more accurate breakdown of the IRS's budget.	Field Assistance work is primarily in two areas, pre-filing services and account services. The IRS views each of these activities as taxpayer service, and the congressional appropriations for the IRS define each as such. Prorating budget allocations and expenditures for Field Assistance or other "similar" organizations among congressional appropriations would be an extremely costly effort that offers no significant benefit.	No	Responding to criticism from Congress and others in the 1990s that taxpayer service was being neglected in favor of enforcement, the IRS adopted its current mission statement, which begins by saying that the goal of the agency is to "provide America's taxpayers top quality service." As the budget numbers make clear, however, the IRS is currently executing its role as the tax collector by devoting a great deal of resources to enforcement, a great deal of resources to basic overhead functions like the processing of tax returns, and comparatively limited resources to core taxpayer service. The recommendation to move Submission Processing out of the Taxpayer Service account and allocate other functions between Taxpayer Service and Enforcement accounts does not assume that doing so will automatically result in

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			additional funding for taxpayer service activities. However, it will improve understanding of how much of the IRS's budget is spent on true taxpayer service activities and make clearer to Congress.

2010 ARC – MSP Topic #5 – IRS POLICY IMPLEMENTATION THROUGH SYSTEMS PROGRAMMING LACKS TRANSPARENCY AND PRECLUDES ADEQUATE REVIEW

Problem

The IRS needs automation to administer tax laws and tax-based social programs efficiently. Automation can enhance speed, accuracy, and comprehension while promoting consistency and fairness. To be effective, tax policies and procedures administered through automated systems and software applications require transparency, and employee guidance embedded in systems must be reviewed and continually analyzed for proper application. However, not all IRS systems utilize a continuous feedback cycle to assess and update embedded policies. As a result, they may be programmed with incorrect, incomplete, or outdated guidance that harms taxpayers. Further, the IRS may not be fulfilling its duty to update or publish instructions or procedures affecting taxpayers under the Freedom of Information Act (FOIA) and Electronic FOIA (E-FOIA).

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Expand the SPDER clearance process and change standard practices to include a review of IRS systems that include embedded policy decision tools and programs.	The IRS agrees that policy decisions should be transparent and that policy decisions should not be made in the act of programming. The IRS defines policy decisions through the IRM, internal directives, published guidance and other means subject to review. Programming changes are made to effectuate polices that have been previously determined. To the extent inconsistent policy decisions are made in programming, the IRS takes steps to correct the situation.	No	The IRS response does not adequately address our concerns. Policy embedded in systems may not always be correct. However, the IRS provides no check and balance on the programming as it does not release this information to IRS personnel in other operating divisions. Providing a consistent process to disclose and check systems programming will provide transparent and seamless processes that will eliminate harm to taxpayers' and the government's interests.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Provide for the public disclosure of non-OUO embedded policy decision tools and programs needed for transparency.	As stated above, the IRS agrees that non-OUO policy decisions should be transparent and policy decisions that provide the basis for programming are transparent. Necessary transparency takes place distinct from the programming process. Systems may include internal enforcement policies, but are of a type that should not be publically disclosed given their sensitive nature (similar to the OUO portions of the IRM).	Partial	The IRS response does not adequately address our concerns. Non-OUO Policy embedded in systems may not always be correct. However, the IRS provides no check and balance on the programming as it does not release this information to the public at-large. By definition, non-OUO information is not sensitive and does not contain taxpayer information. Non-OUO information should be disclosed as intended by E-FOIA. Providing a consistent process to disclose and check systems programming will provide a transparent and seamless process that will eliminate harm to taxpayers' and the government's interests.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Consider and weigh the benefits of adding an artificial intelligence support system of continuous feedback in new IRS systems to continually assess and improve programming.	The IRS already supports the implementation and use of multiple feedback mechanisms within automated systems and across business processes which are designed to ensure that requirements are being met and to identify continuous improvement opportunities.	Partial	We are pleased that the IRS implements a continuous feedback mechanism in many of its programming and process improvement projects. However, the IRS does not have an organization wide mandate on such practices and leaves much of the implementation and use of feedback mechanisms to the program teams. We suggest the IRS consider creating a programming/systems governance committee to standardize processes to require artificial intelligence and continuous feedback mechanisms in every project. Further, we suggest that review of this data be provided through a clearance process so that every effected operating division has an opportunity to review and comment on the data as its collected.

2010 ARC – MSP Topic #6 – IRS COLLECTION POLICIES AND PROCEDURES FAIL TO ADEQUATELY PROTECT TAXPAYERS SUFFERING AN ECONOMIC HARDSHIP

Problem

Last year, in Vinatieri v. Commissioner, the Tax Court held that the IRS abused its discretion by proposing to levy on a taxpayer with unfiled returns who had shown that she was in economic hardship. More than a year has passed since the Vinatieri decision, yet IRS guidance still does not adequately explain procedures for placing an account with unfiled returns into currently not collectible (CNC) status rather than proceeding with a levy. Thus, vulnerable taxpayers are still exposed to potentially devastating levies.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Continue to work with TAS to revise its IRM and other procedural guidance to clarify that all collection employees are authorized to close tax years with unfiled returns, and place a taxpayer's account into CNC status based on economic hardship, without securing unfiled returns, independently of any other criterion or condition.	All affected IRM guidance on this issue has been revised, or is in the process of being revised. The revised IRM language will clarify that levy action that causes an economic hardship is prohibited, even in instances involving unfiled returns. Employee may report balance due accounts as a financial hardship once it has been determined that is the appropriate action, even in instances in which unfiled returns are present. Employees are also directed to take appropriate action to address the unfiled returns. IRM revisions to 5.1.7 (in clearance), IRM 5.16 (sent to publishing)	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	and IRM 5.19 (completed). IRM 8.22.2.4.2 (completed).		
2. Work with TAS to train collection employees how to manage accounts when the taxpayer is facing economic hardship and submit its 2011 collection CPE training materials on this issue to TAS for review.	The IRS agrees proper training and guidance for our employees is very important and, as such, continually looks for ways to improve. The IRS has drafted training materials to address economic hardship for collection field function employees for delivery in FY 2011 Continuing Professional Education. In FY 2010, the IRS delivered training on how to address economic hardship to Automated Collection System employees, Appeals settlement officers, and Appeals account resolution specialists. Additional training has also been added to 2011 CPE RO training curriculum based on the new Fresh Start initiatives. TAS was not involved in the training, but TAS Counsel did participate in the review of IRM 5.16.1, which is where most of this material came from.	Yes	The IRS has committed to providing training, however TAS was not involved in training development.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Establish quality review procedures that measure whether employees considered the possibility that a taxpayer was in economic hardship and managed the account appropriately.	The current quality attributes and job aid are being reviewed and this area will be included to determine if update or changes need to be made. The Appeals Quality Measurement System (AQMS) Reviewer's Guide revised 10/01/2010 includes specific instructions on the Vinatieri decision for Review Standard 2, Does the Case File Reflect a Quality Decision.	Yes	

2010 ARC – MSP Topic #7 – THE IRS DOES NOT KNOW THE IMPACT OF IGNORING NON-IRS DEBT WHEN ANALYZING A TAXPAYER'S ABILITY TO PAY AN IRS DEBT

Problem

When a taxpayer is unable to pay a tax debt in full, the IRS computes how much it believes the taxpayer can reasonably pay. As part of this computation, the IRS compares the taxpayer's income with the taxpayer's "allowable" expenses and requires the taxpayer to pay the excess, if any. In computing the taxpayer's "allowable" expenses, however, the IRS does not make allowance for taxpayers to pay other debts for which they remain liable. As a result, taxpayers may be required to commit to making payments to the IRS in excess of what they can afford, thereby prolonging unresolved delinquencies, creating hardships, and leaving the taxpayers less able to pay taxes due in future periods.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Study the effect of more realistic financial analysis policies on taxpayer hardship, IA defaults, and future compliance, as described above. As part of this study, the IRS should survey taxpayers who default to find out why.	The IRS does agree to review the current ALE allowance and Financial Analysis standards to determine if the allowance of additional expense amounts would promote taxpayer compliance. In addition, we will consult with research as to whether existing data—i.e., closed cases in which conditional expenses were allowed—can be used to measure this effect.	Partial	

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2. Solicit public comments on the methodology the IRS uses to compute the ALE, how the IRS should apply the ALE, and related policies for conducting financial analysis (including the disallowed debt policy).	Prior to redesigning the ALE standards in 2007, IRS solicited input from practitioners, as well as the Taxpayer Advocate Service as noted in the NTA 2007 Annual Report to Congress. Since 2007, IRS has continued to solicit input on the ALE standards at various presentations, including the Taxpayer Advocacy Panel and the American Bar Association. In 2010, IRS conducted surveys with the IRS Advisory Council and practitioners at the Nationwide Tax Forums to evaluate the effectiveness of the 2007 changes and to seek recommendations for future updates.	No	TAS agrees that the IRS receives comments regarding ALE on a regular basis. However, the IRS does not appear to have specifically and widely solicited comments since 2007, as recommended. Its response to the next recommendation (7-3) seems to acknowledge that it has not done so.

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3. Incorporate the public comments into published guidance that addresses the public's concerns and fully explains the reasons for the policies adopted by the IRS.	While the IRS cannot implement every suggestion, we give consideration to all comments received and will continue to work with SB/SE Research to make improvements to the ALE standards whenever possible. The IRS agrees that the methodology should be transparent. We will consult with our communication function as to appropriate outreach channels, but do not believe that a lengthy formal notice and comment is necessary at this time.	No	

2010 ARC – MSP Topic #8 – THE FAILURE OF THE OFFICE OF APPEALS TO DOCUMENT PROHIBITED EX PARTE COMMUNICATIONS MAY VIOLATE TAXPAYER RIGHTS AND DAMAGE THE PUBLIC'S PERCEPTION OF ITS INDEPENDENCE

Problem

The IRS Office of Appeals (Appeals) was created to give taxpayers facing adverse IRS actions an opportunity to obtain an independent review of their cases. Taxpayers understandably may question whether an Appeals function within the IRS that consists largely of former audit and collection employees will treat them fairly. Largely because of that concern, Congress prohibited one-sided communications between Appeals and other IRS functions that appear to compromise Appeals' independence (i.e., "ex parte communications"). However, less than two-thirds of taxpayers surveyed are satisfied with Appeals' independence, and one in four attorney practitioners surveyed reports an ex parte violation in Appeals. The perception that Appeals tolerates these violations erodes public trust in its independence. Yet Appeals has no method of tracking ex parte violations to determine to what extent they occur. Without this data, Appeals cannot take the steps necessary to reduce ex parte violations and increase public confidence in its independence. In addition, current ex parte guidance takes the form of a Revenue Procedure instead of a Treasury Regulation and does not provide a public notice-and-comment period, thereby denying taxpayers the opportunity to weigh in on rules that are supposed to protect their rights.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Create a system to document ex parte communications in an effort to understand any difference between Appeals' actual compliance and public perception. The documentation system should be non-evaluative to encourage Appeals employees to report even	IRM 8.1.6.3, Ex Parte Communications, is currently being strengthened to include instructions for Appeals technical employees related to: (1) Documenting ex parte communications in CARATS; (2) Notifying their manager of potential or actual prohibited communications; and (3) The manager's responsibility to consider whether it is	No	The IRS's response, while extensive, does not speak to the heart of the recommendation--that is, the need for Appeals to tune into the difference between its actual compliance with the rules governing ex parte communications and public's perception of its compliance with those rules.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
suspected violations.	appropriate to reassign the case. The IRS does not believe such a stand alone, self-reporting recordation system is necessary or warranted. IRS' extensive and thorough quality review process already tracks prohibited ex parte communications. The results for AQMS Reason Code 1.F.5, Ex parte guidelines weren't followed, for which the Reviewer's Guide clearly defines prohibited ex parte communication, is sufficient. Employees are required to document their activities, inclusive of communications, whether oral or written with internal and external parties, on a contemporaneous basis. In accordance with Rev. Proc. 2000-43 Q-A 28, Appeals managers monitor compliance with ex parte requirements during their day-to-day interaction with employees, and during workload reviews and closed case reviews. This management involvement and		

