2017 National Taxpayer Advocate Annual Report to Congress
Most Serious Problems Encountered by Taxpayers:
IRS and TAS Responses

MSP #1 – PRIVATE DEBT COLLECTION: The IRS's Private Debt Collection Program Is Not Generating Net Revenues, Appears to Have Been Implemented Inconsistently with the Law, and Burdens Taxpayers Experiencing Economic Hardship

PROBLEM

In 2015, Congress enacted legislation requiring the IRS to outsource the collection of certain tax debt. The IRS began assigning tax debts to private collection agencies (PCAs) in April 2017. According to the IRS, for Fiscal Year 2017 the Private Debt Collection program generated $6.7 million of payments from taxpayers, but cost $20 million. At the same time, the IRS pays commissions to PCAs on payments from taxpayers that are attributable to IRS, rather than PCA, action. The recent returns of approximately 4,100 taxpayers who made payments to the IRS after their debts were assigned to PCAs show:

- Median income was about $41,000;
- 28 percent had incomes below $20,000; and
- 44 percent had incomes below 250 percent of the federal poverty level.

TAS Recommendation	**[1-1] Do not pay commissions on payments taxpayers make that are the result of interaction with the IRS, rather than with PCAs.**

IRS Response	NTA Recommendation Not Adopted. The contract requires commissions to be paid based on the timing of the payment. Other potential methods for calculating commissions would be more labor-intensive and require additional resources. For example, with respect to the NTA's recommended method, it would be difficult to determine the impetus for the taxpayer making a payment (e.g., reaction to IRS Notice CP40, contact with the PCA, or an independent decision) without interviewing every taxpayer.
IRS Action	N/A
TAS Response	The IRS can make assumptions about the impetus for payments — without interviewing the taxpayer — and already does so when the assumption benefits the IRS and the PCAs. For example, the IRS assumes that when a taxpayer makes a payment more than ten days after the IRS issues its initial contact letter, the payment was the result of PCA efforts. The payment is treated as commissionable. It is entirely possible that the letter from the IRS, rather than any action by the PCA, triggered the payment, but the IRS assumes otherwise. The same assumption, that PCA action triggered a payment, is made even where information in IRS databases establishes that an IRS employee organized an IA for a taxpayer during a call. In this situation, the assumption that the ensuing payments are attributable to IRS action, rather than PCA action, would be robust. The IRS should use data it has to better identify payments that are not due to PCA action and should not be commissionable. Any other approach robs the public fisc of much needed revenue.

TAS Recommendation	**[1-2] Provide that the IRS will receive a credit for any improperly paid commissions, such as where a taxpayer enters into an installment agreement directly with the IRS and makes a payment before the recall of the cases is reflected on IRS databases.**
IRS Response	IRS Actions Already Implemented.

IRS Action	A process is already in place to adjust commissions paid, when required. In the event a commission was paid and is not in keeping with the contract, an adjustment can be made to credit either the IRS or PCA, as appropriate. TAS asked the IRS to review several accounts and verify that commissions were paid correctly. The IRS conducted a complete review of the accounts provided by TAS and did not identify any situations in which commissions were paid incorrectly.
TAS Response	If the IRS's contract with PCAs provides for commissions on payments that taxpayers make as a result of interactions with the IRS, rather than a PCA, then the National Taxpayer Advocate has doubts about the qualification of the contract as a "qualified collection contract." The example given in the recommendation is a situation in which commissions are being paid inappropriately. The IRS response demonstrates that the IRS has not adopted the recommendation.

TAS Recommendation	**[1-3] Without waiting for collaboration from the Social Security Administration, use available IRS data to exclude the debts of SSDI recipients from assignment to PCAs.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IT system used to apply exclusion criteria when identifying potential new inventory for the PDC program is not able to access reliable data on SSDI recipients. The IRS has implemented a manual process that requires the PCA to stop collection efforts and return an account to the IRS when the taxpayer states they receive SSDI or SSI. As of January 25, 2018, the PCAs returned 2,109 accounts because the taxpayer self-reported receipt of SSDI or SSI. There are no plans to develop a systemic method to program the exclusion of SSDI recipients that is not required in the law and would require resources for IT programming.

TAS Response	The approach described in the IRS response is not a "process," but a random outcome determined by whether a taxpayer, in speaking with a PCA, volunteers the information that he or she receives SSDI or SSI. The IRS has not taken action to address the concern raised by the National Taxpayer Advocate. The IRS states that as of January 25, 2018, PCAs had returned 2,109 cases because the taxpayer was a recipient of SSDI or SSI. As discussed in the National Taxpayer Advocate's 2019 Objectives report, as of March 29, 2018, PCAs had returned 2,663 cases because the taxpayer was a recipient of SSDI or SSI. This means that in a period of about two months (January 25-March 29, 2018), PCAs returned only 554 cases to the IRS because the taxpayer was a recipient of SSDI or SSI, an average of 277 cases per month. As discussed in the National Taxpayer Advocate's Objectives report, in the six-month period October 1-March 29, 2018, the IRS *assigned* debts of 12,107 SSDI recipients alone (*i.e.*, not including the debts of SSI recipients), an average of 2,018 per month. The disparity between the number of SSDI and SSI cases assigned and the number returned indicates that the current approach of relying on PCAs to learn that taxpayers receive SSDI or SSI, and then return the case, does not appear to be effective in preventing PCAs from attempting to collect from these vulnerable taxpayers. In any event, where there are methods to systemically identify recipients of SSDI or SSI benefits, it is profoundly negligent on the part of the IRS to allow the determination of whether a case is returned to the IRS to turn on whether a taxpayer, in talking with a PCA employee, happens to mention that he or she receives SSDI or SSI benefits. SSDI and SSI recipients are among the most vulnerable taxpayers the IRS deals with. They may be fearful that challenging a PCA may result in levies on or loss of their benefits, and thus agree to amounts they cannot afford to pay. This, in fact, is what the data discussed in the 2017 Annual Report to Congress show. Moreover, it is an abdication of the IRS's oversight responsibilities to rely on PCAs to return these taxpayers' debts, which would require the PCA to forego a potential commission on a payment. The IRS can and should *systemically* prevent the debts of SSDI taxpayers from being assigned to PCAs and should work with SSA to identify the debts of taxpayers who receive SSI.

TAS Recommendation	**[1-4] Adopt a definition of "potentially collectible inventory" that does not include debts of Social Security retirement recipients whose incomes are less than 250 percent of the federal poverty level.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	"Potentially collectible inventory" refers to the inventory of accounts to which Collection could apply resources; it does not include accounts in payment arrangements or determined to be uncollectible by the IRS. The fact that a taxpayer receives Social Security and reports income of below a certain level is not sufficient to conclude that the account is uncollectible. Moreover, section 6306(d) does not exclude taxpayers receiving Social Security retirement from the PDC program. Nonetheless, there are protections in place for taxpayers receiving Social Security benefits who are unable to pay. Accounts the IRS has identified as "currently not collectible" are not assigned to a PCA. In addition, when a taxpayer self-identifies they are receiving SSDI or SSI, the PCA is required to return the account to the IRS. Additionally, the PCA will return any account to the IRS when the taxpayer states they are unable to pay, regardless of the reason.
TAS Response	The IRS posits for the first time a definition of "potentially collectible inventory" as not including "debts determined to be uncollectible by the IRS." Assuming this definition is correct, the IRS does not explain why, in the face of the data presented in this and other Annual Reports to Congress, it has not determined that the debts of Social Security retirement recipients whose incomes are less than 250 percent of the poverty level should be treated as uncollectible. Accordingly, we have determined the IRS has not taken action to address the National Taxpayer Advocate's concern. Since publication of the 2017 Annual Report to Congress, the National Taxpayer Advocate has reevaluated her assessment and now recommends that the debts of *all* taxpayers (not only Social Security retirement recipients) whose incomes are less than 250 percent of the federal poverty level should be excluded from referral to a PCA. On April 23, 2018, the National Taxpayer Advocate issued a Taxpayer Advocate Directive (TAD) ordering the IRS to not assign to PCAs the debt of any taxpayer whose income was less than 250 percent of the federal poverty level. The U.S. House of Representatives apparently agrees with this position. In a bipartisan vote, the House passed the Taxpayer First Act, H.R. 5444, which adopts this recommendation. With the clear bipartisan support of at least one House of Congress, the IRS could exercise its discretion to exclude taxpayers whose incomes are less than 250 percent of the federal poverty level from the PDC program and focus the program on those who can afford to pay, instead of people who, by IRS's own definition, cannot afford to pay.

TAS Recommendation	**[1-5] Require PCA employees to actively inquire, when speaking with taxpayers, whether a proposed payment arrangement will leave the taxpayer unable to pay reasonable basic living expenses, and to return such cases to the IRS.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The PCAs offer payment arrangements to taxpayers in a manner consistent with IRS installment agreement procedures for similarly situated taxpayers who call the IRS. As is the practice within the IRS, a taxpayer's proposal to pay is accepted without questioning the ability to pay if the case meets certain criteria. If a taxpayer reports an inability to pay in full or through a payment arrangement, procedures are in place for the PCA to return the account to the IRS. Further inquiry into the taxpayer's financial circumstances is not required.
TAS Response	Leaving aside the IRS's and PCA's business practice of blindly accepting payment proposals without regard to the taxpayer's ability to pay violates the taxpayer's *right to privacy* and *to a fair and just tax system*,[1] PCAs do not have access to taxpayer financial information, cannot request it, and have no incentive to return a case to the IRS because of the taxpayer's fragile financial condition. Thus, *no* taxpayer whose account is assigned to a PCA is "similarly situated" to a taxpayer whose debt is not assigned to a PCA. As discussed earlier in the National Taxpayer Advocate's 2019 Objectives report, the IRS does not know how many cases PCAs return because the taxpayer is unable to pay and thus cannot determine whether procedures that require cases to be returned to the IRS are being followed. The IRS relies on taxpayers to volunteer the information that they are unable to pay. The IRS has not taken action to address the National Taxpayer Advocate's concern.

[1] Taxpayers' *right to privacy* includes the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary. Taxpayers' *right to a fair and just tax system* includes the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. *See* Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3))

TAS Recommendation	**[1-6] Develop procedures for including a TAS representative in the process of monitoring or reviewing phone calls between taxpayers and PCAs.**
IRS Response	NTA Recommendation Not Adopted. The IRS will not grant access to TAS employees to listen to calls between the PCA and taxpayer. The IRS provides oversight of the PCAs' interactions with taxpayers, contractual compliance, and adherence to policies and procedures. The IRS Campus Quality staff conducts quality reviews and the PCAs conduct their own reviews using the same quality measures. Additionally, the PDC Operations team conducts periodic operational and targeted reviews of account activities. The IRS does not find additional reviews are necessary. Overall, the PCAs are performing at a 98.5% accuracy rate. In the event a concern is raised about the treatment of a taxpayer, the issue is reviewed by the Treasury Inspector General for Tax Administration (TIGTA), which oversees the complaint process for the PDC program.
IRS Action	N/A
TAS Response	The IRS's continuing refusal to include TAS in the process for listening to calls between taxpayers and PCAs is impeding the National Taxpayer Advocate from doing her job of ensuring the IRS treats taxpayers fairly and respects their rights. As the IRS's responses to this Most Serious Problem demonstrate, TAS and the IRS have very different ideas about how taxpayers should be treated (for example, as discussed above, the IRS and TAS have dissimilar views on how the debts of SSDI and SSI recipients should be handled). Congress clearly intended for the National Taxpayer Advocate to exercise authority with respect to PCAs: IRC § 7811(g) provides that the National Taxpayer Advocate's authority to issue Taxpayer Assistance Orders extends to PCAs. As discussed in the National Taxpayer Advocate's 2019 Objectives report, taxpayers who enter into IAs while their debts are assigned to PCAs default more frequently than other taxpayers with IAs. TAS is interested in understanding the reason for this, and the PCA phone calls with taxpayers may shed light on this. As noted above, if a taxpayer cannot immediately full pay the tax liability, the only alternative PCAs can suggest is an IA, and PCAs receive commissions on payments made pursuant to those IAs. PCAs cannot know the taxpayer's financial circumstances without asking the taxpayer. Despite the obvious risk that PCAs will offer taxpayers IAs they cannot afford, there are no quality measures that address this risk.