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	oversight is further emphasized in the Management Engagement (GME) concept outlined in IRM 1.4.28.2, Management Engagement. IRM 8.1.3.2.7 requires Appeals technical employees to use the Case Activity Reporting and Automated Timekeeping System (CARATS), a subsystem of the Appeals Centralized Database System (ACDS), to "control their inventory, record case activities, record time spent, and establish follow-up actions, etc." on a contemporaneous basis. IRM Part 8, Appeals, contains dozens of specific instructions for technical employees to "document" contacts, meetings, actions, events, verifications, receipts, plans, etc. IRS will continue to enhance its IRM revisions and training to ensure that all employees are fully aware of their responsibility to discuss/alert their manager to any potential ex parte violation. The manager is responsible for determining whether a		

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	prohibited ex parte violation occurred and for taking the appropriate action, including the potential reassignment of the case to another technical employee.		
2. Track reported ex parte violations and the surrounding facts and circumstances to serve as the basis for improved policies and procedures to reduce actual ex parte violations.	Ex parte contacts, in conjunction with other quality data, are reviewed under AQMS. Appeals AQMS effectively identifies whether and the extent to which ex parte communications occur. Appeals continually takes steps to improve upon training as well as enhance policy/procedural guidance to ensure that employees understand their responsibilities. Appeals will update IRM policy and procedures with additional guidance on ensuring the manager is consulted if a potential ex parte communication occurs and appropriate steps are followed. (see 8-1).	No	The IRS response indicated that Appeals has already implemented the TAS recommendation. However, we are not aware of any changes to Appeals business practices to track ex parte violations (i.e., to serve a basis for policy and procedural changed targeting the reduction of ex parte violations).
3. Conduct focus group and survey research to determine how the public	While this particular recommendation is not adopted, feedback received from external	No	

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defines prohibited ex parte communications, and how it influences perceptions of independence and the public's willingness to utilize the Appeals process.	stakeholders is valued and considered by IRS when establishing policy and procedures in this area. In FY 2010 alone, IRS participated in hundreds of outreach efforts delivering over 100 presentations on the subjects of Appeals' independence and ex parte communications to external stakeholders and IRS personnel. Appeals also participates in the annual IRS Tax Forum to discuss the Appeals process and procedures including Ex Parte Communications and Independence and answers questions from participants at the Forum. IRS has also invited external stakeholders to discuss their views, perceptions and experiences on Appeals' independence and ex parte communications. IRS welcomes stakeholder input. The public's willingness to utilize the Appeals process is demonstrated by the significant continual rise in Appeals inventory. During FY		

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	10 Appeals' receipts increased 8.4%. FY 2011 receipts through 5/31 are on pace to exceed FY10 by another 5%.		
4. Develop a public information campaign based on the findings of the above research.	IRS already participates in extensive outreach efforts and incorporates feedback from external stakeholders in its organizational planning. External and internal feedback is considered in drafting updates to the IRM and training. In addition to our extensive outreach efforts, an audio podcast with accompanying text entitled, "Ex Parte: Understanding a key step in Appeals' review of your case," was added to the Appeals page on the IRS web site to provide information to taxpayers about ex parte communication.	No	
5. Re-design the AQMS review standards to separate ex parte violations from the privacy and disclosure elements.	IRS already uses a distinct AQMS Review Criteria to isolate compliance with ex parte communication requirements. AQMS Review Criteria 1.F.5 provides IRS with exclusive ex parte communication compliance data.	Yes	

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6. Elevate the current ex parte guidance to a Treasury Regulation, ensuring that any new regulation uphold and protect taxpayers' rights.	RRA § 1001(a) charged the Commissioner with reorganizing "the structure and management of the Internal Revenue Service." Matters regarding the "structure and management" of IRS are more appropriately set forth in a revenue procedure. Protecting taxpayer rights is a core consideration for every policy and procedure. The U.S. Department of Treasury and IRS recognized the importance of public comment in developing the original procedures. Public comment was invited through Notice 99-50 and was incorporated into Revenue Procedure 2000-43.	No	
7. Assist other IRS business units with ex parte compliance through joint training initiatives.	Appeals participated in drafting a revision to Rev. Proc. 2000-43. Once the revision is published, Appeals will support IRS efforts and assist other IRS business units as needed.	Yes	

2010 ARC – MSP Topic #9 – THE IRS'S FAILURE TO PROVIDE TIMELY AND ADEQUATE COLLECTION DUE PROCESS HEARINGS MAY DEPRIVE TAXPAYERS OF AN OPPORTUNITY TO HAVE THEIR CASES FULLY CONSIDERED

Problem

Congress established Collection Due Process (CDP) hearings to provide taxpayers with an opportunity to have IRS lien filings or proposed levy actions reviewed by an independent Office of Appeals (Appeals), to ensure that "any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive then necessary." In practice, the IRS frequently issues CDP notices without verifying the taxpayer's liability or adequately analyzing his or her ability to pay. In addition, the IRS routinely asks taxpayers to withdraw their CDP hearing requests upon resolution of their cases, which imposes pressure on taxpayers and may cause them to forfeit their judicial review rights if their problems are not ultimately resolved. The IRS has no measures to determine whether delays or inadequate CDP hearings increase the IRS's downstream costs of collecting taxes, or impair future taxpayer compliance.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. The IRS should require substantial efforts at telephone or in-person contacts before proposing levies or filing liens, to identify taxpayers who are able to pay.	Personal contact is an important tool for helping taxpayers return to compliance. In striving to contact the greatest number of taxpayers as early as possible in the collection process, we consider the entire collection system, including our notice process and our campus operations. We have designed our treatments to direct as many taxpayers as possible to the least invasive and least burdensome option possible. We believe that a balance	No	The IRS response does not adequately address our concerns. Both the Automated Collection System and the Collection Field function have the capability to perform outcalls before taking intrusive and burdensome collection actions against taxpayers. The benefits of personal contact before issuing a notice of intent to levy or filing a notice of federal tax lien is twofold. First, it provides the IRS an

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	between prompt attention and appropriate treatment streams will ultimately secure payment of as much of the delinquent tax as possible. The IRS uses several resources to ensure our records reflect a taxpayer's most current address. In any instance, the IRS issues a final notice of intent to levy and notice of a right to a CDP hearing before taking enforcement action. The notice must be given to the taxpayer, left at the residence or place of business, or sent by certified mail. Further, annual TIGTA reviews have consistently verified IRS compliance with lien notice requirements. Therefore, we believe existing IRS policy and guidance properly address the need to ensure contact with a taxpayer has been attempted prior to filing an NFTL or issuing a levy.		opportunity to warn taxpayers of impending collection activity so taxpayers may make arrangements to avert such activity. Second, it gives the opportunity for the IRS to build relationships with taxpayers, which enhances taxpayer service. The report indicates that Collection personnel are frequently not working cases or contacting taxpayers before taking enforcement action. While some taxpayers may succumb to enforcement, many taxpayers become disgruntled and drop out of the tax system thereby becoming noncompliant. Compliance is the duty of every IRS operating division, including Collection, and as long as the IRS employs its current enforcement approach, Collection contributes more to the problem than to the solution.
2. Appeals should be the point of contact for all	IRS believes this is not appropriate for several reasons,	No	The IRS response does not adequately address our

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
CDP hearing requests, should route cases to IRS Collection when necessary to attempt resolution, and should issue agreed decisions or determinations, rather than obtain withdrawals, to preserve taxpayers' rights to review of collection actions and the balancing provided under the law.	including: 1. It implies taxpayers are more interested in judicial review than in reaching a mutually agreeable resolution to their tax problem. IRS believes that taxpayers are interested in resolving their cases earlier in the process. 2. It would set a precedent that Appeals is the starting point for taxpayer interaction with the IRS rather than the traditional role of Appeals entering the process to resolve a dispute involving an issue that is well-developed between two parties. 3. This is contrary to Appeals' mission of resolving tax controversy. If the parties entered into a satisfactory resolution, there is no dispute at issue and hence Appeals should not be included in the process. 4. It may create an environment under which notices of intent to levy and notices of filing of federal tax liens will be issued even earlier in the collection process and with less contact than current practices, which negatively		concerns. Congressional intent is clear that IRS Collection should already have a plan to collect before issuing CDP notices, and that Appeals, rather than Collection is responsible for handling CDP requests. The current process involves issuing CDP notices very early in the process before taxpayers have any contact with the IRS. It confuses taxpayers, and clouds Appeals independence when taxpayers request a hearing with Appeals and then are contacted by Collection. We agree that Appeals should not be the first stop for taxpayers in the Collection process. However, current Collection practices result in more undeveloped cases arriving in Appeals, because Collection personnel believe if they delay a levy, or do not file a lien, they will not make their enforcement numbers. If Appeals received CDP

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	impact taxpayers. 5. If a taxpayer enters into an installment payment plan, a formal CDP Notice of Determination explaining Tax Court petition rights and deadlines would only serve to confuse the taxpayer. Many taxpayers clearly state on their CDP hearing request the resolution they are seeking. When issues raised are unambiguous and routine, Collection employees can explain the requirements to the taxpayer and address such issues more quickly than if the taxpayers are required to go through the formal Appeals process only to end up with the same result. By retaining the case in Collection after a CDP hearing request is received and continuing to work with the taxpayer to reach a mutually agreeable resolution, the IRS is facilitating a quicker resolution for the taxpayer and is also following § 301.6330-1(c) of the Treasury Regulations. When a		requests before Collection, Appeals could serve as the check and balance on case development and could perform their ultimate task in CDP, which is verification that applicable law and procedures have been met. The IRS's assertion that Appeals handling of CDP requests would cause the CDP notice to be sent earlier in the process and would lead to longer resolution times is unsupported. We suggest that the IRS study this assertion by conducting a test, which would permit Appeals to handle a certain amount of requests. As for issuing determinations for cases settled by Collection or Appeals, we are not opposed to issuing summary determinations without Tax Court appeal rights provided that Appeals is completing verification of the law and procedures, and considering the appropriateness of the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	taxpayer is willing to work with ACS Support (ACSS), and ultimately agrees to a resolution that is satisfactory to him/her, only then will ACSS ask if they wish to withdraw their CDP hearing request. ACSS cannot withdraw a CDP hearing request on its own without a formal written request for withdrawal from the taxpayer. The taxpayer does not have to submit the withdrawal and their resolved case is forwarded to Appeals. This process encourages the quickest resolution for the taxpayer at the lowest level. Current procedures in IRM 8.22.2. already instruct the Appeals hearing officers to not solicit a withdrawal in a case in which an agreement is reached.		resolution. The ultimate form of the determination would be up to the taxpayer not Collection or Appeals. While the regulations permit the current procedures being used to resolve CDP cases, the regulations are not mandatory and in no way ensure that taxpayers receive a quicker resolution intended by Congress.
3. ACSS should obtain customer satisfaction survey data for the CDP cases it works by partnering with Appeals to add questions regarding ACSS services to the Appeals customer	Actions taken by ACSS employees are not part of the Appeals process and there is no reason to include such actions as part of the customer satisfaction survey of a taxpayer's personal Appeals experience. SBSE and/or W&I	Partial	We are pleased that the IRS will seek other methods to obtain data on ACS Support's handling of CDP cases. However, the IRS response does not adequately address our concerns. While the IRS may see clear lines separating