TAS Recommendation	**[1-7] Develop procedures for sending letters to taxpayers soliciting payment of their past due taxes more frequently than annually.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Collection recently worked with the IRS's Office of Research, Applied Analytics, and Statistics (RAAS), in conjunction with TAS Research, on a test of various letters sent in lieu of filing notices of federal tax lien. Based on preliminary results, it is not clear that additional notices would be cost-effective, particularly when not linked to clear action by the IRS. The current annual reminder notice process can result in taxpayer and practitioner confusion, particularly for those who have already worked with the IRS to have their outstanding liabilities placed in a not collectible or installment agreement status. This confusion can drive incoming correspondence, by telephone and by mail, for accounts that are not in active collection status. Additional reminder letters would run the risk of generating more taxpayer confusion and create unnecessary taxpayer burden.

TAS Response	As discussed in the National Taxpayer Advocate's 2018 Purple Book, and contrary to the IRS's assertion above, a recent IRS lien study showed that monthly collection notices generated more revenue than notices that were sent just once.[2] Moreover, the preliminary results the IRS references above indicate that additional notices *would* be cost-effective in some cases. In any event, the IRS has not taken any action to address the National Taxpayer Advocate's concern in the context of the PDC program. According to the PDC Program Scorecard for fiscal year (FY) 2018 (through March 15, 2018), the IRS's initial letter to taxpayers advising them their debts were being assigned to PCAs generated more than $2.5 million of payments. The National Taxpayer Advocate acknowledges that some IRS correspondence may create confusion if not drafted in light of behavioral economics research findings, or not written with the taxpayer's perspective in mind, or not tailored to the taxpayer's situation. TAS research studies have shown that targeted, educational letters can be effective in reducing noncompliance. The National Taxpayer Advocate is troubled by the collection philosophy that underlies the IRS's response. The IRS believes that more frequent reminders would confuse taxpayers. This is a problem, according to the IRS, because taxpayers would then seek clarification by contacting the IRS. Taxpayers contacting the IRS is a problem because the IRS has no interest in working with these taxpayers to resolve their liabilities, as their accounts "are not in active collection status." As a preliminary observation, we note that a private business that operated this way — refusing to take measures that might induce customers to inquire about their liability — would be out of business in short order. For credit card companies and other creditors the world over, monthly reminder notices are standard practice. As an agency whose Strategic Plan[3] includes "modernizing our approach to make taxpayers' experiences similar to the way they interact with private sector institutions," the IRS should not be ignoring such customary collection tools. Of even more concern is that for the IRS, it is an unwelcome development if taxpayers who owe a tax debt either call or write the IRS. The National Taxpayer Advocate's position is that this is exactly what the IRS should be seeking — to work with taxpayers to learn about their situations and address their debts. This is the approach that supports taxpayers' rights to privacy and to a fair and just tax system. By refusing to encourage taxpayers to contact the IRS, the IRS ignores an entire universe of debt. The IRS is also expressing the preference of diverting from public coffers up to 50 cents on each dollar the PCAs collect (by paying up to 25 percent in commissions to PCAs and retaining up to 25 percent for itself), rather than spending 43 cents overall for a letter that might bring in either a payment or a response from the taxpayer that allows the IRS to resolve the debt fully through a collection alternative.

[2] National Taxpayer Advocate 2017 Annual Report to Congress, Purple Book, Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 46 (Amend IRC § 7524 To Require The IRS To Mail Notices At Least Quarterly To Taxpayers With Delinquent Tax Liabilities).

[3] IRS, *Strategic Plan FY 2018–2022*, 5, https://www.irs.gov/pub/irs-pdf/p3744.pdf.

MSP #2 – TELEPHONES: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment

PROBLEM

The IRS is treating its telephone operations as a dying relic of taxpayer service as it moves forward with its "Future State" plan to reduce telephone interactions with taxpayers and rely instead on more web-based services and tax practitioners. This approach allows the IRS to focus on the channels of communication it prefers, but not where taxpayers might find the best form of assistance. However, as a part of the *right to quality service*, taxpayers should be able to contact the IRS over the channel that best meets their needs and have their inquiries fully addressed. The IRS has failed to follow the best practices used in other government agencies and the private sector to increase taxpayer loyalty and satisfaction. Because of the IRS's archaic telephone technology and operations, taxpayers face long wait times with the worry that the IRS's telephone assistors will not be able to answer their questions if they are able to get through. Failing to provide high quality service to taxpayers over the phone has the potential to reduce voluntary compliance, which can place an unnecessary burden on the compliance functions of the IRS in the future.

TAS Recommendation	**2-1] Develop a comprehensive strategy for improving IRS telephone service to be included in the next Strategic Plan and in the Annual Appropriation Requests, with specific initiatives to increase taxpayer satisfaction.**
IRS Response	IRS Actions Already Implemented.

IRS Action	We agree with this recommendation. One of the IRS's strategic goals is to empower and enable all taxpayers to meet their tax obligations through secure and innovative services, tools, and support. Prior to the beginning of each fiscal year, the IRS submits a comprehensive plan for initiative funding requests to increase the telephone LOS, designed to improve customer service for taxpayers. There are no current plans to reduce the level of funding available for telephone services. We remain hopeful that the expansion of online applications and services will enable us to deliver a higher LOS within current resources.
TAS Response	As described above, the National Taxpayer Advocate remains seriously concerned with the IRS's use of the LOS as the primary barometer of the taxpayer experience seeking help over the phone. Delivering a high LOS alone can be a hollow result if taxpayers are unable to resolve their questions on the call. While the IRS claims to agree with our recommendation for a comprehensive strategy for telephone service, it's response does not detail specific initiatives for doing so and relies on the hope that expansion of *non-telephone* services will save the LOS. We encourage the IRS to pursue initiatives to improve taxpayers' experience over the phone beyond just raising the LOS and to prioritize appropriate funding for telephone services in setting its budget. Improving customer experience with federal services was highlighted as one of the Cross- Agency Priority (CAP) goals in the President's Management Agenda, which specifically calls for providing a modern, streamlined, and responsive customer experience.12 Similarly, the 2018 Financial Services and General Government Appropriations bill required the IRS to submit a plan to the Committees on Appropriations of the House and Senate exploring "new customer service innovations to deliver quality and timely telephone and written correspondence service to taxpayers."13 TAS looks forward to seeing this plan and offers our assistance in identifying ways to meet private-sector standards for customer service.

TAS Recommendation	**[2-2] Incorporate qualitative measures, such as First Contact Resolution rate, used by other government agencies and in the private sector to measure a caller's overall experience and satisfaction with a call.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	The IRS will continue to monitor and track several customer-focused measures such as LOS, average speed of answer, accuracy of responses to customers, and overall customer satisfaction. The IRS telephone assistors are trained to make every attempt to identify and resolve all taxpayer issues during a call. Based on the current training model, recent customer accuracy, and customer satisfaction survey results, our assistors are providing America's taxpayers with top quality service by providing accurate and complete responses to their inquiries. The IRS has evaluated the possibility of using a First Contact Resolution metric and found that comprehensive data is not available to support a determination for whether a single contact resulted in a complete response, which would result in inaccurate reporting. In order to anecdotally track case resolution, additional questions were added to the customer satisfaction surveys to ask customers if their issue was resolved during the contact. These questions include: 1) Including today, how many times have you called about this particular issue? 2) Did the IRS representative answer all your questions today? 3) Will the information you received today eliminate the need for further calls on this issue?
TAS Response	The National Taxpayer Advocate commends the IRS for incorporating additional resolution-based questions into its customer satisfaction survey, but remains concerned about the limitations of these surveys described in the comments above. The IRS should incorporate these types of questions directly into the call to better engage with the taxpayers and track the results.[1] Questions like the three described in the IRS's response could also be used to track First Contact Measure, a standard measure in the private sector. To fulfill the IRS's assertion that taxpayers should "expect the same level of service when dealing with the IRS in the future as they have now from their financial institution or a retailer," the IRS should use the measures that are common in the private sector to evaluate its performance.[2] The IRS should focus more on linking quality metrics to specific initiatives and using these metrics to influence key organizational decisions. As a part of the CAP goal to improve customer experience with federal services, the Office of Management and Budget (OMB), developed a strategy to monitor the customer experience using a dashboard of key metrics.[3] OMB recommends including sub-indicators assessing program quality using the customer experience drivers of ease, effectiveness, and emotion.[4] Forrester's Federal Customer Experience Index, which evaluated agency performance based off of these three factors, shows that the IRS's performance in providing a high-quality customer experience is not "top quality" but actually "very poor."[5] Furthermore, the IRS should follow the example of other federal agencies, like the General Services Administration, and create the position of a Chief Taxpayer Experience Officer to oversee a team of employees committed to monitoring and improving the taxpayer experience over all communication channels.

[1] For additional information on ways to measure and improve call quality, see National Taxpayer Advocate 2017 Annual Report to Congress vol. 2, 239 (Literature Review: Improving Telephone Service Through Better Quality Measures).
[2] IRS, Future State Initiative (Aug. 27, 2017), https://www.irs.gov/newsroom/future-state-initiative.
[3] Office of Management and Budget, *CAP Goal Action Plan: Improving Customer Experience with Federal Services*, 10 (2018).
[4] Id.
[5] Rick Parrish and Margaret Rodriguez, Forrester Research, *Federal Customer Experience Index, 2018*, 10 (May 31, 2018).

TAS Recommendation	**[2-3] Provide telephone assistors additional issue-focused training to help resolve a caller's inquiry directly in as few steps as possible.**
IRS Response	IRS Actions Already Implemented.
IRS Action	We agree with this recommendation. Each year, the IRS executes a well-developed telephone training plan focused on providing our employees with the most current information and ensuring we are able to respond to taxpayers in the most effective and efficient manner. This training addresses tax law, account, and procedural inquiries. For example, during the first quarter of FY 2018, the Accounts Management organization trained approximately 2,300 new hire seasonal Customer Service Representatives (CSR) and Tax Examiners. These newly hired employees received Critical Filing Season Readiness Training (CFSRT), while permanent employees received skill progression training to prepare them for filing season assignments. Returning seasonal employees received CFSRT and applicable skill progression training when they returned to duty in January 2018. The IRS develops and provides just-in-time, issue-focused training when new or unplanned issues arise. Updated training material is developed and delivered as needed. We also ensure our field offices are engaged in the training process by regularly convening field subject matter experts to develop and update training material and tools. To supplement formal training, we use workshops and team meetings to communicate policy and procedure updates, computer system changes, Service Electronic Research Program alerts, and IRM revisions. Customer accuracy and customer satisfaction metrics reflect our training effectiveness and are cited in the narrative response above. Similar to Accounts Management employees, Small Business/Self-Employed Division telephone assistors, who are responsible for the collection calls, are trained on their designated program(s) and attend yearly issue-focused Continuing Professional Education. For issues beyond their program scope, assistors are trained on alternative options for service. The IRS uses employee driven teams to provide telephone assistors additional focused training to help resolve a caller's inquiry directly, in as few steps as possible, by improving organizational effectiveness, strengthening employee engagement, and capturing and using employee feedback. For example, the Campus Collection operation has become more efficient by streamlining procedures and standardizing processes in the Automated Collections System organization, thus reducing case resolution time. This approach enables efficient use of available resources across several Campus Collection programs. There has been a significant reduction in redundant and duplicative efforts and improvement in customer services to taxpayers and employee capabilities and opportunities. The IRS has initiated a request to enhance call routing to directly route calls to the correct assistor within compliance functions.