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
satisfaction survey.	are responsible for determining the best way to gather customer satisfaction data for their ACSS operations. This recommendation would blur the line of distinction between Collection and Appeals and compromise Appeals' independence. This would also give the taxpayer the wrong impression by appearing as if Appeals in not independent but rather a part of ACSS. The ACS customer satisfaction survey is designed to be conducted for ACS call sites during phone calls. This is all handled electronically through the call site telephone system. ACS Support is an operation that supports the ACS call sites by processing paper documents generated as a consequence of an action by the call site, or responding to correspondence from taxpayers prompted as a result of contact with an ACS call site.		each distinct function, the appearance of the entire CDP process to taxpayers should be seamless and transparent. Taxpayers involved in the CDP process are the best critics of what works and what does not. The IRS has already blurred the distinction between Appeals and the IRS in the CDP process by having Collection personnel respond to requests for CDP hearings. The IRS would benefit from customer satisfaction data on the CDP process, and could ask taxpayers if the process did, in fact blur Appeals independence from the IRS.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	IRS will look for other ways to gather information that may reflect or impact satisfaction of the taxpayers that directly interact with ACS Support such as determining if additional data can be extracted from our quality systems and monitoring the results of local site CDP quality reviews.		
4. Appeals should revise its notices and procedures to clearly inform taxpayers about the types and alternative location of hearings, including Form 12153, Request for a Collection Due Process or Equivalent Hearing, to allow taxpayers to select their preferred type of hearing.	IRS offers taxpayers multiple opportunities to select their preferred type of hearing with both the Uniform Acknowledgement and Substantive Contact Letters. Administrative procedures in IRM 8.22.2.2.6(7) and IRM 8.22.2.2.6.4 ensure taxpayers receive meaningful hearing in whatever manner the taxpayer chooses.	Partial	We applaud the IRS for offering multiple hearing formats. However, the IRS response does not adequately address our concerns. The IRS has a great opportunity to find out what type of hearings taxpayers want at the time of the hearing request. This information could be collected and used as support for Appeals to justify greater emphasis on structuring the Appeals organization according to the wishes of its customers, the taxpayers who are requesting hearings.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
5. Appeals should track field and campus CDP sustention and taxpayer default rates following CDP determinations.	IRS does not track Appeals "sustention rates." The appeal process is too complex to merely rate a case as "sustaining" or "not sustaining" the government's position. Taxpayers often raise multiple issues when requesting a CDP hearing resulting in agreements reached for some but not all issues raised. CDP cases also often arrive in Appeals with no meaningful prior taxpayer contact or case development and thus no solidified issue in dispute to either "Sustain" or "Not sustain."	No	The IRS response does not adequately address our concerns. Appeals routinely issues determinations sustaining or not sustaining IRS Collection actions. The IRS could use aggregate sustention information and defaults on certain collection alternatives after Appeals to identify opportunities to avoid future taxpayer noncompliance. The IRS relies on anecdotal information to assert that taxpayers raise multiple issues. Perhaps, if it tracked the issues raised by taxpayers, the IRS could pinpoint training to resolve those issues before an appeal is necessary.

2010 ARC – MSP Topic #10 – THIRD-PARTY REPORTING OF CANCELLATION-OF-DEBT EVENTS IS NOT ALWAYS ACCURATE, AND THE IRS'S RELIANCE ON SUCH REPORTING MAY BURDEN TAXPAYERS

Problem

When a lender cancels a debt, the lender must report the amount of the canceled debt to the IRS and the borrower is generally required to include the reported amount in gross income. As a general matter, the IRS assumes that when a creditor files a Form 1099-C, *Cancellation of Debt*, the creditor is reporting the actual cancellation of a debt and the amount shown on the form is correct. The IRS's document-matching system may generate notices, proposing additional tax due, to taxpayers who fail to report these amounts as income. However, the IRS's assumptions that a debt was canceled and the amount reported by lenders is accurate may be incorrect for any of these reasons:

- Creditors sometimes issue a Form 1099-C because Treasury regulations provide an incentive to do so or as a means of pressuring a debtor to pay – even where they are not canceling the debt;
- Creditors sometimes make errors on the form that debtors then may have to wage an uphill battle to correct; or
- IRS automated systems cannot distinguish taxpayers with canceled debts who have additional income and owe additional tax from taxpayers with canceled debts who are insolvent, have no additional income, and do not owe additional tax. As a consequence, the IRS may sometimes deny legitimate Earned Income Tax Credit (EITC) claims because it believes the taxpayer's income is too high.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Revise the IRC § 6050P regulations to better align the Form 1099-C reporting requirements with actual cancellation of debt.	The IRS agrees that the Internal Revenue Code (IRC) § 6050P regulations should better align the Form 1099-C reporting requirements with actual cancellation of debt. In 2009, the Treasury Department issued amended regulations, narrowing the scope of the 36-month rule. Now the 36-month rule only applies to the entities originally subject to IRC § 6050P, such as	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	banks and credit unions. The regulations expressly state that discharged indebtedness must be reported regardless of whether the debtor is subject to tax on the discharged debt under IRC §§ 61 and 108 or otherwise by applicable law. The instructions for the Debtor on Form 1099-C also state that some canceled debts may not be included in income. We believe this makes it clear to the creditor, debtor, and the IRS, that receipt of a 1099-C does not necessarily translate into a receipt of income. We will continue to assess if additional changes are appropriate.		
2. Revise Form 1099-C to require the creditor to specify the identifiable event that triggered issuance of the form, to specify the type of debt it was issued for (e.g., real estate, automobile, credit card, or other debt), and to affirmatively state whether a debt was	The IRS agrees to revise Form 1099-C to require the creditor to specify the type of debt for which it was issued. The AUR program currently utilizes the information provided on box 4 (Debt Description) of the Form 1099-C to determine the type of debt the creditor considers canceled. While a more specific description of the debt may be	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
actually canceled.	useful, it will not allow the IRS to determine whether the taxpayer was insolvent. We currently disagree with the second half of the recommendation to revise Form 1099-C to require the issuer to affirmatively state whether a debt was actually cancelled. Treasury Regulations under IRC § 6050P specifically provide that a discharge is deemed to have occurred if an identifiable event has taken place. Any statement on Form 1099-C that the debt has not actually been cancelled would be contrary to this position and would require a regulatory change. The IRS will submit a request to the IRS Chief Counsel's Office to amend IRC § 6050P guidance to better align the Form 1099-C reporting requirements with actual cancellation of debt. The submission of our request will close the corrective action and be shown as implemented. The Chief Counsel's Office and Treasury Department will review		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	our request and decide whether to amend the regulations. Accordingly, IRS cannot give a date upon which such amended regulations, if issued by the Treasury Department, would be effective.		

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Include the insolvency worksheet that appears in Publication 4681 when it sends taxpayers a Notice CP 2000 based on a Form 1099-C.	The IRS disagrees with this recommendation to include the insolvency worksheet when it sends taxpayers a Notice CP2000 based on a Form 1099-C. The CP2000 refers the taxpayer to the forms and publications that they should review to determine the appropriate action for their circumstance. As was previously recommended, the drop-in paragraph relating to cancelation of debt (Form 1099-C) was revised to refer taxpayers to Publication 4681 which contains the worksheet. We will also add information to the new irs.gov webpage we are developing as part of the CP2000 redesigned effort. We believe the information in the Publication 4681, which includes the worksheet, provides taxpayers the information they need to comply with the law and exclude the cancelled debt from their income, if applicable.	No	Subsequent discussions with affected operating divisions indicated additional reasons for not adopting the recommendation, such as the competing interest in reducing and simplifying IRS correspondence to taxpayers.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Analyze, in collaboration with TAS if preferred, a sample of taxpayers who were issued a Notice CP 2000 on the basis of a Form 1099-C. To the extent there is a correlation between income and insolvency for that population, adjust the document-matching program (Automated Underreporter) to identify taxpayers who insolvent and are therefore not required to include in income amounts shown on a Form 1099-C.	The IRS agrees to pull a valid sample of taxpayers who were issued a Notice CP 2000 on the basis of a Form 1099-C. To the extent possible we will determine whether a correlation exists between income and insolvency for that population and consider adjustments to the document-matching program if appropriate. The IRS only has access to third party documents, the data available to AUR does not allow the IRS to determine insolvency for individual taxpayers based on taxpayers who were issued a Notice CP 2000 on the basis of a Form 1099-C.	Yes	

2010 ARC – MSP Topic #11 – THE IRS'S FAILURE TO TRACK AND ANALYZE THE OUTCOMES OF AUDIT RECONSIDERATIONS AND INCONSISTENT GUIDANCE INCREASE TAXPAYER BURDEN AND INFLATE IRS AUDIT RESULTS AND COST EFFECTIVENESS MEASURES

Problem

The IRS uses the audit reconsideration process to reevaluate the results of previous audits where additional tax was assessed and remains unpaid or a tax credit was reversed. Although the number of audit reconsiderations and tax abatements has significantly increased over the past three years, the IRS does not measure the impact of the growing number of audit reconsiderations and does not use the outcomes to improve procedures for original audits. Moreover, the IRS's failure to adjust its audit data to reflect the results of audit reconsiderations has served to inflate audit results and cost effectiveness measures. Audit reconsideration results differ from original audit results for a variety of reasons, including more automated processes with less human interaction, mail handling delays, and inconsistent, ambiguous, and often contradictory forms, publications, and IRM provisions.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Develop a method to control and track audit reconsideration results including the cycle time from all assessment sources.	Based on system limitations this recommendation cannot be adopted at this time. It should also be noted that the volume of reconsiderations cited in the MSP includes reconsiderations from all of the following sources, AUR, ASFR, Campus Exam, Area Office Exam and Appeals. The AUR and ASFR programs, based on Policy Statement 4-3 which states certain contacts are not considered examinations (audits), should not be considered when discussing audit reconsiderations.	No	The National Taxpayer Advocate believes that reprogramming AIMS is the optimal and most effective method of tracking audit reconsiderations. However, she acknowledges that budget constraints must be considered in system reprogramming requests, and would support any cost-effective alternative method of measuring audit reconsideration closure results and cycle time. TAS offers its assistance in developing such

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	Examination, Campus and Area Office utilize AIMS to track their inventory and program accomplishments. In addition to AIMS, Campus Exam utilizes CEAS to track reconsiderations. Enforcement Revenue Information System (ERIS) is the only system available and currently used to track reconsiderations from all programs. Campus Exam will continue to communicate with ERIS to identify programming changes that would better track and monitor Campus Exam Reconsiderations, but at this time, the functionality is not available.		a method.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Institute a program of reviewing representative samples of audit reconsiderations from CEAS to analyze the reasons for and the outcomes of audit reconsiderations and identify program and policy changes for underlying correspondence examination procedures.	Campus Exam is conducting a program review of the audit reconsideration process. Incorporated in the program review is a representative sample of reconsideration cases to identify the primary reasons for the reconsiderations and to determine if deficiencies exist in the correspondence examination process. The original audit and reconsideration administrative files are being reviewed to identify reasons, trend or deficiencies, if any, in the original correspondence examination process. Upon completion of the case reviews, recommendations based on the findings will be considered and corrective actions implemented to the correspondence examination and reconsideration process.	Yes	The National Taxpayer Advocate is pleased with the IRS's agreement to analyze the outcomes of audit reconsiderations and is looking forward to reviewing preliminary findings from this effort. However, she is concerned that the IRS has not provided timeframes for completion of this analysis.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Clarify guidance in publications and instructions that taxpayers can use Form 12661, Disputed Issue Verification Resolution, to request audit reconsideration in writing.	AUR and ASFR do not use F12661 to facilitate a reconsideration. Campus Exam is conducting a program review of the reconsideration process. Incorporated in this review is a major rewrite to the current IRM procedures and review of the forms and publications used during the reconsideration process. IRM guidance and publications will include clarification on the use of Form 12661, Disputed Issue Verification Resolution in Campus Exam.	No	The response states that the IRS would not use a separate, stand-alone form for audit reconsiderations from all sources. Instead it states that AUR and ASFR do not use Form 12661. The response does not reveal plans to develop another form taxpayers can use to request an audit reconsideration. Therefore, the response should be changed to "NTA Recommendation Not Adopted." The National Taxpayer Advocate remains concerned that in the absence of a standardized form, designed specifically for taxpayers requesting audit reconsideration, the variety of methods for requesting an audit reconsideration can confuse taxpayers.
4. Revise Publications 5 and 3598 as well as Letters 3340C, 2626 (DO), and 2738 (DO), to provide clear, non-circular instructions for appealing	As discussed above, Campus Exam is conducting a program review of the reconsideration process. Incorporated in this review is a review of all letters and publications. Publication	Partial	The National Taxpayer Advocate appreciates the IRS's willingness to clarify its publications, letters, and forms regarding audit reconsiderations, and looks