TAS Response	The National Taxpayer Advocate is pleased that the IRS agrees issue-focused training is a priority and appreciates the effort the IRS has made thus far to provide such training. However, the results of the Federal Employee Viewpoint Survey show that the current efforts made by the IRS are inadequate, which can hurt taxpayer experience over the phone and potentially reduce voluntary compliance. Only 45 percent of CAS employees were satisfied that their training needs were being adequately assessed.[6] Just 33 percent of CAS employees felt a feeling of personal empowerment with their work.[7] As employee empowerment is critical for improving taxpayer satisfaction, the IRS should work to engage its employees by communicating with them to identify their training needs and other ways to improve its taxpayer services. In addition to the training programs described above, the CAS managers should provide more immediate guidance to telephone assistors based off of specific interactions on a call with a taxpayer to help the telephone assistor identify ways to improve performance.

TAS Recommendation	**[2-4] Upgrade phone hardware technology to provide virtual hold and scheduled callback options to callers.**
IRS Response	IRS Actions to be Adopted/Addressed if Resources and Budget Allow.
IRS Action	The IRS has requested funding to implement the virtual hold technology; however, this request is assessed along with all other agency needs and at this time has not been funded. We plan to implement the recommendation if resources and funding are available. We have pursued funding for customer callback technology since 2012, and the initiative is among our FY 2019 funding requests.

[6] IRS response to TAS information request (Nov. 7, 2017).
[7] *Id.*

TAS Response	We acknowledge the need for additional funding for improved taxpayer services over the phone. However, the National Taxpayer Advocate continues to encourage the IRS to prioritize a callback feature within its existing budget allocation, as this type of service would help free up other resources once it is implemented.

TAS Recommendation	**[2-5] Institute a system similar to a 311 system where an operator can transfer a taxpayer to the specific office within the IRS that handles his or her issue or case.**
IRS Response	NTA Recommendation Not Adopted. We continue to provide phone services through a balanced approach to educate and inform each taxpayer as to the variety of service options and channels. All telephone assistors are trained to transfer taxpayers to the appropriate tax law or account area in order to reach an assistor with the required skill sets to handle the inquiry. Taxpayers who receive IRS correspondence are provided a distinct telephone number to call to discuss their issue. On the toll-free lines, to provide customers with efficient and accurate tax law and account assistance, the IRS also uses automation when appropriate to connect a taxpayer with an assistor who has the skill sets to provide the necessary service. At this time, instituting a 311 system is not the best use of our limited funding. The IRS is also pursuing a modernized Enterprise Case Management (ECM) environment. Building on the precepts of the IRS Future State, the ECM vision specifically highlights the importance of empowering employees to rapidly resolve cases, providing top quality service to taxpayers, and upholding the fair administration of tax law. A modern case management environment will leverage commercial off-the-shelf products to improve the taxpayer's experience by providing employees with a more complete view of the taxpayer's relationship with the IRS. As a more efficient and modern ECM solution is developed, the IRS will continue to engage employees and other stakeholders to identify opportunities to provide quality customer service to taxpayers.
IRS Action	N/A

TAS Response	We are pleased that the IRS is modernizing its Enterprise case Management (ECM) environment to gain a more complete view of taxpayers. However, while this may provide assistors with additional information about a taxpayer's account, it does not directly assist in ensuring taxpayers are directed to the appropriate assistor. Taxpayers should have the option to speak to a live human being in the IRS's initial call-routing choices. While some taxpayers may know how to navigate the IRS's menu, having the option to speak to an operator would assist those that do not know where to go. Having an operator available would help to prevent IRS telephone assistors wasting time answering misdirected calls and would also reduce the amount of time taxpayers have to take out of their busy schedules to get assistance from the IRS. It would also be a way to gather data about taxpayer needs that the IRS currently does not track.

TAS Recommendation	**[2-6] Reinstate the capability for taxpayers to receive year-round tax law assistance over the telephone, including a second-tier of assistance for more complex tax law issues.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS provides guidance to taxpayers through a variety of channels year-round. Tax law assistance is provided on the telephone year-round for a number of subject areas including Affordable Care Act, International, TEGE, BMF (Employment Tax), and Special Services (Disaster, Combat Zone, etc.). Tax law inquiries that are within the scope of our TACs and telephone assistors are answered from January through mid-April; additionally, such inquiries are answered all year if the question is related to the resolution of an account inquiry. Taxpayers can also find tax law information 24 hours per day, seven days per week at IRS.gov. Through IRS.gov, taxpayers have access to numerous Publications, Tax Topics, Frequently Asked Questions and Tax Trails. Through the Interactive Tax Assistant (ITA), taxpayers can easily access various self-service options. The ITA is a very heavily used tool; therefore, our goal is to annually increase the number of available ITA topics on IRS.gov to assist taxpayers with their tax law questions. Currently, there are 44 topics covered and usage for FY 2017 of the ITA tool was over 1.8 million. We also intend to assist taxpayers, year-round, with the recent tax reform legislation. We are still determining how we will deliver that assistance.

TAS Response	The IRS continues to ignore the fact that 46 percent of taxpayers calling on the phone have already checked its online resources and still need assistance.[8] Constraining the scope of types of questions telephone assistors can answer or directing taxpayers back to online resources fails to meet the needs of taxpayers and can leave them with their questions unanswered. The National Taxpayer Advocate remains concerned about the limitations in telephone assistors' ability to answer questions related to the new tax law, as initial testing performed by TAS has shown that telephone assistors were unable to answer the questions or provided incorrect information.[9] Moreover, the IRS's response fails to commit to maintaining a tax reform assistance line year-round; therefore, it has not adopted our recommendation.

[8] IRS response to TAS information request (Dec. 12, 2017). A study by the Harvard Business Review suggests an even higher percentage, finding that 57 percent of inbound call to commercial call centers come from customers that attempted to use web resources first. Matthew Dixon, Karen Freeman, & Nicholas Toman, *Stop Trying to Delight Your Customers*, Harvard Business review (July-Aug. 2010), https://hbr.org/2010/07/stop-trying-to-delight-your-customers.

[9] *See* Area of Focus: *Taxpayers Need More Guidance and Service Because of the Tax Cuts and Jobs Act*, *supra*.

MSP #3 – ONLINE ACCOUNTS: The IRS's Focus on Online Service Delivery Does Not Adequately Take into Account the Widely Divergent Needs and Preferences of the U.S. Taxpayer Population

PROBLEM

The National Taxpayer Advocate believes that the IRS should develop a multifaceted omnichannel service strategy based on the needs and preferences of taxpayers. We fully support the IRS in its efforts to develop online accounts for individuals and their authorized representatives. However, with approximately 41 million U.S. taxpayers without broadband at home and almost 14 million with no internet access at all at home, the IRS must continue to fully staff other service channels and it needs to upgrade its telephone technology to 21st century. Taxpayers have a right to quality service and those taxpayers who want or need to interact with the IRS in a two-way conversation by telephone or face-to- face service should receive the same level of quality service as those who use the online self-help tools. As the IRS focuses on providing self-service tools for taxpayers, the National Taxpayer advocate has the following concerns:

- The IRS's decision to prioritize online services over other service channels is resource-driven rather than based on research on taxpayer needs and preferences and the impact on compliance;
- Secure Access e-Authentication is a critical fraud prevention measure, but the 30 percent verification rate proves that it creates a barrier to entry for all taxpayer populations, not just the elderly and low income;
- The low participation rates of the Taxpayer Digital Communications (TDC) pilot conducted by several IRS organizations illustrate the need to maintain and improve traditional service channels;
- The IRS should explore establishing a method for taxpayers to electronically submit documents or payments to the IRS which involves a less rigorous level of e-authentication; and
- The IRS has failed to make the policy decision to restrict third party access to current and future online applications.

TAS Recommendation	**[3-1] Maintain an omnichannel approach to taxpayer service delivery to meet the needs and preferences of taxpayers and representatives who either cannot or prefer not to use the online account application for their particular interaction with the agency.**

IRS Response	IRS Actions Already Implemented
IRS Action	The IRS will continue to pursue an omnichannel approach to taxpayer service. We understand there are users who do not have internet access or who do not want to access their account online and we will continue to offer telephone, correspondence, and face-to-face services to assist taxpayers.
TAS Response	While we are pleased that the IRS has committed to pursuing an omnichannel approach to taxpayer service, we do not agree that the IRS has implemented this recommendation. Until the IRS has developed a comprehensive strategy for omnichannel service, based on type of taxpayer and type of interaction, we do not believe it has implemented this recommendation. Merely making each type of service channel available, without a comprehensive research-based strategy, does not amount to a sufficient omnichannel approach.

TAS Recommendation	**[3-2] The Commissioner of Wage & Investment, the Director of Online Services, and the National Taxpayer Advocate should jointly undertake a collaborative and comprehensive study of taxpayer needs and preferences by taxpayer segment, using surveys (telephone, online, and mail), focus groups, town halls, public forums, and research studies (including TAS research studies and literature reviews). These initiatives should be designed to determine taxpayer needs and preferences, and not be biased by the IRS's own desired direction. This study should contain recommendations jointly agreed to by the principals for a comprehensive 21st century taxpayer service strategy.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA

IRS Action	The IRS conducts research through the Taxpayer Experience Survey (TES) on the outreach and education needs of taxpayers. The information is broken down by various demographics including income, Limited English Proficient Spanish, rural location, and disability. This annual survey is conducted with taxpayers regardless of whether they have prior experience communicating with the IRS. The survey results provide information to assist with the outreach and education of taxpayers. The TES also measures unqualified preference for obtaining general tax information to help understand the channels taxpayers prefer for education and outreach. In addition to the previous information that IRS provided to TAS about factors and studies that have been considered in developing the strategy for providing account based online services, the IRS has engaged with TAS to help gather insights to product design and future product development. The IRS welcomes the opportunity to review the results of research studies that TAS conducts on this issue and will consider this information as the strategy for providing account-based online services is refined.
TAS Response	We commend the IRS for collaborating with TAS regarding online account design and future online product development. However, the IRS continues to disregard the findings of TAS research studies, focus group reports, town halls, and public forums in decisions regarding prioritization and resource allocation between the various service channels. The IRS cites to its annual Taxpayer Experience Survey. The 2016 TES was mainly conducted online with less than ten percent of the respondents contacted by phone. The IRS conducted the phone survey with a goal of capturing the responses of taxpayers with no internet access.[1] However, it is not clear that the phone survey actually reached a significant number of taxpayers without internet access. In fact, the 2016 TES reported that 98 percent of respondents had internet access at home.[2] In contrast, TAS's 2016 and 2017 survey on Taxpayers' Varying Abilities and Attitudes was entirely conducted by phone (both cell phone and landline) and found that about 41 million U.S. adult taxpayers do not have broadband access at home and about 14 million have no internet access at all at home.[3] In addition, the 2016 TES found a high rate of satisfaction among those respondents who used the phones and TACs to contact the IRS. For example, the 2016 TES found that more than half of individuals (57 percent) who used TACs instead of IRS.gov felt that going to a local IRS office was easier than getting the information online.[4] In addition, 91 percent of taxpayers who called an IRS phone representative understood the information provided to them and 84 percent of taxpayers had all their questions answered by the IRS phone representative.[5] While the online services channel also scored high in satisfaction levels, this is not a reason to prioritize one service channel over another.[6] It only fortifies the need to maintain high levels of quality service across all channels.

[1] IRS, *2016 Wage and Investment (W&I) Taxpayer Experience Survey* 6 (Oct. 2016).
[2] IRS, Id. at 139.
[3] *See* National Taxpayer Advocate 2017 Annual Report to Congress, vol. 2, 61-146 (Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs).*
[4] IRS, 2016 W&I Taxpayer Experience Survey 20 (Oct. 2016).
[5] *Id*. at 21.
[6] *Id*. at 22.

TAS Recommendation	**[3-3] Explore establishing a method for taxpayers to electronically submit documents or payments to the IRS which involves a less rigorous level of e-authentication.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS agrees that transactions should be as easy and simple as policy, process, and technology will allow, especially for inbound payment and document submission processes where taxpayers are attempting to voluntarily comply with tax obligations. The IRS' risk assessment process considers each program and process independently due to online risks. The IRS, along with all federal agencies, must follow National Institute of Standards and Technology (NIST) Special Publication 800-63-2, *e-Authentication Guidelines*, when interacting with taxpayers through web- based, online applications. The NIST guidance ensures that taxpayer data is protected according to Office of Management and Budget implementation directives, which provides the method for assessing risk related to online transactions. In June 2017, NIST released Special Publication 800-63-3, *Digital Identity Guidelines*. The new guidance substantially overhauls the guidance under NIST SP 800-63-2 and allows agencies to consider ID proofing and authentication separately. It also introduced three types of identity assurance levels referred to as Identity Assurance Level, Authenticator Assurance Level, and for federated systems, Federation Assurance Level. The IRS is in the process of assessing the new guidance and conducting a methodical evaluation which will result in an implementation plan.
TAS Response	We understand that the IRS is bound by the NIST guidelines and we are not suggesting that the IRS reduce authentication standards when the information is flowing in both directions between the taxpayer or representative and the IRS. However, the overall risk of inappropriate disclosure by the IRS would logically be lower when information is only flowing inbound. Therefore, we encourage the IRS to explore the new NIST guidelines to determine whether they provide more flexibility for purposes of payment and document submission. Moreover, we believe the IRS should set a date certain by which it will complete the assessment of NIST guidelines and develop an implementation plan.

TAS Recommendation	**[3-4] Restrict third party access to those practitioners subject to Circular 230 oversight. Once the IRS strengthens the AFSP examination requirements, the IRS should permit AFSP Record of Completion holders to gain access to the application.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS has identified practitioner access as a future capability for development. The development of this capability is being prioritized, along with other online capabilities. Once developed, this should enable authenticated representatives to jointly establish authorization to access information and represent their clients and enable practitioners to perform account actions on behalf of their clients. A cross-functional IRS team, including members from TAS, is in the early stages of analysis and policy planning for tax professional account features. Based on the team's findings, the IRS will make determinations using legal requirements, procedural guidelines, and business needs to improve taxpayer services. At this time, the IRS has not made determinations about third-party access levels or groups. The IRS will continue to work with the National Taxpayer Advocate, industry stakeholders, and IRS subject matter experts to evaluate this and many other considerations related to online access for tax practitioners.
TAS Response	We understand that the IRS has not yet made a policy decision regarding the restriction of third party access to the online account. However, it is crucial that the IRS prioritize this policy decision before the product design and development has advanced too much further. As detailed in the Most Serious Problem, we have serious concerns about granting broad online account access to third parties. Without instituting safeguards on third party access to the system, the IRS could inadvertently perpetuate preparer misconduct. Therefore, we believe that the IRS would protect taxpayers by restricting third party access to only those practitioners who are subject to Circular 230 oversight. Moreover, we believe the IRS should set a date certain by which it will make that policy decision, since planning is under way for third party account access.

TAS Recommendation	**[3-5] Upgrade phone technology to the 21st century, including call-backs.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The Infrastructure Upgrade Program-Endpoint Replacement (IUP-ER) currently in process will replace all legacy Aspect Automatic Call Distributer (ACD) platforms with Internet Protocol (IP) based technology. This will enable additional telephony features, provide robust reporting, and reduce licensing costs. A new version of contact recording will interface with new IP voice acquisition modules. The estimated completion date is August 2018. When complete, IRS customer service representatives will be using new equipment, new handsets, and a new computer telephony input/ output systems interface. The IRS agrees that providing telephone callbacks could improve the taxpayer experience and reduce taxpayer burden. Customer callback technology would offer customers the option to leave a message that would act as the taxpayer's place in a virtual queue awaiting the next available customer service representative. We have pursued funding for customer callback technology since 2012, and the initiative is among our FY 2019 funding requests.
TAS Response	We are pleased that the latest planned telephone system upgrade is near completion and look forward to its launch. In addition, we will continue to support the IRS's efforts to obtain funding to integrate customer callback technology. We believe this new technology will significantly reduce taxpayer burden.

MSP #4 –AUDIT RATES: The IRS Is Conducting Significant Types and Amounts of Compliance Activities That It Does Not Deem to Be Traditional Audits, Thereby Underreporting the Extent of Its Compliance Activity and Return on Investment, and Circumventing Taxpayer Protections

PROBLEM

The IRS has the authority under Internal Revenue Code (IRC) § 7602 to examine, in what can be termed a "real" or traditional audit, any books, papers, records, or other data that may be relevant to ascertain the correctness of any return. However, the IRS does not consider a significant number of compliance contacts with taxpayers to be "real" audits, including math error corrections, Automated Underreporter (AUR), identity and wage verification, and Automated Substitute for Return (ASFR). Yet these contacts, or "unreal" audits, require taxpayers to provide documentation or information to the IRS, comprise the majority of compliance contacts, and feel very much like a "real" examination to taxpayers. "Unreal" audits lack taxpayer protections typically found in "real" audits, such as the opportunity to generally seek an administrative review with the IRS Office of Appeals "Appeals" or the statutory prohibition against repeat examinations. As the IRS is planning for the increased use of "unreal" audits through automated means with its "Future State" Initiative, it is crucial that the IRS reevaluate and revise its current guidance through the lens of the Taxpayer Bill of Rights.

TAS Recommendation	**[4-1] In collaboration with the National Taxpayer Advocate, conduct a comprehensive review of its audit definition under Revenue Procedure 2005-32 to reflect IRS compliance activity today, and the application of the Taxpayer Bill of Rights.**

IRS Response	NTA Recommendation Not Adopted. There has been no notable change in the types of compliance activities to warrant this review nor has there been a change to IRC Section 7605(b). Revenue Procedure 2005-32 specifies what is considered a closed case; a reopening; and taxpayer contacts and other actions that are not examinations, inspections, or reopening's. Specifically, Section 4.03 defines the four categories of IRS contacts that are not examinations, inspections, or reopening of closed cases: 1) narrow, limited contacts, such as to correct mathematical errors; 2) IRS-administered programs in which taxpayers voluntarily participate, such as the Advance Pricing Agreement program; 3) reconsiderations of tax periods affected by positions taken by the taxpayer or a related taxpayer in other years, such as a change to a carried-back item that affects the carryback year; and 4) contacts for one purpose that result in information relevant to a different purpose, such as an inspection of a taxpayer's records in investigating a possible Title 31 violation. These categories and examples describe the *nature* of the IRS' contacts, and are not meant to be exhaustive, exclusive, or limitative. As such, they ensure Revenue Procedure 2005-32 remains relevant and applicable to current compliance contacts, even when specific compliance methods evolve. Taxpayers are informed of their rights during examinations as well as other IRS contacts with taxpayers, where required.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate fundamentally disagrees with the IRS that there has been no notable change in the types of IRS compliance activities to warrant comprehensive review of its audit definition under Revenue Procedure 2005-32 to reflect IRS compliance activity today, and the application of the Taxpayer Bill of Rights. As noted in the Most Serious Problem, the IRS conducted in the range of approximately eight to nine million "unreal" audits for fiscal years 2014 through 2016, as compared to approximately one million "real" audits annually during the same time period. "Unreal" audit compliance work of this scope certainly warrants IRS review and reconsideration of its definition of an audit. In addition, as noted in the ACA context above, there are circumstances where the IRS essentially conducts a "real" audit under the guise of an "unreal" audit, thereby circumventing the IRC § 7605(b) protection against repeat examinations. The National Taxpayer Advocate emphasizes that, as a general matter, the definition of an audit should include both pre-refund and post-refund examinations of returns that, like correspondence examinations, require the taxpayer to provide some level of documentation. Such a definition would recognize the "real" audit-like nature of some of the IRS's "unreal" audit work and provide taxpayers with appropriate rights and protections.

TAS Recommendation	**[4-2] Include "unreal" audits in its audit rate and ROI calculations to properly reflect the actual compliance activity that it conducts.**
IRS Response	NTA Recommendation Not Adopted. An IRS audit is an examination or inspection of an organization's or individual's accounts and financial information to ensure information is reported correctly according to the tax laws and to verify the reported amount of tax is correct. Audit coverage should only include contacts that meet the IRC Section 7605(b) definition. As mentioned above, the IRS Data Book provides data on returns examined, number of AUR cases, and number of ASFR cases. Additionally, the IRS's budget measures, published annually in the President's Budget and other annual reports, already include the measure *Automated Underreporter (AUR) coverage* in addition to *Examination coverage*. Finally, the ROI for major enforcement programs reported in IRS's annual budget request already includes ASFR as part of the Collection ROI as well as a separate ROI for AUR (FY 2019 Congressional Justification, pp. 79-80, available at http://cfo.fin.irs.gov/SPB/BudgetFormulation/FY_2019/FY_2019_CJ.pdf).
IRS Action	N/A
TAS Response	The National Taxpayer Advocate believes that the IRS should provide a complete and accurate picture to the taxpaying public of *all* of its compliance activity, both "real" and "unreal," by including "unreal" audits in its audit rate and ROI calculations. As noted earlier, we disagree that audit coverage should only include taxpayer contacts that meet the IRC § 7605(b) definition. There is no prohibition on the IRS publishing rate and incidence (by income) information on *all* of its compliance touches. In addition, as mentioned above, this expanded reporting might benefit the IRS in deterring noncompliance and provide useful data that could be used to appropriately allocate its resources.

TAS Recommendation	**[4-3] Grant taxpayers the opportunity to seek Appeals review in certain "unreal" audit cases, such as in certain math error and AUR cases where Appeal rights do not already exist.**
IRS Response	NTA Recommendation Already Implemented. Current procedures grant taxpayers the right to appeal during the AUR and ASFR programs. In both the AUR and ASFR programs, taxpayers receive Publication 1, Your Rights as a Taxpayer, which discusses Appeals rights and processes. In addition, for AUR, the CP2000 notice references Publication 5181, *Tax Return Reviews by Mail*, which provides specific information on the appeals process. For ASFR, Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree*, is also provided. With respect to returns that are adjusted using math error authority, taxpayers have the right to request an abatement within 60 days of the notice date. Then, either the assessment is abated or their case is sent for audit where the taxpayer will receive formal appeal rights if they still do not agree.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate disagrees with the IRS that it has already implemented her recommendation to grant taxpayers the opportunity to seek Appeals review in certain "unreal" audit cases, such as in certain math error and AUR cases where Appeal rights do not already exist. As discussed in the Most Serious Problem, while taxpayers have the right to appeal for almost all "real" compliance activities, which is in accord with the Taxpayer Bill of Rights, such rights do not necessarily exist or are extremely limited in the "unreal" audit context. For instance, a taxpayer does not have the opportunity to seek Appeals review in a math error case, unless, as the IRS notes, the taxpayer responds to the math error notice and requests abatement of the tax within 60 days. However, if the same issue arose in the context of a "real" audit, the taxpayer would have the right to go to Appeals. This undermines the *right to appeal an IRS decision in an independent forum*. Similarly, depending on the amount of time left in the period of limitation on assessment, a taxpayer might not have the opportunity to seek Appeals review in an AUR case. The lack of opportunity for Appeals review in certain "unreal" audits has a direct adverse impact on taxpayer rights and, as noted in the Most Serious Problem, disproportionally impacts low and middle-income taxpayers, who are least able to afford the representation to properly challenge the IRS.