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an audit reconsideration denial and a mailing address to submit requests for audit reconsideration and appeal.	3598 is used to convey information about audit reconsiderations. Campus Exam is in discussion with Appeals to revise Publication 3598, *What You Should Know about the Audit Reconsideration Process,* to incorporate Publication 5, *Your Appeal Rights and How to Prepare a Protest If you Don't Agree*, instructions on how to request an appeal on a reconsideration case into Publication 3598. This will provide taxpayers with clear instructions and information on the reconsideration process and subsequent appeals. All letters used in the Campus Exam reconsideration process, including 3340C, were revised and available for use effective March 7, 2011. Any subsequent letter changes identified as a result of the program review will be made accordingly.		forward to reviewing the changes. However, she is concerned that the IRS's response does not specify the due dates of revisions, and that the suggested changes have not been shared with TAS to determine whether the changes fully address the National Taxpayer Advocate's concerns.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
5. Clarify guidance regarding collection holds during an audit reconsideration.	IRM 4.13, Audit Reconsideration, is being revised to ensure consistency and clarity. Any areas that need clarification, including when collection holds should be placed on accounts in the audit reconsideration process will be clearly defined. IRM 4.2, General Examining Procedures, and 4.10, Examination of Returns, are in the clearance process. IRM 5.1.15, Abatements, Reconsiderations, and Adjustments, provides an overview of the various types of reconsiderations that may be identified during the collection process. This IRM currently addresses the required collection suspension on the amount being considered for an adjustment. We will continue to perform our yearly review of IRM 5.1.15 and based upon the results of our review/analysis revisions will be made to the IRM as deemed necessary.	Partial	The National Taxpayer Advocate appreciates the IRS's willingness to clarify IRM provisions regarding audit reconsiderations and looks forward to reviewing the changes. However, thus far, the IRS has not shared suggested internal guidance changes regarding collection holds in the context of an audit reconsideration with TAS and has not specified the completion due dates of these changes.

2010 ARC – MSP Topic #12 – PERSISTENT BREAKDOWNS IN POWER OF ATTORNEY PROCESSES UNDERMINE FUNDAMENTAL TAXPAYER RIGHTS

Problem

The Internal Revenue Code provides taxpayers with the right to designate a representative to represent the taxpayer in dealings with the IRS. Yet IRS processes and systems designed to recognize and record power of attorney (POA) form information continue to frustrate taxpayers and their representatives when attempting to comply with filing and payment responsibilities. Problems associated with POA processing can lead to a lack of representation, adverse IRS action (*i.e.,* unnecessary liens and levies), and lengthy delays in processing tax returns and refunds. Additionally, POA processing delays and systemic glitches curtail the ability of Low Income Taxpayer Clinics (LITCs) to represent taxpayers before the IRS.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. The IRS should establish a process of gathering and tracking taxpayer and POA complaints on direct contact violations and provide mandatory annual training for all contact employees.	The IRS recognizes that a single violation of the provisions of IRC § 7521 is a matter of concern. However, due to the very small number of complaints involved, establishing a separate and dedicated system to gather and measure complaints on this issue, and providing mandatory annual training for all contact employees, would entail significant costs. The IRS currently dedicates a significant amount of guidance, training, and monitoring for employees and will continue to take steps to ensure employees are adhering to the rules regarding taxpayer	No	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	rights and POA procedures.		
2. The IRS should implement a Correspondence Imaging System (i.e., a paperless fax) or alternative system to prevent lengthy CAF delays and potential adverse actions to taxpayers.	The IRS agrees that a Correspondence Imaging System (i.e., paperless fax) should be implemented for use by the CAF Unit, and we attempted to implement such a system in 2010. However, our efforts were unsuccessful due to budgetary constraints. The IRS is currently exploring options, such as the Enterprise e-Fax Solution, to find alternative methods that would allow electronic inventory management and enhance the efficiency of the CAF unit in 2012. This will also allow for the IRS to fully automate acknowledgement of POA receipts. IRS anticipates completion of this action by September 2012.	Partial	While the IRS agrees with the TAS recommendation, budgetary constraints prevent it from implementing.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. The CAF unit should timely acknowledge receipt of all POA forms to prevent costly rework when a POA cannot determine if his or her request is being processed in a reasonable time.	The IRS agrees that the CAF Unit should timely acknowledge receipt of all POA forms and is currently exploring options, such as the Enterprise e-Fax Solution for 2012. This alternative method will allow electronic inventory management and enhance the efficiency of the CAF Unit. By implementing this solution, the IRS will be able to fully automate acknowledgement of POA receipts as recommended. IRS anticipates completion of this action by September 2012.	Partial	While the IRS offers a viable solution, the response does not accurately reflect IRS statement because the e fax system still has not been implemented and POA's continue to report lack of response, errors and still are not receiving confirmation that the POA was received. Until the IRS implements an electronic inventory system the IRS will continue to contribute to its own backlogs.
4. The IRS should, by the close of FY 2011, finalize implementation of dual address change letters alerting employers that a third party has initiated a change of address in cases where the third party payer has access to the client employer's funds.	As acknowledged by TAS, the IRS created a team to respond to this issue which was originally included in TAS-07-ARC-001MSP/22/6/1. The Team's charge is to research the feasibility of implementing change of address notices to all businesses that use a third-party payer. The Team is comprised of Collection, Specialty Programs Employment Tax, TAS, Submission Processing, Counsel and SBSE	Partial	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	Research. The Team received Office of Chief Counsel advice noting that the change of address notices may only be sent in limited circumstances when the IRS has reason to believe that the address change was not authorized by the taxpayer. Once this advice was received, the Team began discussing options for more accurately identifying employer accounts involving third-party payers, and requested and received data from SBSE Research to help the Team determine how many changes of address are input yearly. The Team has completed analysis of the data and plans to make a determination by the close of FY11 as to whether potential options to address this issue, consistent with Counsel's advice, exist.		
5. The IRS should create a POA form specifically for LITCs to allow the clinic director, as a primary representative, to	In the past, the IRS has responded to TAS concerns by implementing changes designed to alleviate LITC burden. For example, we automated the	Partial	While the IRS did not adopt our recommendation, they have taken steps to alleviate the underlying problem.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
substitute student POAs at the end of an academic term with new students.	Form 2848 revocation process eliminating LITC requirements to revoke student Form 2848s each semester. We also extended the representational authorization period from 90 to 130 days to better accommodate average semester length. OPR continues to work with TAS on LITC/STC issues. In response to this recommendation, OPR eliminated the requirement that LITCs/STCs provide student names when requesting a Special Authorization. This allows LITC/STC directors to substitute students without submitting another authorization request to OPR. It also prevents rejection of student Forms 2848 due to student list authentication issues. Although the IRS cannot agree to create a separate Form 2848, we hope the above changes are of value to you and the LITCs/STCs. We will continue to work with TAS to reduce burden where possible.		

2010 ARC – MSP Topic #13 – IRS COLLECTION POLICIES CHANNEL TAXPAYERS INTO INSTALLMENT AGREEMENTS THEY CANNOT AFFORD

Problem

If a taxpayer owes $25,000 or less and agrees to pay the liability in full within five years (and before the collection expiration date), the IRS may accept a "streamlined" installment agreement (IA) without regard to the taxpayer's ability to pay. Streamlined IAs are an appropriate tool for resolving many delinquencies. However, *an IRS study found that more than a quarter of taxpayers requesting streamlined IAs could not afford them*. Moreover, the IRS sometimes places taxpayers into streamlined IAs without their consent – a practice that may *violate the law*. As a result, some taxpayers may be unable to meet basic living expenses or fall behind on their tax payments in the future.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Discontinue the practice of putting taxpayers who have requested a specific IA payment into IAs that require a higher payment without the taxpayers' express consent.	The IA letter (developed with the assistance of TAS) sent to the taxpayer provides the taxpayer the option of contacting the IRS and not pursuing the IA, but instead to make other arrangements if the amount recommended is not acceptable. Discontinuing this process would increase burden on both the taxpayer and the Service. An analysis of Streamlined Installment Agreements (SIA) meeting this criteria revealed that only minor differences exist between the IRS SIA amount and the amount requested by the taxpayer.	No	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Work with the Office of Chief Counsel to ensure the IRS is processing IAs lawfully.	The Service maintains an open dialogue with TAS and Counsel on all IA issues. Existing IA practices are legally conforming.	No	TAS is not confident that the IRS Office of Chief Counsel regards the IRS's current procedures as lawful. Counsel's last public pronouncement regarding the program raised significant concerns. See National Office Program Manager Technical Advice, PMTA-2009-2032 (Nov. 26, 2008) (raising concerns the IRS's practice may (1) violate the statutory requirement that IAs be in writing, (2) cause collection of the IA user fee to be improper, and (3) create uncertainty as to when a levy is prohibited).

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Revise the streamlined IA acceptance form letter to explain that the taxpayer should contact the IRS to request another collection alternative such as a regular IA, PPIA, or offer if he or she cannot make the payments for any reason.	The IRS agrees to consider revising the installment agreement acceptance letters and other publications and letters to further educate taxpayers about other collection alternatives. IRS recently revised many of the letters and forms to make them easier to understand as part of the TACT program. IRS agrees to review suggestions for improvements to installment agreement correspondence to ensure sufficient educational material is provided. The current revisions of the IA acceptance letter informs the taxpayer to contact the Service if he or she cannot make the payments for any reason. Alternatives can be discussed when the taxpayer contacts the Service.	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Collaborate with TAS to study the impact of collection alternatives, including streamlined IAs, on future compliance by various taxpayer segments. As part of this study, survey taxpayers who default on IAs to find out why.	The IRS agrees to work with TAS and Research to study the impact of collection alternatives on future compliance, which may include contacting taxpayers that have defaulted. Note that the Service has previously conducted research on future compliance (Balance Due Repeater Analysis -Project Number 3-09-03-S-038). In addition, some default data (default based on additional modules or default based on non payment) is reported on Collection Activity Report.	Partial	The IRS is planning to pursue additional research on future compliance, as recommended. It is unclear, however, if the research will cover the specific areas identified by TAS or if it will involve a survey, as recommended.