TAS Recommendation	**[4-4] Where practicable, address all issues in a "real" audit rather than conducting an "unreal" audit and then subsequently conducting a "real" audit**
IRS Response	NTA Recommendation Not Adopted. A significant number of returns reviewed by AUR or adjusted using math error authority have no issues other than unreported or underreported income identified through the document matching process or a mathematical or clerical error noted during return submission. Subjecting such taxpayers to a full audit would increase taxpayer burden unnecessarily and be an inappropriate use of limited IRS resources. Conducting an audit for each unfiled return is also not practicable, and would be costly to nonfilers and the IRS. Audits are the most expensive treatment stream available, and the majority of ASFR issues can be resolved with a voluntarily-filed return.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate understands, and acknowledged in the Most Serious Problem, that there are circumstances (such as a simple math error correction) where an IRS "unreal" compliance contact should not constitute a "real" audit and need not be addressed in a "real" exam setting. Subjecting taxpayers to a full audit under these circumstances would clearly burden taxpayers and be a waste of IRS resources. However, as illustrated by the ACA example in the Most Serious Problem, there are circumstances where the IRS can request information in an "unreal" audit and then request essentially the same type of information in a subsequent "real" audit. This is unfair to taxpayers and abrogates fundamental taxpayer rights and statutory protections. The National Taxpayer Advocate believes that the IRS can take steps to avoid these types of situations and, where practicable, address all compliance issue in a "real" audit.

MSP #5 – EXEMPT ORGANIZATIONS: Form 1023-EZ, Adopted to Reduce Form 1023 Processing Times, Increasingly Results in Tax Exempt Status for Unqualified Organizations, While Form 1023 Processing Times Increase

PROBLEM

Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, was adopted in large part to reduce inventory backlogs for processing Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. Today, Form 1023-EZ applications exceed Form 1023 applications, and the IRS approves virtually all Form 1023-EZ applications it receives.

Taxpayer Advocate Service (TAS) studies carried out in 2015 and 2016 showed, respectively, that 37 percent and 26 percent of approved entities in one of 20 states that post articles of incorporation online did not meet the organizational test for qualification as an Internal Revenue Code (IRC) § 501(c)(3) organization. This year's TAS study of a representative sample of approved Form 1023-EZ applicants from those same 20 states found an erroneous approval rate of 42 percent. Meanwhile, the more detailed Form 1023 processing time, 96 days in Fiscal Year (FY) 2016, rose to 113 days for FY 2017. Thus, Form 1023-EZ as implemented created a new risk — erroneous grants of tax exemption — yet may not have solved the initial problem of long processing times for Form 1023.

TAS Recommendation	**[5-1] Require Form 1023-EZ applicants, other than corporations in states that make articles of incorporation publicly available online at no cost, to submit their organizing documents.**
IRS Response	NTA Recommendation Not Adopted. The IRS will not require Form 1023-EZ applicants to submit their organizing documents. The Deputy Commissioner for Services and Enforcement previously rescinded the portion of the 2016 Taxpayer Advocate Directive ordering the IRS to require submission of organizing documents and observed that such requirement does not reflect how the organization will operate, and how the organization operates is a determinative factor regarding tax-exempt status. Form 1023-EZ will continue to require an applicant to attest, under penalties or perjury, to information regarding its operations and organization.

IRS Action	N/A
TAS Response	The IRS's assertion that organizing documents do not reflect how an organization will operate does not withstand even minimal scrutiny. As TAS has demonstrated in three research studies, IRC § 501(c)(3) status is inappropriate in some cases *because* an applicant's organizing document exactly reflects how the organization will operate. For example, the purpose articulated in the articles of incorporation of one organization described in this year's report, to establish and operate a farmer's market, was likely an accurate reflection of how the organization operates. That purpose, per the IRS's own guidance,[1] made the organization not eligible for 501(c)(3) status; and yet through the 1023-EZ process the IRS provided that organization a determination letter stating it was an exempt organization under IRC § 501(c)(3). The IRS should have gathered more information about this applicant before approving its Form 1023-EZ application. Moreover, at a bare minimum, requiring organizing documents would allow the IRS to identify applicants like the one described in this year's report that had been involuntarily dissolved by the state of incorporation at the time it applied and when exempt status was conferred. In any event, in addition to meeting the *operational* test, organizations are required to meet the *organizational* test, and the IRS cannot carry out its oversight responsibility to ascertain whether the organizational test has been met without inspecting the organizing documents. As TAS studies repeatedly and consistently show, applicants' attestations that the organizational test has been met are frequently — at least 42 percent of the time — unreliable. The National Taxpayer Advocate agrees that "how the organization operates is a determinative factor regarding tax-exempt status," but it is only one determinative factor. Failing to meet the organizational test is *the threshold factor* and may have real consequences, even where the operational test is met. For example, in the 2015 TAS study, 23 percent of the organizations in the representative sample did not have adequate dissolution clauses. As the National Taxpayer Advocate explained in a May 16, 2018 blog,[2] according to the IRS's Select Check database, the exempt status of about a third of the 15,000 organizations whose Form 1023-EZ applications were approved in 2014 was automatically revoked for failing to file required returns or notices for three consecutive years. Automatic revocation of exempt status may prompt an organization to dissolve, and there may be no accountability for assets an organization accumulated during the years it held exempt status. The IRS's ongoing refusal to address these concerns is nothing short of an abdication of its oversight responsibilities.

[1] *See, e.g.*, the IRS letter ruling denying IRC § 501(c)(3) status to an organization operated for the purpose of facilitating sales for the benefit of vendors at its farmers' market, and authorities cited therein, reported at 2017 TNT 227-22 (Nov. 28, 2017).
[2] See Nina Olson, *A Problem of the IRS's Own Making - Automatic Revocations of 1023-EZ Exempt Organizations*, NTA Blog (May 16, 2018), https://taxpayeradvocate.irs.gov/news/nta-blog-automatic-revocation-of-1023EZ-exempt- organizations?category=Tax%20News.

TAS Recommendation	**[5-2] Require Form 1023-EZ applicants to submit summary financial information such as past and projected revenues and expenses.**
IRS Response	NTA Recommendation Not Adopted. The IRS will not require that Form 1023-EZ applicants submit summary financial information such as past and projected revenues and expenses. The Deputy Commissioner for Services and Enforcement previously rescinded the portion of the 2016 Taxpayer Advocate Directive ordering the IRS to require submission of summary financial information and observed that such requirement does not reflect how the organization will operate, and how the organization operates is a determinative factor regarding tax-exempt status. Form 1023-EZ will continue to require an applicant to attest, under penalties of perjury, to information regarding its operations and organization. Moreover, an organization is eligible to use Form 1023-EZ only if its annual gross receipts in the past three years, and projected gross receipts for the next three years, do not exceed $50,000 and its total assets have a fair market value of less than $250,000.
IRS Action	N/A
TAS Response	At a minimum, requiring applicants to provide summary financial information such as past and projected revenues and expenses would allow the IRS to identify those that clearly do *not* plan to operate as exempt under IRC § 501(c)(3). It would also force applicants to more carefully consider what their activities will entail, and whether exempt status under IRC § 501(c)(3) is needed or appropriate. The result could be an educational experience for applicants, especially smaller organizations eligible to use Form 1023-EZ, and fewer requests for IRC § 501(c)(3) exempt status

TAS Recommendation	**[5-3] Revise Form 1023-EZ to include a question about whether the organization has a conflicts of interest policy.**
IRS Response	NTA Recommendation Not Adopted. The IRS will not revise Form 1023-EZ to include a question as to whether a small organization meeting the Form's eligibility criteria has adopted a conflict of interest policy. Adoption (or non- adoption) of a conflict of interest policy is not determinative as to how an organization operates or whether it qualifies for tax-exempt status.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate is perplexed by the IRS's unwillingness to include this question, which is already part of the Form 1023 application, on Form 1023-EZ. The National Taxpayer Advocate acknowledges that a conflict of interest policy is not required for qualification as an IRC § 501(c)(3) organization. However, asking applicants whether they have a conflict of interest policy may prompt them to more carefully consider whether they are organized and will operate exclusively for exempt purposes. Asking the question may also have the effect of encouraging organizations to adopt a conflict of interest policy and may alert them to potential issues of inurement and private benefit, which are determinative of tax exempt status.

TAS Recommendation	**[5-4] Accept electronically Form 1023-EZ supporting documents, such as articles of incorporation.**

IRS Response	NTA Recommendation Not Adopted The IRS will not require that Form 1023-EZ applicants submit their organizing documents. The Deputy Commissioner for Services and Enforcement previously rescinded the portion of the 2016 Taxpayer Advocate Directive ordering the IRS to require submission of organizing documents.
IRS Action	N/A
TAS Response	Taxpayers' *right to a fair and just tax system* includes the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, and the *right to privacy* includes the expectation that IRS actions will be no more intrusive than necessary. The skeletal Form 1023-EZ does not solicit enough information to allow the IRS to determine, with sufficient accuracy, whether an organization qualifies for IRC § 501(c)(3) status and is therefore exempt from tax on its receipts. The IRS's excessive reliance on attestations, which may prove inaccurate only upon a subsequent intrusive audit, is poor tax administration and undermines taxpayers' rights. Taxpayers have the right to an actual determination about their exempt status, based on supporting documentation, from the outset. This is not just a matter of concern for the organizations applying for exempt status; rather, IRS awards of exempt status to ineligible organizations harms donors and taxpayers at large, and weakens the public fisc. It is unfortunate that, as the IRS's response throughout makes clear, it will not take steps to protect the public unless it is forced to do so.

TAS Recommendation	**[5-5] Make a determination about qualification as an IRC § 501(c)(3) organization only after reviewing a Form 1023-EZ applicant's narrative statement of actual or planned activities, organizing documents, and any other supporting documents.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	The IRS trained its Form 1023-EZ tax examiners on exempt organization tax law prior to implementation of the requirement for a narrative description of actual or planned activities on Form 1023-EZ. With the January 2018 implementation of this Form 1023-EZ revision, the IRS determines qualification as an IRC Section 501(c)(3) organization only after reviewing the narrative statement of actual or planned activities. The IRS does not plan to require organizing documents or summary financial information as indicated in our responses to Recommendations #5-1 and #5-2. Requiring submission and review of such information would increase burden on small organizations applying for recognition of exemption and increase IRS processing times, and would therefore be inconsistent with the risk-mitigated goals and benefits of the existing Form 1023-EZ process.
TAS Response	The National Taxpayer Advocate is pleased that Form 1023-EZ was revised to include a narrative statement of actual or planned activities, something she first recommended in her 2015 Annual Report to Congress and later ordered in a Taxpayer Advocate Directive dated September 26, 2016. She does not agree that requiring applicants seeking IRC § 501(c)(3) status to furnish organizing documents and basic financial information imposes an unacceptable or inappropriate burden on them. Reviewing such additional information may increase IRS processing times, but the IRS has not provided any data or estimates of what those increased times could be, nor has it devised strategies for managing any increase in processing times. On the other hand, reviewing these materials would likely reduce the rate at which the IRS erroneously confers IRC § 501(c)(3) status.

TAS Recommendation	**[5-6] Make the primary purpose of the contract with MITRE to investigate how to improve procedures for reviewing every application for IRC § 501(c)(3) status, before conferring that status.**

IRS Response	NTA Recommendation Not Adopted. IRS contracted with The MITRE Corporation for an independent assessment of the validity of its Form 1023-EZ pre- and post-determination compliance findings. The contracted Scope of Work with MITRE to provide strategic, analytic, program management, data and information services, and other support to TE/GE includes a task to identify 1023 and 1023-EZ filings in need of closer inspection before official determinations are made. Other tasks include quantifying the accuracy and precision of current Form 1023-EZ sampling practices and evaluating current sampling practices to increase the understanding of the full population, reduce the IRS resources required to develop that understanding, and/or reduce the filing burden. The IRS believes that all tasks will function together to provide a comprehensive assessment of the form and its use. The IRS will carefully consider any recommendations made by MITRE to improve the statistical rigor of information gained from, and overall compliance results of, the program as well as recommendations to improve TE/GE's ability to continually monitor and improve its operations.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate will be very interested to learn the results of MITRE's commitment to identify 1023-EZ filings "in need of closer inspection before official determinations are made," especially because TAS studies show that at least 42 percent of 1023-EZ filings need closer inspection before being approved. However, it does not appear that the difficulty lies in identifying applications that need further review, but rather in designing an application that solicits enough information to allow the IRS to distinguish qualified applicants from those that do not qualify for IRC § 501(c)(3) status. The current Form 1023-EZ does not accomplish this, much less allow the IRS to develop an "understanding of the full population."

MSP #6 – PASSPORT DENIAL AND REVOCATION: The IRS's Plans for Certifying Seriously Delinquent Tax Debts Will Lead to Taxpayers Being Deprived of a Passport Without Regard to Taxpayer Rights

PROBLEM

A 2015 law requires the Department of State to deny an individual's passport application and allows it to revoke or limit an individual's passport if the IRS has certified the individual as having a seriously delinquent tax debt (*i.e*. tax debt exceeding $50,000 (adjusted for inflation), including assessed interest and penalties). Although the IRS will not implement the program until early 2018, its proposed procedures and policies raise concerns. The failure to provide adequate notice and to exclude taxpayers exercising certain administrative rights will harm taxpayers. Although the Department of State will hold passport applications open for 90 days before rejecting them, this may not be enough time for taxpayers to resolve their debts and be decertified.

TAS Recommendation	**[6-1] Provide a stand-alone notice to all taxpayers 30 days (90 days for taxpayers outside the United States) prior to certifying their seriously delinquent tax debts that discusses the specific harm that will occur and outlines all options available to taxpayers to avoid or reverse certification.**
IRS Response	NTA Recommendation Not Adopted. The FAST Act requires that the IRS contemporaneously notify individuals they have been certified pursuant to section 7345(a). Consistent with the statute, the IRS contemporaneously informs taxpayers of the certification using Notice CP508C. This Notice informs taxpayers of the consequences of certification and outlines the options available to taxpayers to reverse certification, including the immediate right upon certification to judicial review in federal district court or the Tax Court. Moreover, for a taxpayer's debt to qualify as "seriously delinquent tax debt," the taxpayer will have already had an opportunity to go to Appeals — either in the deficiency or collection due process context — regarding the liabilities that gave rise to their certification. That is, the taxpayer will have already been informed by the IRS of the liability and of the available administrative remedies before receiving Notice CP508C. Finally, the Department of State will give all certified taxpayers an additional 90 days from the date of application denial to resolve their seriously delinquent liability, should they be denied a passport or renewal.

IRS Action	N/A
TAS Response	The statute requires two forms of notification to taxpayers: a notice sent "contemporaneously" with transmitting a certification or decertification to the Department of State, and language in Collection Due Process (CDP) hearing notices about the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports.[1] The IRS appears to be interpreting the word "contemporaneously" as "simultaneously," and sends the stand-alone certification notice within a few days of the certification. The IRS's interpretation of this requirement impairs the taxpayer's *right to be informed* and *right to challenge the IRS's position and be heard* because taxpayers may not learn the IRS has certified their tax debts until after certification. Instead, the IRS should send a notice 30 days prior, which meets the "contemporaneously" requirement, and then if the taxpayer does not resolve the issue, the IRS could also send a simultaneous notice. Such an approach would increase the salience of the notice and would likely be more successful in spurring taxpayers to act to resolve their tax debts. Taxpayers may not have had an opportunity to resolve their tax debts during the time prior to notification, given the lack of personal contact prior to issuing a notice of intent to levy or notice of federal tax lien and the current level of service for taxpayers calling the IRS's balance due telephone line. The IRS appears to be misinterpreting the 90-holding period provided by the Department of State. Although Department of State will not deny a taxpayer's passport application during this time, it also will not grant a taxpayer's passport application during this period. In practice, the 90-day holding period does not provide the taxpayer an additional 90 days to resolve his tax debt — the impact on the taxpayer has already occurred because the taxpayer cannot receive a passport. The benefit of the 90-day holding period is only that a taxpayer does not need to reapply and pay the application fee a second time if the taxpayer resolves the tax debt and the decertification is sent to and processed by the Department of State within this time. As explained in the Most Serious Problem, the Department of State advises the taxpayer it may take up to 45 days after the tax debt is resolved for the Department of State's systems to be updated.

TAS Recommendation	**[6-2] Exercise its discretionary authority to exclude from passport certification any taxpayers who already have an open case with TAS at the time the IRS would otherwise certify their seriously delinquent tax debts**

[1] IRC §§ 7435(d), 6320(a)(3)(E), 6331(d)(4)(E)).

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS agreed to block certification of the taxpayers identified in a TAS Taxpayer Assistance Order filed immediately prior to implementation. Once TAS's assistance to a particular taxpayer is completed, however, that taxpayer is once again subject to certification if he or she meets the certification criteria. After implementation, an individual receiving TAS assistance will be excluded from certification only if any of the statutory or discretionary exceptions apply. We understand that TAS performs an individual assessment of each taxpayer's case received in their inventory, and in doing so, can expedite the status to meet exception criteria if the circumstances warrant. If after such analysis the circumstances do not warrant exception criteria, the case would not be excluded from certification. This approach preserves the integrity of the statute and ensures similar treatment of all taxpayers with seriously delinquent tax debts, including those who are not eligible for TAS assistance.
TAS Response	The IRS response reflects a misunderstanding of the Internal Revenue Code and the character of TAS cases. First, taxpayers who have cases in TAS have or are about to experience significant hardship under IRC § 7811. Second, although TAS works diligently to resolve taxpayers' problems quickly, TAS cases tend to be complex and take time to resolve. The Most Serious Problem points out that it takes an average of 88 days to resolve a TAS collection case from receipt to completion of all actions necessary to resolve the taxpayer's problem. As explained in the National Taxpayer Advocate's memorandum sustaining the TAD, excluding taxpayers who are already working with TAS *prior to certification*, does not lead to unequal treatment. Taxpayers come to TAS because the normal processes and procedures are not working, meaning they do not have equal access to the other certification exclusions and their ability to resolve their tax debts on their own may be hampered. Alternatively, they come to TAS because they are experiencing immediate harm or long-term adverse impact as a result of something the IRS is doing (or not doing). Although they may ultimately qualify for an exclusion, certifying them while TAS is working with these taxpayers is unnecessary and counterproductive, and creates extra work for the taxpayer, TAS, and the IRS. For a detailed discussion of the reasons why the IRS should exclude already open TAS cases from certification, see the TAD memoranda in Appendix A.

TAS Recommendation	**6-3] Exercise its discretionary authority to exclude from passport certification any taxpayers who have requested certain alternative administrative remedies, including an Equivalent Hearing, a Collection Appeals Program (CAP) Appeal, or Post Appeals Mediation, and delay certification for these taxpayers until they receive a final determination from these programs.**

IRS Response	NTA Recommendation Not Adopted. Under section 7345(b), taxpayers cannot have "seriously delinquent tax debts" for certification purposes until their administrative appeal rights have either been exhausted or expired under IRC Section 6320 or IRC Section 6330. As such, all taxpayers will have had the opportunity, before certification, to exercise their appeal and procedural rights. The statute does not otherwise provide exceptions for further administrative appeals.
IRS Action	N/A
TAS Response	Although all taxpayers are given CDP rights prior to certification as a result of either a statutory requirement or an IRS policy, not all taxpayers may have been able to exercise these rights. Taxpayers may have been experiencing a hardship during this time that left them unable to manage their financial affairs, or a CDP notice may have been undelivered. Recognizing the restrictions on CDP hearings, the IRS created alternative appeals programs for taxpayers, including equivalent hearings, the Collection Appeals Program, and the Post Appeals Mediation program. Taxpayers pursuing an appeal under these programs are pursuing important administrative rights and should not be threatened with the intrusive enforcement action of passport certification when they may be challenging a liability or the rejection of an installment agreement, offer-in-compromise, or currently-not-collectible hardship status. Where the IRS believes taxpayers are utilizing these processes "solely to delay collection," the IRS has ample statutory authority to deny access to these processes.[2] As discussed in detail in the Most Serious Problem, the IRS has wide discretion with respect to creating exceptions to passport certification.

TAS Recommendation	**[6-4] Revise its procedures for expedited decertification to transmit the decertification to the Department of State within two business days after the Collection Passport Policy Analyst receives the approved request form.**

[2] See e.g., IRC § 6330(g); Treas. Reg. § 301.7122-1(d)(2).

IRS Response	NTA Recommendation Not Adopted. Although not required by the statute, the IRS developed a process to provide expedited decertification for taxpayers who meet the criteria for decertification, plan to travel outside the United States within 45 days or reside outside the United States with urgent need for a passport, and have a pending application or renewal denied by the Department of State. This process will involve weekly approvals by the Commissioner of the Small Business/Self-Employed Division and weekly submission to the Department of State.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate understands that with respect to TAS passport cases that have been worked so far, the IRS has been willing to send expedited decertifications to the Department of State more quickly than was our understanding when drafting the Most Serious Problem. TAS's understanding of the process had been that once the taxpayer has met decertification criteria, the account has been correctly marked, the taxpayer has requested expedited decertification, and an IRS employee has received supervisory approval to submit the request form to the Collection Policy Passport Analyst, it could still take up to an additional ten days for the decertification to reach the Department of State. The National Taxpayer Advocate is pleased to learn the IRS has been able to send expedited decertification requests to the Department of State more quickly on a case by case basis. The National Taxpayer Advocate understands the restrictions placed on the IRS, specifically that under the statute only the Commissioner of Internal Revenue, the Deputy Commissioner for Services and Enforcement, or an operating division Commissioner may make the certification or decertification. The National Taxpayer Advocate will be reviewing the timeframes achieved for expedited decertification requests as the passport program reaches full implementation and will revisit whether any changes to the expedited decertification procedures are necessary.