2010 ARC – MSP Topic #14 – THE IRS'S OVER-RELIANCE ON ITS "REASONABLE CAUSE ASSISTANT" LEADS TO INACCURATE PENALTY ABATEMENT DETERMINATIONS

Problem

The IRS requires employees to use the Reasonable Cause Assistant (RCA), an interactive decision support program, to evaluate taxpayers' requests for abatement of certain penalties. However, a study conducted by the IRS itself found that RCA determinations were accurate in only 45 percent of the cases examined, even though all employees thought their determinations were correct. In other words, a coin flip would have produced nearly the same level of accuracy as the RCA. The National Taxpayer Advocate believes RCA determinations are inaccurate for the following reasons: (1) RCA users are not properly trained in tax law, (2) IRS policies do not encourage employees to override incorrect recommendations by the computer, (3) the RCA has no feedback system to improve employee knowledge of reasonable cause and programming accuracy, and (4) taxpayers must initiate contact with the IRS to receive a First-Time Abatement (FTA), even though the IRS can grant the FTA automatically.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Partner with the Taxpayer Advocate Service to develop case studies for use in basic and refresher training to develop employees' skills in recognizing and analyzing facts, including those requiring override of RCA.	We agree case studies can improve training. As training material needs updating, we will add case studies as appropriate.	Partial	While the IRS's assessment accurately reflects its stance, the Ogden Usability Tests revealed problems with interpretation by users of the RCA. The OSP could produce a positive influence over accuracy if it would incorporate in its training, substantive tax law with real case examples so that users learn case comprehension rather than leaving thinking and judgment to the computer.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Train those who manage RCA users in tax law and reasonable cause criteria so that management approvals of abatement decisions are accurate.	We recently developed and distributed (January 2011) a *Reasonable Cause Assistant Quick Reference Guide* (Pub. 12874; Cat. Num. 55714Z) for revenue officers and group managers to answer the most frequently asked questions and ensure abatement decisions are accurate. We have also developed and issued (October 2010) a *Reasonable Cause Assistant Training* document designed to remind managers and RCA users on what to do before accessing RCA, what RCA can and can't do, what is Reasonable Cause, and how to use RCA.	Yes	The Reasonable Cause Assistant quick guide is only a first step. TAS encourages the OSP to continue to share updated training and guidance with its users for a long term benefit.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Establish a human feedback system that analyzes override cases and e-mail feedback, and program "lessons learned" into the system to enhance its accuracy and scope.	We already have human-based feedback systems in place which includes SERP Feedbacks, ITAMS Tickets, emails to analysts, and emails to the recently established RCA Help email box. Regardless of the feedback method used, all feedback is considered. If we discover an inaccuracy within the system, we will take steps to correct.	No	The IRS could improve communication between users by incorporating an online feedback link for users to ask questions and share information with all users.
4. Program IRS systems to identify compliant taxpayers prior to a penalty assessment, automatically grant FTA waivers if taxpayers meet the compliance criteria, and send "soft notices" to the taxpayers explaining the reason for the waiver to encourage future compliance.	We are in the process of studying whether FTA waivers promote tax compliance. However, we have discussed the feasibility of this recommendation with our system programmers who informed us that the necessary changes are too complex to achieve in the current programming environment. Until our programming environment becomes more flexible, we are unable to further consider the benefits of this recommendation.	No	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
5. Program systems to search primary and secondary taxpayer identification numbers when checking compliance histories, and permit separate FTA abatements of each spouse in certain circumstances.	Given the relatively small amount of taxpayers that may be impacted by these unique circumstances and the difficultly in fair and equitable administrability, we believe the costs of adopting this recommendation would outweigh any potential benefits. Significant programming changes would be required to automatically search both SSNs. Individual determinations would have to be made as to whom the liability belongs to determine to which spouse the penalty is applicable in order to determine which spouse might be eligible for FTA. This would involve altering our processes to manually research the secondary SSN when an FTA waiver is denied and setting up a separate account to assess the penalty individually outside of the joint account module. Additionally, married taxpayers can self-identify and be considered for an abatement on a case by case basis.	No	

2010 ARC – MSP Topic #15 – STATE DOMESTIC PARTNERSHIP LAWS PRESENT UNANSWERED FEDERAL TAX QUESTIONS

Problem
Various states have recognized hundreds of thousands of domestic partnerships, civil unions, or marriages between individuals of the same gender. However, the specifics of these provisions vary considerably among the states, and to complicate matters, the federal Defense of Marriage Act prohibits recognition of same-gender marriages for federal purposes. The interaction of these provisions and their interpretation for federal tax purposes is ambiguous in several key areas, requiring taxpayers to file tax returns without clear guidance and potentially subjecting them to audit adjustments in the future.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Clarify the qualification of children, same-gender spouses, and domestic partners for the dependency deduction.	Chief Counsel will continue to respond to taxpayer-specific inquiries, as appropriate.	No	
2. Establish consistent principles of interpretation to answer various other questions associated with state domestic partnership and related laws.	Chief Counsel will continue to respond to taxpayer-specific inquiries, as appropriate.	No	

2010 ARC – MSP Topic #16 – THE IRS HAS NOT STUDIED OR ADDRESSED THE IMPACT OF THE LARGE VOLUME OF UNDELIVERED MAIL ON TAXPAYERS

Problem

The IRS mails over 200 million pieces of correspondence to taxpayers each year, including refunds, notices, and other official correspondence. A relatively large volume of this mail never reaches the intended taxpayer. Although the IRS does not itself track how much mail is returned as "undeliverable as addressed," a Treasury Inspector General for Tax Administration (TIGTA) audit estimated that during FY 2009, approximately 19.3 million pieces of mail, or 10 percent of the total, were returned to the IRS at an estimated cost of $57.9 million. Undeliverable mail can have a significant adverse impact on taxpayers.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Study undelivered mail and address perfection problems, including the establishment of baseline data and periodic data reporting to measure the impact of future software integration and programming.	IRS (W&I) has already established an undeliverable mail project. The project team is collaborating Service-wide on the technology and process solutions for undeliverable mail. IRS has implemented use of Organization Function Program Codes (OFP) to track volumes of undelivered mail. These will be used as a baseline for measuring effectiveness of changes as we implement software for address perfection.	Partial	TAS acknowledges that the IRS Wage and Investment Division has formed an Executive Steering Committee and a UD Mail Working Group to address undelivered mail problems, identified by IRS Operating Divisions, TIGTA reports and the National Taxpayer Advocate, 2010 Annual Report to Congress (MSP#16 & #17) and is pleased that TAS has been allowed to be an active participant in this effort. Some IRS solutions, identified as early as 2007 are implemented or will be implemented in 2011 and 2012, generally

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			modification and renovation of Master File. Other IRS identified problems, TIGTA recommendations and the recommendations from the 2010 Annual Report to Congress are under consideration by the UD Mail Working Group and the Executive Steering Committee for data collection, solution identification and possible implementation at a later date, dependent upon IRS Executive approvals and availability of any necessary funding.
2. Designate one enterprise-level organization to provide policy, procedures, protection, and maintenance of taxpayer addresses, including one-stop processing of undelivered mail.	As discussed above, IRS (W&I) has established an undeliverable mail project. The project team is collaborating Servicewide on the technology and process solutions for undeliverable mail. In January 2011, IRM 3.1362 added standardized procedures for handling undelivered mail in Submission Processing. Under this project, a study is being conducted to determine feasibility of developing	Partial	TAS acknowledges that the IRS Wage and Investment Division has formed an Executive Steering Committee and a UD Mail Working Group to address undelivered mail problems, identified by IRS Operating Divisions, TIGTA reports and the National Taxpayer Advocate, 2010 Annual Report to Congress (MSP#16 & #17) and is pleased that TAS has been allowed to be an active

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	standardized undelivered mail procedures Servicewide.		participant in this effort. Some IRS solutions, identified as early as 2007 are implemented or will be implemented in 2011 and 2012, generally modification and renovation of Master File. Other IRS identified problems, TIGTA recommendations and the recommendations from the 2010 Annual Report to Congress are under consideration by the UD Mail Working Group and the Executive Steering Committee for data collection, solution identification and possible implementation at a later date, dependent upon IRS Executive approvals and availability of any necessary funding.
3. Use full-service intelligent bar coding on all outgoing mail to allow mail tracking and electronic file exchanges between the USPS and IRS.	As discussed above, IRS (W&I) has established an undeliverable mail project. The project team is collaborating Service-wide on the technology and process solutions for undeliverable mail. Plans are underway to implement the full service Intelligent Mail Barcode	Partial	TAS acknowledges that the IRS Wage and Investment Division has formed an Executive Steering Committee and a UD Mail Working Group to address undelivered mail problems, identified by IRS Operating Divisions, TIGTA reports and the National

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	(IMBC). Funding for an engineering study has been secured. A Statement of Work for the design study was developed and is currently going through the procurement process.		Taxpayer Advocate, 2010 Annual Report to Congress (MSP#16 & #17) and is pleased that TAS has been allowed to be an active participant in this effort. Some IRS solutions, identified as early as 2007 are implemented or will be implemented in 2011 and 2012, generally modification and renovation of Master File. Other IRS identified problems, TIGTA recommendations and the recommendations from the 2010 Annual Report to Congress are under consideration by the UD Mail Working Group and the Executive Steering Committee for data collection, solution identification and possible implementation at a later date, dependent upon IRS Executive approvals and availability of any necessary funding.
4. Apply the existing address research system (ADR) to all undelivered mail returned to the IRS,	As discussed above, IRS (W&I) has established an undeliverable mail project. The project team is collaborating	Partial	TAS acknowledges that the IRS Wage and Investment Division has formed an Executive Steering Committee

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
once the full-service IMBC is applied to outgoing mail.	Service-wide on the technology and process solutions for undeliverable mail. The IRS currently screens a select number of notice types for ADR research based on their purpose and impact on taxpayers. It would be cost prohibitive to screen all undelivered mail in this manner. Further, when the system enhancements already planned (or under study) are fully implemented, the IRS should achieve similar results.		and a UD Mail Working Group to address undelivered mail problems, identified by IRS Operating Divisions, TIGTA reports and the National Taxpayer Advocate, 2010 Annual Report to Congress (MSP#16 & #17) and is pleased that TAS has been allowed to be an active participant in this effort. Some IRS solutions, identified as early as 2007 are implemented or will be implemented in 2011 and 2012, generally modification and renovation of Master File. Other IRS identified problems, TIGTA recommendations and the recommendations from the 2010 Annual Report to Congress are under consideration by the UD Mail Working Group and the Executive Steering Committee for data collection, solution identification and possible implementation at a later date, dependent upon IRS Executive approvals and availability of

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			any necessary funding.

2010 ARC – MSP Topic #17 – THE IRS DOES NOT PROCESS VITAL TAXPAYER RESPONSES TIMELY

Problem

The IRS receives more than 11 million pieces of taxpayer correspondence each year. It is critical that taxpayer correspondence be timely processed, because delays can lead to erroneous tax assessments, improper collection actions, and additional penalties and interest for taxpayers or additional refund interest costs to the government. Yet taxpayers and practitioners express frequent complaints about processing delays, and in one study, the IRS found that more than 75 percent of mail addressed to two campus collection sites took longer to process than the 14-day goal. In fact, nearly 40 percent of this correspondence took more than 30 days to process. Despite this strong evidence of significant processing delays, the IRS does not measure the accuracy or timeliness with which it handles taxpayer correspondence, and it lacks any comprehensive, reliable data to help it understand the sources or causes of misrouted mail. Moreover, because the IRS does not measure the time between first receipt of correspondence and its receipt by the correct technical operation or function, the IRS does not know whether the taxpayer response timeframes built into automated processes are sufficient.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. The IRS should establish one servicewide operation responsible for mail activities to provide consistent guidance for such an important function of tax administration, and to track and assess the timeliness and accuracy of mail routing servicewide.	Taxpayer mail received in IRS campuses deals with a multitude of tax issues. It is intended for and must be routed to multiple IRS functions responsible for the various tax issues involved. Measures, such as timeliness and days to close are in place to monitor and manage the health of this correspondence inventory within each of the responsible IRS functional areas. In addition, inventory management tools, such as the CIS and the AMS have been implemented to	Partial	Lean Six Sigma is a step in the correct direction. TAS would like the results of the study to be shared with TAS so that the need for further actions can be re-evaluated at that point.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	automate and expedite the handling of much of this mail. Multiple efforts are already underway to improve internal mail routing. For example, W&I (Submission Processing) has partnered with SBSE, using Lean Six Sigma, to analyze the work process to identify areas for improvement. The team is still in the data-gathering stage. Once they have the necessary data, the team will be able to assess any results to make effective data-driven decisions.		
2. The IRS should further evaluate and revise timeframes for automated assessment processes to provide sufficient time for the IRS to receive taxpayer responses and update systems so that taxpayers who reply to the IRS timely are not adversely affected.	IRS Collection and Examination systems already have sufficient built-in uniform notice suspense timeframes for the IRS to receive and consider taxpayer responses. IRS also works closely with the tax practitioner community to identify and implement specific improvement opportunities. IRS has modified its systems, based on practitioner feedback, to generate letters to acknowledge receipt of taxpayer correspondence, as well as to	No	The automated systems do not allow for additional times that IRS mistakes and workloads can cause. For instance, during peak, a response received from a taxpayer on April 17th might take up to 7 days to open, another 7 days to sort and route to the appropriate area. Additionally misrouted mail can fail to reach the appropriate area in time to prevent the automatic assessment of tax or other adverse impacts to the

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	adjust notice suspense timeframes. In addition, once mail is received and entered into IRS systems, the taxpayer's account is updated. This prevents the case from automatically moving to the next processing step and ensures IRS considers the taxpayer's response prior to sending the next notice. Further, SB/SE Research recently conducted a study for Examination regarding suspense timeframes and found that of those taxpayers who reply, between 68% and 77% do so by the due date of the suspense period. This research also found that a change in the suspense period would not materially affect these response rates.		taxpayer.
3. The IRS should continue to pursue the use of technology such as Intelligent Bar Coding on notices and envelopes to make it easier to route incoming mail.	The IRS continues to explore improvements in this area. Mail Technology is warranted as it holds a tremendous amount of potential for harnessing information about mail delivery and prediction of responses coming back to IRS offices.	Partial	TAS acknowledges that the IRS Wage and Investment Division has formed an Executive Steering Committee and a UD Mail Working Group to address undelivered mail problems, identified by IRS Operating Divisions, TIGTA

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	Even so, the technology poses some shortcomings. For example, not all taxpayers use the return stubs because the information they are submitting to the IRS is too voluminous to use our return envelopes. Thus, the IMBCs on the stubs would not be available for these types of taxpayer submissions. In addition, incorporating a label with an IMBC would pose the logistical challenge of getting the label printed and included in the envelope with the correct taxpayer, especially because the label most likely could not contain taxpayer specific information or a unique identifier tied to the specific taxpayer. Moreover, although the IMBC may help in predicting inbound responses, it may not facilitate routing of mail back to a function for action beyond sorting to the function which is designated in the portion of the ZIP Code designated for sub-sorting by function or program. The technology would also not		reports and the National Taxpayer Advocate, 2010 Annual Report to Congress (MSP#16 & #17) and is pleased that TAS has been allowed to be an active participant in this effort. Some IRS solutions, identified as early as 2007 are implemented or will be implemented in 2011 and 2012, generally modification and renovation of Master File. Other IRS identified problems, TIGTA recommendations and the recommendations from the 2010 Annual Report to Congress are under consideration by the UD Mail Working Group and the Executive Steering Committee for data collection, solution identification and possible implementation at a later date, dependent upon IRS Executive approvals and availability of any necessary funding.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	necessarily work in non-submission campuses that do not have sorting equipment capable of sorting by function or program. Those consolidated campuses depend on Post Office Boxes for sorting, and the mail is sorted accordingly to major function such as Compliance or Accounts Management, not necessarily by sub-function or program. While we agree in principle to continue to pursue the use of technology such as IMBC, any effort to develop and utilize IMBC will be dependent upon funding and programming resources available to integrate such a technology into all of our systems. Utilization of the IMBC will provide the greatest initial use and benefit on Undeliverable Mail. This would be more of a long term endeavor on the side of tracking incoming responses and not one that is achievable on a short timeline.		

2010 ARC – MSP Topic #18 – THE IRS SHOULD ACCURATELY TRACK SOURCES OF BALANCE DUE PAYMENTS TO DETERMINE THE REVENUE EFFECTIVENESS OF ITS ENFORCEMENT ACTIVITIES AND SERVICE INITIATIVES

Problem

IRS procedures generally require employees to code the source of subsequent, post-assessment tax payments it receives on balance due accounts. Knowing the source of tax payments serves important purposes. It enables the IRS to assess which activities are most effective at collecting revenue. It also enables the IRS to better comply with statutory requirements to properly record and account for the funding it receives in order to prepare reliable reports and measure tax enforcement results. However, a TA S study has found that the IRS cannot accurately identify the source of the significant majority of subsequent tax payments it receives on balance due accounts. Among the key factors that contribute to coding problems are a lack of meaningful transaction codes to identify received payments; deficient Internal Revenue Manual guidance for employees; and insufficient training and oversight of IRS employees and vendors involved in coding payments.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Revise IRM guidance and guidelines for lockbox facilities to require the entry of specific designated payment codes on all balance due payments, and require Submission Processing employees to verify the presence of an appropriate DPC on those payments.	Current instructions correctly specify when DPCs are required and provide the appropriate codes to be used when coding designated payments. The IRS continually reviews the DPC coding process to identify potential improvement opportunities.	No	Current instructions are evidently not adequate as a DPC is not present in 81 percent of all post-assessment tax payments received in 2009. Even with transaction codes that require DPCs, about 75 percent of all entries either had no DPC or defaulted to DPCs of "00" (undesignated payment) or "99" (miscellaneous).

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Provide clear and specific guidance about the limited circumstances under which employees can use a miscellaneous DPC.	The IRS recognizes the need to ensure the consistent and appropriate use of DPCs and has agreed to review IRM guidance on this subject for clarity to ensure employees understand the need to properly code payments received. IRM 5.1.2.8.1.4 (1) provides guidance to revenue officers for DPCs. This IRM provides guidance that DPC 99, Miscellaneous Code, should only be used when another DPC does not apply. The DPC study currently being conducted will include recommendations to improve the current DPC process, including the DPC 99 code. The report is due to be completed by October 15, 2011.	Partial	Despite TAS' offers of assistance, the IRS has not included TAS representatives on the study team.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Implement a quality review of payment coding.	The IRS recognizes the need to ensure consistent and appropriate use of DPCs and is currently conducting a study to assess appropriate use of these codes. We will consider the necessity for a quality review process as part of our ongoing study. The report is due to be completed by October 15, 2011.	Partial	Although the IRS agreed to review IRM guidance on this subject for clarity to ensure employees understand the need to properly code payments received and to conduct a review to assess appropriate use of these codes, in its comments to the MSP the IRS has not agreed to implement a DPC quality review process at this point but is considering the need for such a system as part of its ongoing study.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. In consultation with TAS and IRS Research functions, review and revise current DPCs and TCs to link each subsequent payment to specific IRS enforcement activities and service initiatives.	Although this recommendation is not being adopted, the IRS is reviewing the payment coding process and anticipates issuing a final report on this matter by October 15, 2011. The IRS already has measures in place to track program effectiveness of collection activities. The IRS supplements these measures with past and current statistically valid research projects to address specifics of collection programs. Examining trends in collection activity and dollars collected fails to account for other variables critical to analyzing the effectiveness of collection actions. Changes to economic conditions, the inventory mix, and collection business practices and structure all can influence dollars collected. Research attempts to control for these variables and looks at all transactions. While not conclusive, this illustrates the efficacy of collection actions in various circumstances.	No	The National Taxpayer Advocate is disappointed that the IRS disagrees with the recommendation to review and revise current DPCs to link each payment to specific enforcement activities and service initiatives. It is clear that measuring specific enforcement activities and service initiatives, by using meaningful DPCs and TCs, would enable the IRS to give stakeholders a more accurate and complete picture of activities that cause the taxpayer to pay on balance due accounts and the costs associated with those activities. The National Taxpayer Advocate believes the IRS should not delay the implementation of meaningful payment coding of all subsequent payments and link each payment to specific IRS enforcement activities and service initiatives, and should include TAS in the "ongoing study" of payment coding.

2010 ARC – MSP Topic #19 – THE IRS HAS BEEN RELUCTANT TO IMPLEMENT ALTERNATIVE SERIVCE METHODS THAT WOULD IMPROVE ACCESSIBILITY FOR TAXPAYERS WHO SEEK FACE-TO-FACE ASSISTANCE

Problem
Taxpayer Assistance Centers (TACs) are the main form of face-to-face IRS customer service available to taxpayers. However, the IRS's 401 TAC s are within a 30-minute drive of only 60 percent of the taxpaying population. TAC s remain out of reach for many rural taxpayers as most are located in more populous areas and only 55 percent are open 36 to 40 hours per week.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Test a program that uses mobile vans to increase face-to-face service.	IRS previously tested mobile vans to increase face-to-face services and found it difficult to attract taxpayers. All sites except North Dakota were discontinued. During the past three filing seasons in North Dakota, the IRS continued to conduct a Tax Tour around the state using alternative locations. Marketing of these locations included radio announcements, newspaper ads, and local flyers. Using the vans, IRS served 12 taxpayers in 2009, 13 taxpayers in 2010, and 13 taxpayers in 2011. Experience has shown that although marketing is beneficial, taxpayers come to sites that are established locations and are staffed on a	No	The National Taxpayer Advocate continues to urge the IRS to share the parameters and design of this program with TAS so that TAS can evaluate the program. The National Taxpayer Advocate recommends mobile sites that are consistently in the same location on set days every week/month/etc. rather than a van that only comes to an area once and then never returns.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	regular basis.		
2. Pilot a program to work with state and local agencies to increase the IRS's face-to-face presence.	IRS is making efforts to expand its presence with state tax agencies providing full or limited service and with VITA volunteer sites with full TAC services. For example, IRS has been co-located with the Utah state tax agency for several years. During FY 2010, TAC employees in Charleston, West Virginia provided services for Form 2290 Heavy Vehicle Use Tax on selected days in the state's tax agency office. TAC employees also staff identified VITA volunteer sites during the filing season. This approach targets low-income and senior populations and is effective in providing similar full service options with no rental costs. IRS uses the Geographic Coverage Initiative (GCI) Model to evaluate the coverage rates.	Partial	The National Taxpayer Advocate is pleased with the current effort the IRS has made in expanding partnerships with local and state agencies to provide IRS services to taxpayers. However, the National Taxpayer Advocate continues to urge the IRS to develop further programs that will serve taxpayers outside of just filing season at VITAs. While filing season assistance is vital, many taxpayers require assistance at other times of the year and the National Taxpayer Advocate encourages the IRS to work with state and local agencies to be able to provide an IRS presence in underserved areas.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Test telepresence in remote areas.	IRS agrees with the recommendation regarding telepresence and will form a group to explore options for a potential telepresence solution. Although many challenges may exist (i.e., security, substantial computer bandwidth for video, and new demands on call sites), remote areas will be most challenging because of the substantial demand on computer bandwidth.	Yes	The National Taxpayer Advocate encourages the IRS to include TAS on the project team.