TAS Recommendation	**[6-5] Update Notice 508C to include information about all ways in which a taxpayer can become eligible for decertification and advise taxpayers to contact the Department of State if they have an emergency or humanitarian need to travel.**

IRS Response	NTA Recommendation Not Adopted. Notice 508C contains language explaining that to prevent the Department of State from denying, revoking, or limiting a passport, a taxpayer should pay the amount owed, or make alternate payment arrangements, such as an installment agreement to pay the debt over time, or an offer- in-compromise to settle the debt. It also includes language explaining what the taxpayer can do if they do not agree they owe the debt and provides a contact number to speak to the IRS. The notice also includes information about the availability of TAS assistance. The provision of the FAST Act that grants the Department of State the authority to issue a passport to a taxpayer for emergency or humanitarian reasons despite certification was codified at 22 U.S.C. § 2714a. The Department of State is responsible for interpreting and implementing this provision. The IRS has no authority to do so. If a taxpayer's passport is denied, revoked, or limited, the Department of State will issue the taxpayer a notice that contains the contact information for the National Passport Information Center, which is where the certified individual should address an emergency or humanitarian need to travel.
IRS Action	N/A
TAS Response	The IRS response states that the current certification notice "outlines the options available to taxpayers to reverse certification." This statement is misleading because the notice only includes two options for taxpayers to prevent Department of State from denying, revoking, or limiting a taxpayer's passport: full payment of the liability or alternate payment arrangements, such as an installment agreement or an offer-in-compromise. The notice lacks any language about other situations where tax debts may be excluded from the program, such as if the taxpayer is a victim of identity theft, qualifies for Currently Not Collectible (hardship) status, or requests relief from joint and several liability (known as innocent spouse relief). Although the IRS has argued in the past that the exceptions are subject to change at any time, it is unlikely the IRS will remove exceptions, but perhaps it is likely that the IRS will add more exceptions. When the letter is revised periodically, it can be updated to include the current list of exceptions and refer taxpayers to the website for any updates. The IRS states that it has no responsibility for informing taxpayers about the emergency and humanitarian exception because it is not codified in the Internal Revenue Code and it is administered by the Department of State. The National Taxpayer Advocate is not asking the IRS to interpret this requirement or step into the Department of State's shoes to determine whether a taxpayer might receive relief. The National Taxpayer Advocate is simply asking the IRS to inform taxpayers about the existence of this provision and to point taxpayers to the Department of State to find more information. By putting this information in the letter, the IRS can avoid taxpayers calling in to ask about emergencies because the taxpayers will know to go directly to the Department of State. By refusing to include this information, the IRS is impairing taxpayers' *right to be informed* and is inviting more work upon itself.

MSP #7 – EMPLOYEE TRAINING: Changes to and Reductions in Employee Training Hinder the IRS's Ability to Provide Top Quality Service to Taxpayers

PROBLEM

The IRS has reduced its employee training budget by nearly 75 percent since fiscal year (FY) 2009. Not only has the budget for training drastically declined, but the way in which employees receive that training has shifted from in-person face-to-face training to virtual training. IRS employees cannot be expected to provide competent advice and adequate service to taxpayers who present myriad issues when they do not receive training timely or effectively. The downstream consequences to the IRS and taxpayers, including rework, misleading or incomplete advice, improper compliance actions, and distrust in the IRS serve to further degrade the relationship between the IRS and taxpayers, and violate the taxpayer *rights to be informed*, *to quality service*, and *to a fair and just tax system*. Employees must receive timely, comprehensive, and effective training in order to protect taxpayer rights and provide top quality service to taxpayers.

TAS Recommendation	**[7-1] Increase "train the trainer" in-person trainings to allow more effective delivery of training to field offices.**
IRS Response	NTA Recommendation Not Adopted. An increase of "train the trainer" in-person trainings does not guarantee an increase in IRS' ability to provide top-quality training to employees or top-quality service to taxpayers. Instead, the IRS embraces a blended learning approach to training delivery that has proven to be effective and aligned with industry standards and recognizes that a one-size-fits-all approach to training is not an efficient use of government funds or an effective method of designing a training program. Our training evaluation data indicate that employees express the same high level of satisfaction regardless of the training delivery method.
IRS Action	N/A

TAS Response	The National Taxpayer Advocate is concerned the IRS has missed the point of the recommendation to increase "train the trainer" in-person trainings. The recommendation to increase stems from the utility of allowing for group collaboration and learning during training that having an in-person event run by a trainer permits. While the National Taxpayer Advocate appreciates and also utilizes a multi-faceted approach to training in TAS, a goal to increase in-person training through lower-cost methods like "train the trainer" events is something TAS is also striving to achieve.

TAS Recommendation	**[7-2] Increase training hours per employee, particularly in mission critical job series.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	To determine when additional training is needed, the IRS uses an annual training needs assessment that takes into account individual and organizational needs, employees' level of expertise, legislative and procedural changes, and Service initiatives. For example, training hours were increased for certain mission critical series in SB/SE and W&I to implement the provisions of the Affordable Care Act. Indeed, mission critical employees receive technical and continuing professional education training annually to ensure that they provide top-quality service to taxpayers. This holistic approach ensures that employees receive just-in-time training, particularly in mission critical job series, and is more effective than a broad-brushed approach of simply increasing training hours per employee. The IRS' annual training needs assessment process identifies training gaps and provides flexibilities across the organization. In addition, employees may create an individual development plan, in coordination with their manager, that customizes training based on their personal needs and goals. Similarly, employees aspiring to a leadership position complete a Career Learning Plan that identifies training needed to develop competencies. To help employees achieve their goals, the IRS provides multiple training resources at no-cost, including Thomson Reuters Checkpoint Learning, Practicing Law Institute, and Learn and Lead 24x7. In addition to formal training, employees receive informal instruction through group meetings and on-the-job training hours that may not be recorded in the Enterprise Learning Management System. Employees also may access the IRS Virtual Library for just-in-time instruction. These vehicles provide opportunities that increase employee training hours as needed.
TAS Response	The National Taxpayer Advocate appreciates and understands the need to deliver just-in-time training to meet the challenges of emerging issues, such as the Affordable Care Act in previous years and the Tax Cuts and Jobs Act this year. However, such an approach has clearly led to minimal training of certain job series as described in the Most Serious Problem, with some employees receiving as few as 14 hours of training in substantive topics in a fiscal year. The National Taxpayer Advocate strongly believes that providing such a limited amount of training per year to any employee cannot adequately address that employee's training needs. It not only is inadequate to keep abreast of current developments in the law, but it is inadequate to reinforce basic tenets of the law and administrative practices, and to ensure adherence to the Taxpayer Bill of Rights, as required by Internal Revenue Code (IRC) § 7803(a).

TAS Recommendation	**[7-3] Encourage employees to identify outside training relevant to their jobs and allow the employees to attend such trainings.**

IRS Response	IRS Actions Already Implemented.
IRS Action	The IRS has a long history of leveraging outside training to address technical training needs not offered internally. Employees are encouraged to complete outside courses and training events, when appropriate, to expand their knowledge base by exposing them to industry practices, outside perspectives, and trends. Opportunities to participate in external training result from individual and organizational needs assessments. For example, through the IRS annual training needs assessment process, employees in Appeals, Large Business and International (LB&I), Tax Exempt & Government Entities (TE/GE), and SB/SE have identified and attended external conferences and seminars to enhance their expertise, including conferences sponsored by Parker Fielder, George Washington University, the American Bar Association, and New York University. Similarly, the IRS promotes continuous development, beginning with employees creating their customized Individual Development Plans (IDPs), and supports attendance by providing 16 hours of administrative time annually to complete the training. The IDP aligns employees' training and development efforts with IRS mission and goals and identifies training offered internally and externally. The IDP creates an opportunity for employees to take personal responsibility and accountability for their professional development. The IRS also offers the Leadership Succession Review process for employees who are aspiring leaders, which includes the development of a Career Learning Plan (CLP) to address competency gaps. Similar to an IDP, employees creating a CLP may identify internal and external sources of training.
TAS Response	While the National Taxpayer Advocate is pleased to learn that the IRS does encourage employees to leverage outside training events, she remains concerned about how this unfolds in practice. Anecdotally, TAS has heard from IRS employees who were denied permission to attend events and then went on to use their own annual leave to attend. The IRS should ensure that all employees and managers are aware of opportunities and encourage mangers to approve attendance during the work day.

TAS Recommendation	**[7-4] Include outside experts in training to leverage knowledge gained from working with taxpayers who are impacted by IRS actions.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS recognizes the value that outside experts provide in enhancing taxpayer service by gaining insight from their knowledge and experience with taxpayers. For example, LB&I incorporates the perspectives of, and input from, outside experts and taxpayers into LB&I's core revenue agent training programs. In addition, LB&I annually sponsors joint tax conferences with practitioners on emerging compliance issues and challenges. These efforts are considered a strategically important part of LB&I's training plans and compliance strategies. They reflect recognition that tax administration benefits greatly when taxpayers, tax practitioners, and IRS tax professionals have common understandings about effective audit processes and applications of the Internal Revenue Code. LB&I actively pursues training updates on business acumen, tax law, and industry practices via a robust and well-funded out-service training strategy on an ongoing basis. Similarly, Appeals employees attend external conferences and seminars to enhance their expertise, including conferences sponsored by Parker Fielder, George Washington University, and New York University. TE/GE routinely conducts outreach events with taxpayers; feedback from those events is evaluated and incorporated into training courses when applicable. Conversely, W&I and SB/SE rely on internal experts with institutional knowledge and experience derived from taxpayer contact to develop and deliver their training materials. For example, in SB/SE, resident lead instructors are highly skilled and have extensive experience interacting and working with taxpayers and their representatives to resolve issues.

TAS Response	Notwithstanding LB&I's approach, which is commendable, the IRS has not taken steps to address the National Taxpayer Advocate's concerns. The National Taxpayer Advocate finds it difficult to believe that no training of W&I or SB/SE employees, particularly since W&I is the largest operating division and most taxpayers who contact the IRS reach a W&I employee, could benefit from the knowledge and experience of an outside expert. Similarly, SB/SE employees interact with individual and small business taxpayers through its audit and collection functions. Practitioners can offer a unique perspective from the taxpayer point of view, particularly into the circumstances of taxpayers who face challenges interacting with the IRS, such as the low income or the elderly. TAS regularly invites Low Income Taxpayer Clinic practitioners to conduct internal training, providing real-world experience and knowledge about discrete issues and fact patterns pertinent to low income and elderly taxpayers.

MSP #8 – TAXPAYER RIGHTS: The IRS Does Not Effectively Evaluate and Measure Its Adherence to the Taxpayer's Right to a Fair and Just Tax System

PROBLEM

In 2014, the IRS officially adopted the Taxpayer Bill of Rights (TBOR), and in late 2015, Congress amended Internal Revenue Code § 7803(a)(3) to state: "In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including — ." This section then lists the ten fundamental rights that comprise the TBOR. This language shows Congress's intent to ensure the IRS is held accountable for putting these rights into practice. The *right to a fair and just tax system* provides that taxpayers can expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. However, the IRS has not adequately incorporated the TBOR into its measures or quality review criteria, making it difficult to evaluate the extent to which IRS employees are considering a taxpayer's *right to a fair and just tax system* in daily work.