2010 ARC – MSP Topic #20 – THE S CORPORATION ELECTION PROCESS UNDULY BURDENS SMALL BUSINESSES

Problem

The IRS rarely denies applications for S corporation status based on a failure to meet the election criteria. However, many S corporation returns remain unprocessed for years because of missing or late elections, IRS errors in recognizing or processing valid elections, and an absence of effective relief procedures. The IRS does not provide examples of scenarios that meet the criteria for reasonable cause relief in its published guidance, nor does the IRS always fully inform taxpayers of their options for relief under five available Revenue Procedures. Challenges in the S election process for taxpayers include the complexity of relief procedures for a late S corporation election; the often prohibitive cost of retroactive relief via a private letter ruling (PLR); the IRS's inability to verify the receipt and acceptance of S corporation returns and election applications; and the downstream burdens on shareholders of the conversion of S corporation returns to regular, taxable corporate returns.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. In consultation with TAS, expedite the issuance of a consolidated revenue procedure for late S corporation elections to supersede existing revenue procedures and offer a single source for relief. The guidance should contain easy-to-follow examples of what constitutes reasonable cause under each aspect of the procedure.	We have already drafted a Revenue Procedure that is currently being reviewed. The drafted procedure will allow elections up to three years late and will eliminate the restriction over delinquent taxpayers. However, this guidance will not include reasonable cause examples. We believe these examples are too factual to be included in guidance.	Yes	TAS is closely working with the IRS Office of Chief Counsel on drafting a consolidated guidance under IRC §1362 to offer a single source for late S corporation election relief. However, the National Taxpayer Advocate believes that easy-to-follow examples of what constitutes reasonable cause under each aspect of the procedure would be helpful for taxpayers and suggests the Office of Chief Counsel reconsiders its position on this matter.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Immediately identify and correct old conversion cases where the IRS assessed tax without issuing a statutory notice of deficiency or denied effective elections because of lost returns or other errors.	While the IRS does not disagree with the value of the recommendation, the IRS lacks the systemic ability to isolate the assessments made to these converted returns. Identifying such cases would be an extremely high resource-intensive undertaking. It should be noted that previous assessments were often abated (either at the corporate or shareholder level) after taxpayers contacted the Campus to resolve their late election issue.	No	The National Taxpayer Advocate rejects the IRS's rationale for not correcting illegal corporate assessments because "identifying such cases would be an extremely high resource-intensive undertaking." These assessments, made in violation of the deficiency procedures under IRC §§ 6212 and 6213, abridge a taxpayer's right to due process and should be systemically identified and abated. TAS offers its assistance in identifying and correcting these cases.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Update IRS publications, forms, correspondence, and websites to include a simple and complete guide to the late election relief process.	As discussed above, we have already drafted a Revenue Procedure that is currently being reviewed. Action will begin when this new guidance is issued.	Yes	Although we agree with the IRS that "it may be easier to communicate the relief process to taxpayers after the issuance of the combined late election relief revenue procedure," we also believe the IRS should not delay improvements in its outreach, especially for taxpayers whose returns are not accepted and converted into taxable entity returns.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Develop an administrative appeal process for taxpayers whose elections are denied.	Taxpayers currently have several processes available when their initial elections are denied. Late S election relief is presently available under the safe harbor revenue procedures. Taxpayers denied relief under the safe harbor revenue procedures may request late S election relief through the Private Letter Ruling (PLR) process. If Chief Counsel reaches a tentatively adverse determination to the PLR, taxpayers have the right to a conference and to submit additional information supporting their request.	No	The National Taxpayer Advocate is disappointed with the IRS's rejection of this recommendation and believes that creating an administrative appeal process for taxpayers whose elections were denied will alleviate taxpayer burden and ensure that IRS errors in reasonable cause determinations are addressed. PLR process cannot substitute an independent appellate review and may be cost-prohibitive for many small businesses. Therefore, an administrative appeal process for late elections will ensure that IRS errors in reasonable cause determinations will be addressed with minimal taxpayer burden, and free up the Office of Chief Counsel resources for other, more substantive PLR requests.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
5. Allow electronic filing of Form 2553 as a stand-alone form with an instant verification of filing provided to taxpayers.	At this time it is not cost effective to develop an electronic filing platform for the fewer than 100,000 Forms 2553 we receive each year. Our current procedures for processing paper-filed Forms 2553 provide that the taxpayer is notified of acceptance or nonacceptance of the election within 60 days of receipt of Form 2553. Instructions to Form 2553 provide guidance on action to take if no verification is received. We also allow Form 2553 to be filed as an attachment to an electronically filed Form 1120S.	No	The National Taxpayer Advocate respectfully disagrees with the IRS's position that the relatively small number of elections annually justifies inaction. Over 100,000 small businesses filing the S corporation election annually deserve the best taxpayer service possible, especially in the midst of the worst recession in generations. The electronic filing of an S corporation election as a stand-alone form, or at a minimum scanning the document into the Correspondence Imaging System, would allow the IRS to instantly verify the receipt of filed elections and reduce the burden to both taxpayers and the IRS.

2010 ARC – MSP Topic #21 – THE COMBINED ANNUAL WAGE REPORTING PROGRAM CONTINUES TO IMPOSE A SUBSTANTIAL BURDEN ON EMPLOYERS

Problem

The purpose of the Combined Annual Wage Reporting (CAWR) program is to ensure that employers pay and withhold the proper amount of tax. The program accomplishes this task by comparing the data on wage and information reporting forms submitted to the Social Security Administration (SSA) with the amounts reported to the IRS on employment tax forms. This process enables the IRS and SSA to identify potentially missing or incorrect tax and wage data. The IRS then contacts employers to resolve any discrepancies. However, IRS notices to employers are frequently misrouted, causing delays and potentially causing penalty assessments. Further, the IRS often does not respond to employers' correspondence within established timeframes and is reluctant to abate penalties.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. The IRS should conduct research to determine whether assessment of the Failure to Timely File Information Returns penalty and the Intentional Disregard penalty increases compliance with filing requirements.	The IRS is submitting a SBSE Research request to conduct a study to determine whether assessment of the Failure to Timely File Information Returns penalty and the Intentional Disregard penalty for the CAWR program increases compliance with filing requirements.	Yes	

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. The IRS should conduct a pilot to determine whether expansion of the First-Time Abatement policy to late filing and intentional disregard penalties undermines compliance with filing requirements.	Based on the results of the Research conducted in Recommendation 21-1, the IRS will conduct additional research of CAWR cases and will explore the feasibility of conducting a pilot regarding FTA based on research findings and contingent upon Council and Office of Servicewide Penalties concurrence.	Partial	The National Taxpayer Advocate is pleased that the IRS is considering conducting a study to analyze if expansion of the First Time Abatement to late filing and intentional disregard penalty would undermine compliance. However, this study should be made a more immediate priority of the IRS. Further, the National Taxpayer Advocate is unclear why this study is contingent on the concurrence of the Office of Chief Counsel and the Office of Servicewide Penalties.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. The IRS should upgrade its systems to allow for multiple corporate addresses based on the type of tax.	Notices are systemically sent to the address of record. Maintaining multiple addresses would result in multiple simultaneous mailings. Sending notices simultaneously to multiple corporate addresses poses significant risk of unauthorized disclosure and increases taxpayer burden as multiple recipients will receive and spend time responding to the same notice. In addition, correspondence would increase limiting our ability to work with the correct taxpayer. The IRS current process uses due diligence when issuing CAWR notices to businesses, sending the notice to the most recent address of record and following up on better addresses received on undeliverable or unaccepted correspondence.	No	The National Taxpayer Advocate understands the IRS's need to prevent unauthorized disclosures. However, the IRS needs to investigate the possibility of developing safeguards to prevent such unauthorized disclosures, while allowing business master file to record more than one address per entity. This will ensure that businesses timely receive notices.

2010 ARC – Status Update Topic #1 – THE IRS HAS BEEN SLOW TO ADDRESS THE ADVERSE IMPACT OF ITS LIEN FILING POLICIES ON TAXPAYERS AND FUTURE TAX COMPLIANCE

Problem

As described in detail in our 2009 Annual Report to Congress, a notice of federal tax lien (NFTL) filed against a taxpayer can severely damage the financial welfare of the taxpayer and his family and reduce federal revenue for years to come. Despite the National Taxpayer Advocate's specific concerns and actionable recommendations, the IRS has not altered its lien filing policies. To the contrary, the IRS filed liens against 1.1 million taxpayers last year, a 14 percent increase over the prior year, in the midst of the worst economy in a generation. The IRS also continues to file many liens automatically, without substantive human review. As a result, NFTL filing practices continue to harm millions of taxpayers, especially low income and minority families. These policies also risk undermining future tax compliance and may be wasting millions of taxpayer dollars on potentially unnecessary lien filing fees.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Immediately rescind its policy of automatically filing liens against accounts designated as "currently not collectible" due to economic hardship based on an unpaid balance threshold.	The IRS does not have an automatic NFTL filing policy on CNC hardship accounts. A lien is generally filed when accounts in excess of $10,000 are reported as CNC due to potential changes to the taxpayer's financial condition that cannot be known at the time of the CNC decision. This amount was raised from the prior level of $5,000 as part of the Commissioner's "Fresh Start" initiative announced in Feb 2011.	No	The National Taxpayer Advocate disagrees with the IRS's statement that it does not have an automatic lien filing policy based on the unpaid balance threshold. The current policy requires NFTL filing on accounts in CNC (hardship) status based on a new, $10,000 threshold without a substantive human review of taxpayer facts and circumstances and, in many cases, without a prior taxpayer contact, even though the IRS has determined that the taxpayer is experiencing

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
			economic hardship. While it may be premature to evaluate the full impact of the IRS's recent changes to the lien filing process, the National Taxpayer Advocate remains concerned that these changes do not rescind the IRS policy of automatically filing liens based on a dollar threshold of the unpaid tax liability, which continues to harm millions of taxpayers, instead of requiring a lien-filing determination be based on a thorough analysis of the taxpayer's circumstances.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Require managerial approval for NFTL filings in all cases where the taxpayer has no significant equity in assets.	In those situations when it is appropriate, managerial approval is required prior to filing a lien. In the Restructuring and Reform Act of 1998 (RRA98), Congress directed the IRS to develop and implement procedures for supervisory review and approval, where appropriate, of liens, levies, and seizures. In accordance with section 3421, the IRS has used discretion to ensure that authorities are based on the training and experience of the employee and the type of case at issue.	No	Under current policy, the IRS files an NFTL without consideration of the existence of assets, the likelihood that the taxpayer will acquire assets during the remaining statute of limitations period, and the taxpayer's history of compliance. Through its procedures, the IRS has turned on its head the congressional directive that managerial approval generally be obtained before an NFTL filing. In essence, IRS procedures have flipped Congress's explicit presumptions. In significant categories of cases, the IRS now imposes more rigorous managerial approval requirements when an employee determines not to file an NFTL than when an employee seeks to file one.
3. Revise the Internal Revenue Manual to base lien filing determinations on a thorough review of information including the	The IRS has taken a number of recent steps in this area to reduce the situations in which liens are filed. For example, the lien threshold was recently	No	The National Taxpayer Advocate is very concerned that the changes of IRS lien filing policies have been limited to substituting another

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
taxpayer's assets, the taxpayer's income, and the value of the taxpayer's equity in the assets; and determine after weighing all the facts and circumstances whether (i) the lien will attach to property, (ii) the benefit to the government from the NFTL filing outweighs the harm to the taxpayer, and (iii) the filing will jeopardize the taxpayer's ability to comply with the tax laws in the future.	raised and a floor under which liens are not filed was introduced. However, the IRS maintains, as supported by several research studies, filing an NFTL, even in situations when assets have not been identified, is a prudent case decision because the NFTL attaches to a taxpayer's right, title, and interest in current and future property. Thus, even though an account may be placed in currently not collectible status without any current assets from which to collect the tax liability, there remains solid evidence that filing the NFTL is the most responsible and appropriate action the IRS can take in its effort to ensure sound tax administration. There are multiple situations in which the IRS may designate a taxpayer's account currently not collectible, including an inability to make payments based on current income and expenses; or the IRS' inability to locate or contact the taxpayer. However, a		automatic filing threshold (from $5,000 to $10, 000) for the exercise of discretion or judgment applied to the taxpayer's facts and circumstances as recommended in 2010 and 2009 Annual Reports to Congress and in Taxpayer Advocate Directive 2010-1.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	taxpayer's situation can, and often does, change. A filed NFTL provides the Government a claim in any future income or assets that would allow for payment of the outstanding tax liability. In cooperation with TAS, IRS Research has initiated another study of the effectiveness of lien filing upon which to base further decisions.		
4. To reverse the damage to a taxpayer's credit rating, the IRS also should develop and issue guidance allowing, upon the request of the taxpayer, the withdrawal of an NFTL where the statutory withdrawal criteria are satisfied, even if the underlying lien has been released.	Collection Policy is currently working with TAS on determining the feasibility of establishing policy and procedural guidance as it relates to self-released liens. Interim Guidance has been approved and was issued for DDIA's on 04/07/2011. Interim Guidance is pending final approval for withdrawals after release of NFTL.	Yes	TAS has worked closely with the IRS in developing guidance for the implementation of these initiatives and actively collaborated with the SBSE Collection Policy function on drafting an internal guidance to allow withdrawals of NFTLs after lien releases. The National Taxpayer Advocate is very pleased with the guidance issued on June 10, 2011 that adopts her recommendations and provides significant relief to affected taxpayers.

2010 ARC – Status Update Topic #2 – THE IRS OFFER-IN-COMPROMISE PROGRAM CONTINUES TO BE UNDERUTILIZED

Problem

An offer in compromise (OIC) is an agreement in which the government accepts less than the full amount of a tax debt in exchange for the taxpayer's promise to comply fully with his or her tax obligations for at least the next five years. An OIC can be good for a financially struggling taxpayer because it removes the threat of IRS collection action and allows the taxpayer to make a fresh start. An OIC can be good for the government because it enables the government to collect as much tax as it reasonably can and, importantly, provides a strong incentive for the taxpayer to remain in compliance; if a taxpayer fails to comply with his or her tax obligations anytime in the next five years, the original tax liability may be reinstated in full. Since 2001, the National Taxpayer Advocate has been expressing concern that the IRS has made the OIC program too inaccessible for most taxpayers to utilize.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Adopt the Collection Process Study recommendations concerning allowable living expenses, reasonable collection potential, and OIC outreach for low income taxpayers in currently not collectible status.	We are already working on the CNC outreach to low income taxpayer project. The initial phase of this outreach is scheduled to begin in June 2011. When the Collection Process Study is finalized, we will review the recommendations concerning allowable living expenses and reasonable collection potential and then make changes as appropriate.	Yes	We are pleased the IRS will review the final Collection Process Study recommendations, and consider changing its current policies on ALEs. We would be happy to participate in any policy discussions to provide the taxpayer perspective as necessary.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
2. Expand the scope and incorporate the positive elements of the Centralized Offer in Compromise unit's new streamlined processing procedures into routine IRM direction covering all OICs, including those worked in the OIC Field operation.	The impact of the new streamline criteria must be studied and supported by data before it will be incorporated into routine IRM direction covering all OICs, including those worked in the OIC Field operation.	Yes	We are pleased the IRS will study the impact of streamline criteria on offer acceptances, returns, and rejections. We would be happy to assist in reviewing the results to provide the taxpayer perspective.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Revamp OIC quality reviews to evaluate whether offer examiners consider special circumstances and educate taxpayers about the offer process.	Special circumstances are addressed in the NQRS attributes 214 and 215. Attribute 214 addresses whether the offer examiner considered ETA/special circumstances. Attribute 215 addresses whether the offer examiner made a determination with respect to ETA/economic hardship. We are in the process of taking several actions to educate the taxpayer about the OIC process including a Probe and Response Guide to be used at ACS, introducing the OIC earlier in the tiered interview process, and incorporating a closing letter paragraph about the OIC program for cases that are closed as hardship CNC.	Partial	The IRS response does not adequately address our concerns. We are not convinced that the attributes identified are routinely used by front line managers and employees to review OIC cases. For example, we received the FY 2010 NQRS results for the Gulf States, South Atlantic, and California Areas in connection with our report, and the results indicate that an Effective Tax Administration/Doubt as to Collectability Special Circumstances (ETA/DCSC) determinations were only made in 6.9%, 7.3%, and 6% of the cases reviewed for each area. Perhaps, the criteria for offer investigation should be changed to require ETA/DCSC consideration in every case.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
4. Conduct periodic studies to review taxpayer compliance one to ten years after offer acceptance and rejection (i.e., did the IRS collect what was offered, did the taxpayer stay compliant, and for how long).	The IRS currently maintains monthly reports that monitor compliance after an offer is accepted. In addition, OPERA has completed a report of offers rejected in 2007 and are in the process of completing a similar report for offers that were rejected in 2005, 2006 and 2008.	Partial	The IRS response does not adequately address our concerns. A year-to-year study of offer acceptances and rejections would permit the IRS to track the success of the offer program and fine tune its procedures when the results indicate that the rate of collection or noncompliance is changing after rejection or acceptance.

2010 ARC – Status Update Topic #3 – DESPITE PROGRAM IMPROVEMENTS, THE IRS POLICY OF PROCESSING MOST ITIN APPLICATIONS WITH PAPER RETURNS DURING PEAK FILING SEASON CONTINUES TO STRAIN IRS RESOURCES AND UNDULY BURDEN TAXPAYERS

Problem

In prior reports, the National Taxpayer Advocate expressed significant concerns about IRS processing of applications for Individual Taxpayer Identification Numbers (ITIN) and associated tax returns. The IRS has made improvements to its processes and procedures, but considerable problems continue to arise from the IRS's policy of declining to process most ITIN applications unless they are attached to paper tax returns. This policy results in recurring seasonal bottlenecks of ITIN applications that strain IRS resources and delay in processing hundreds of thousands of tax returns and refunds, thus creating an undue taxpayer burden.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. Assign ITINs throughout the year upon proof of employment or self-employment.	The IRS acknowledges that the majority of ITINs are used on tax returns. However, there are still significant issues that must be addressed to ensure that ITINs are issued and used for their intended purpose. The IRS continues to have significant and valid concerns that ITINs are being requested for nontax purposes, such as for obtaining a driver's license. The IRS believes the requirement to attach a return to the Form W-7 ITIN application strikes a reasonable balance between the competing objectives of facilitating compliance with U.S.	No	Current policy burdens ITIN applicants and artificially delays processing of over one million tax returns and associated refunds annually. Despite concerns about ITIN misuse, the IRS does not address how its refusal to issue an ITIN upon early proof of earned income may instead perpetuate the misuse or fabrication of SSNs or fake ITINs for employment purposes. The National Taxpayer Advocate maintains that the approach suggested by TAS will alleviate taxpayer burden and improve

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	tax laws and ensuring, to the extent possible, that ITINs are not issued for purposes other than federal tax administration. The IRS does not believe that the National Taxpayer Advocate's suggestion to assign ITINs upon proof of employment or self-employment in lieu of the requirement to file a tax return with the ITIN application will not achieve the same degree of assurance.		administration of the ITIN program.
2. Develop a process to verify that previously issued ITINs have been used for tax administration purposes and revoke unused ITINs on a regular basis after notifying TIN holders.	Plans are being discussed to establish a task force across business units to look at options and develop a plan for ensuring that available ITIN numbers are not depleted. The IRS expanded the range of ITIN numbers this year which added an additional 17 million potential ITINs. However, it is estimated this will only hold us for approximately 5 years. Current options dictate the reuse of numbers that have already been issued to taxpayers, if the taxpayer has not used the ITIN for tax purposes in the last 3 - 5	Partial	The IRS is looking into developing a process to revoke and re-assign ITINs that are not used for tax administration purposes for a certain period of time. While the National Taxpayer Advocate recommended revoking unused ITINs on a regular basis, she is concerned that recycling ITINs previously used by other taxpayers may result in confusion and increase taxpayer burden. The IRS should develop a process to retire unused ITINs without re-

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
	years. IRS will consult with Chief Counsel regarding any possible legal prohibitions to reissuing a previously-assigned ITIN to another taxpayer. If the IRS does adopt a policy of reissuing unused ITINs, the IRS will have to issue taxpayer notices and amend ITIN instructions to notify taxpayers that if they do not use the ITIN number for tax purposes during a specified period of time, the number will no longer be valid. We will also need to identify, and plan for, potential issues such as what to do when a taxpayer uses an ITIN that was originally assigned to them but later assigned to someone else.		issuing revoked ITINs to new taxpayers.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
3. Measure the overall ITIN process on the Real-Time System, from the receipt of an ITIN application to the acceptance of the tax return, including the total numbers of unworked and suspended applications and the average days for resolution.	The IRS already measures timeliness for all categories in the ITIN program, including W-7 applications that are considered perfected, suspended or rejected. The ITIN Program Office measures cycle time from the date the IRS receives a W-7 application until the date of Final Disposition, which is the date the application is closed. The IRS's goal is to process applications submitted with tax returns within 11 business days. The IRS's established processing period for Form W-7 applications without tax returns is 16 business days. The ITIN Comparative Report produced every week with data from RTS includes the number of days for "Input" and "Final Disposition" of every W-7 application.	No	The IRS tracks a mere average timeframe for processing all applications. It does not separately measure its two distinct work processes: one for applications that are complete and ready, and another for those that are incomplete, require follow-up contact with taxpayers, and are suspended for weeks or months. In addition, the IRS's measures of both of these processing streams do not include the ultimate processing of the suspended paper returns and associated refunds. The National Taxpayer Advocate urges the IRS to measure this process from the perspective of the taxpayer's experience, i.e., from the time it receives the application to the time it accepts the tax return and issues the refund.

2010 ARC – Status Update Topic #4 – THE IRS'S HANDLING OF COLLECTION STATUTE EXPIRATION DATES CONTINUES TO ADVERSELY AFFECT TAXPAYERS

Problem

By statute, the IRS generally has ten years from the date it assesses a tax liability to collect the amount due. The collection statute expiration date (CSED) is sometimes difficult to track because the collection period may be extended by taxpayer agreement or suspended by certain provisions of the tax code. As a result, the IRS sometimes miscalculates CSEDs, subjecting taxpayers to unlawful collection. According to a TA S analysis of IRS data, more than 4,600 taxpayers have accounts with CSED extensions or waivers that would violate IRS policy if entered into today.

NTA Recommendation	IRS Response	IRS Addressed Yes/No/Partial (TAS's Assessment)	TAS Explanation (if any)
1. IRS designate a centralized CSED function whose mission is to identify and resolve CSED problems.	The IRS does not believe a centralized CSED function is necessary. The IRS continues to work with TAS to address this issue. A joint TAS / Collection Team is reviewing taxpayer accounts with "lengthy" CSED extensions with the goal of identifying potential alternative resolution to these taxpayer accounts. The team is currently in the process of reviewing taxpayers accounts, identified by SB Research, with extended F900 waivers and will determine if alternative collection resolutions can be developed to address these accounts. In a second effort, the IRS is working to develop a CSED calculator	Partial	The IRS response does not adequately address our concerns as to who will be responsible for resolving CSED issues or organization of a centralized CSED unit. We recommend that training and continuing education allocate ultimate responsibility for resolving CSED issues to a specific function.

	that will assist employees working accounts with complex CSED issues.		