TAS Recommendation	**8-1] Revise CJEs and quality attributes to align with statutory, regulatory, case law, and IRM instructions for employees to consider the specific facts and circumstances that affect taxpayers' underlying liabilities, ability to pay, and ability to provide timely information.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	There is no need to revise CJEs to align with the requirements included in the Taxpayer Bill of Rights (TBOR) because the Fair and Equitable Treatment of Taxpayers Retention Standard already holds all IRS employees accountable for TBOR. In particular, the standard states: "Consistent with the incumbent's official responsibilities, administers tax laws fairly and equitably, protects taxpayer rights, and treats them ethically with honesty, integrity, and respect." The IRS Human Capital Office (HCO) conducted a review of twenty mission critical performance plans of occupations throughout the IRS related to tax compliance. The review revealed that all but three performance plans addressed the TBOR in additional aspects of the CJEs. Below are examples of the language contained in the aspects: • Communicates taxpayer's legal obligations, responsibilities, and the consequences for failure to comply. • Educates and assists taxpayer on filing and paying responsibilities. • Considers the taxpayer's point of view to develop creative approaches to reach fair and equitable resolution. • Uses effective listening and checks for understanding, applying courtesy, tact, empathy, and appropriate purpose statements. • Provides accurate, clear, and concise verbal communication appropriate to the taxpayer's level of understanding. • Provides customer with appropriate payment options. • Ensures that taxpayer rights are appropriately protected. • Recognizes and uses a conflict management approach to minimize taxpayer burden, avoid confrontation, and promote voluntary compliance. The IRS is updating its information technology with respect to performance management. If appropriate, prior to the implementation of the new system, we will review the definitions for CJE2, Customer Satisfaction-Knowledge; CJE3, Customer Satisfaction-Application; and CJE 4, Business Results-Quality, to determine if revisions are necessary to further emphasize the importance of taxpayer rights.

TAS Response	The Most Serious Problem explains why relying on a single, overarching standard to measure taxpayer rights is ineffective because employees may excel in one area, but be deficient in another aspect of taxpayer rights. The same argument applies to the Fair and Equitable Treatment standard. Because the IRS only requires managers to prepare a narrative justification if the standard is "not met," compliance with the standard may in some cases be a simple check-a-box exercise instead of a thoughtful consideration of actions the employees have taken to protect certain rights and whether the employees have infringed upon other rights.[1] The recommendation requested the IRS revise its quality attributes and CJEs to specifically measure how well the IRS considers a taxpayer's facts and circumstances as part of the *right to a fair and just tax system* and gave numerous examples of measures that would provide such an opportunity. Notably, many of the examples of CJEs listed in the IRS's response do not relate to this aspect of the right. For example, recognizing and using a conflict management approach is not related, and providing the customer with appropriate payment options is so vague it could just be a check the box item, with no consideration as to the taxpayer's facts and circumstances. The first two CJEs listed have nothing to do with taxpayer rights at all — they relate to taxpayer responsibilities and things the IRS must do, not rights, which are what the IRS is supposed to protect. The response misses the point entirely. Until the IRS updates the measures to capture whether employees consider a taxpayer's facts and circumstances, it will not be able to discern whether employees are respecting this aspect of the right. Measuring how many employees meet the Fair and Equitable Treatment Standard will not provide this information.

TAS Recommendation	**[8-2] Update guidance for developing commitments to provide examples and emphasize how commitments can further the protection of taxpayer rights.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken To Address Issues Raised by NTA.

[1] *See* Internal Revenue Manual (IRM) 1.5.3.3.4, *Retention Standard Documentation* (May 19, 2017).

IRS Action	All managers' performance plans currently include a Customer Service and Collaboration Responsibility, as well as language on Retention Standards, that highlight the protection of taxpayer rights. Prior to the implementation of the new performance management system, we will assess the Customer Service and Collaboration Responsibility to determine if revisions are necessary to further emphasize the importance of taxpayer rights.
TAS Response	Customer service is part of the TBOR — specifically it falls under the taxpayer's *right to quality service*. However, this is only one of the ten rights. The Most Serious Problem focused on the *right to a fair and just tax system*, which is not addressed by the Customer Service and Collaboration Responsibility. The IRS points to the Fair and Equitable Treatment of Taxpayers Retention Standard, which Congress requires the IRS to measure, but this by itself is insufficient for the reasons discussed above. Managers should be held accountable by committing to take actions and set goals related to those actions. Managers can then be appraised based on their adherence to these commitments, which will incentivize them to follow through with actions and initiatives to protect taxpayer rights. The National Taxpayer Advocate is concerned about the IRS not providing specific examples of how commitments can further the protection of taxpayer rights.

TAS Recommendation	**[8-3] Add information throughout its strategic plan to tie goals and objectives to taxpayer rights under the TBOR and add objectives: (1) to evaluate employees' performance with respect to and in accord with taxpayer rights, and (2) to train all employees on taxpayer rights.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	The IRS has taken actions to address the NTA's recommendation to add information throughout its strategic plan to tie goals and objectives to taxpayer rights under the TBOR. The draft FY 2018- 2022 IRS Strategic Plan, which will be published by June 30, 2018, includes references to taxpayer rights throughout the document, as follows: • The full text of the TBOR is featured prominently at the beginning of the strategic plan. • The TBOR is mentioned by name in the "Message from the Agency" which introduces the plan. • The Empower Taxpayers goal includes an objective to "help taxpayers understand their rights and responsibilities through proactive education and tailored outreach." • The Protect the Integrity of the Tax System goal mentions that the IRS will ensure "taxpayers are aware of the Taxpayer Bill of Rights and resources afforded to them." • The Partnerships goal includes references to "safeguarding taxpayers' right to privacy and confidentiality" and "promoting global tax administration, including protecting taxpayer rights." • The Workforce goal mentions "a workplace culture that empowers employees to improve the tax- payer experience and uphold the tax code fairly" and states that "employees will be trained with the necessary skills to serve a taxpayer base that is increasingly diverse and complex in terms of tax situations and demographics." The IRS has not added the specific objectives on evaluation of employee performance and on employee training on taxpayer rights requested in TAS Recommendation #8-3, as this level of specificity is not consistent with the broad objectives described in the five-year strategic plan. It is important to note that the National Taxpayer Advocate has had an opportunity to provide input on the goals and objectives in the draft strategic plan.
TAS Response	The National Taxpayer Advocate commends the IRS for including the full text of the TBOR in the strategic plan and specifically mentioning education and outreach related to the TBOR to improve taxpayers' awareness of their rights. And indeed, the IRS accepted several, but not all, of the National Taxpayer Advocate's recommendations regarding language in the strategic plan. However, in terms of employees, the only action the IRS seems to aspire to is protecting the *right to confidentiality* and a portion of the *right to a fair and just tax system*. The IRS has missed an opportunity to infuse the entire strategic plan with the TBOR by tying specific goals, and more importantly, measures to specific rights. This would have helped the IRS ascertain how its objectives support the taxpayer rights included in the TBOR. Because IRS performance documents relate back to the goals in the strategic plan, the IRS could have identified objectives that would drive employees to operationalize the TBOR in their actions.

TAS Recommendation	**[8-4] Collaborate with TAS in developing and delivering a mandatory annual training on taxpayer rights.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	The IRS has had a long-standing responsibility of ensuring, protecting and promoting the taxpayer rights compiled into the TBOR in the execution of our tax administration duties. IRS employees are trained to make it a personal responsibility to observe taxpayer rights in their daily interactions with taxpayers. Employee training on taxpayer rights is designed to provide a meaningful explanation of how taxpayer rights apply to the specific skills of a particular job; while the definition of a particular right in the TBOR may not change, the application of that right can differ depending upon the nature of an employee's work. For example, the skills and expertise required by a Revenue Agent conducting a taxpayer audit to ensure a taxpayer's Right to Quality Service differ greatly from the skills and expertise needed by an employee in Submissions Processing, whose job it is to timely and efficiently process tax returns. As such, the training on taxpayer rights for Revenue Agents is necessarily customized to the work they do interacting with taxpayers and their representatives by, for example, focusing on oral and written communication techniques that are professional and appropriate for the taxpayer's level of understanding and on how to advise taxpayers of considerations such as interest and penalty accumulation and of available options and resources, when taxpayers inform them they cannot pay their liability in full.[2] The Automated Underreporter Program (AUR) provides another example of how the IRS tailors its training for employees regarding taxpayer rights to ensure that the learning objectives are relevant and applicable to the employee's particular job function. In AUR, employees receive training designed to explain the ten fundamental taxpayer rights included in the TBOR, in addition to explaining how to apply those rights when working AUR cases. As part of that training, AUR employees are reminded to direct taxpayers to the AUR Notice websites to view Publication 5181, *Tax Return Reviews by Mail*, and to Publication 1, *Your Rights as a Taxpayer*. Similarly, collection representatives for the IRS Automated Collection System (ACS) receive customized training on how to uphold taxpayer rights. In continuing education courses for Fiscal Year (FY) 2016 and new hire training for FY 2017, for example, ACS employees were reminded about their responsibility to explain the Appeals process to a taxpayer or Power of Attorney, recognizing that taxpayers should be advised of their Right to Appeal whenever they indicate disagreement with a proposed or planned action by ACS. These ACS training courses were designed to ensure employees could successfully identify, address, and resolve issues regarding the appeals process, as outlined in IRM 5.19.8, *Collection Appeal Rights*. HCO has developed interim guidance that requires course developers to include the TBOR at the beginning of all IRS training courses. HCO has recently begun a three year review and revision of IRS leadership training programs and will incorporate TBOR training into the materials. The IRS observes taxpayer rights and will continue to ensure these rights are protected by training employees to understand the application of those rights in the context of their specific job. The IRS does not need to deliver a mandatory annual training on taxpayer rights given the full spectrum of TBOR already incorporated in training.

[2] For more information, see IRM Part 6 Human Resources Management > Chapter 430 Performance Management > Section 2 Performance Management Program for Evaluating Bargaining Unit and Non-Bargaining Unit Employees Assigned to Critical Job Elements (CJEs).

TAS Response	Training employees on the TBOR should not be an either/or proposition, with either the TBOR incorporated into specific examples in specific courses or a broad training for all employees. Each one of these approaches has value. The National Taxpayer Advocate is pleased the IRS is giving attention to how individual courses incorporate the TBOR. However, because the individual courses vary greatly in their coverage of the TBOR and employees may take different courses depending on their positions, the IRS should agree to an annual mandatory briefing. This regular training for all employees would ensure they are periodically reminded about the TBOR and the IRS's commitment to honor the rights. Such a training would not be a substitute for specific TBOR examples in training courses, but it would cement the TBOR as a fundamental part of tax administration and encourage an employee culture that respects taxpayer rights. Moreover, it would treat the TBOR with the same level of importance as taxpayer confidentiality. Specifically, the IRS conducts mandatory annual unauthorized access of taxpayer accounts (UNAX) training and also covers taxpayer confidentiality in function-and-job-specific training courses. The TBOR requires the same treatment. It is baffling that the IRS refuses to conduct annual mandatory TBOR training of all its employees. Therefore, the National Taxpayer Advocate does not consider her concerns to be addressed by the IRS actions described in its response.

MSP #9 – OUTREACH AND EDUCATION: The IRS Is Making Commendable Strides to Develop Digitized Taxpayer Services, But It Must Do More to Maintain and Improve Traditional Outreach and Education Initiatives to Meet the Needs of U.S. Taxpayers

PROBLEM

The IRS has held a longstanding position that taxpayer outreach and education is essential to voluntary compliance. Yet, it continues to shift outreach and education responsibilities to third-party partners. In addition, the IRS is increasingly relying on digital channels to distribute outreach and education information. While digital distribution channels and leveraging third-party partners may enable the IRS to reach large taxpayer populations in a cost-effective manner, it still leaves significant populations of taxpayers behind. It also eliminates the two-way exchange, and in conjunction with the trend away from geographic presence in the taxpayer communities, results in a one-way, filtered, education strategy as well as a remote, impersonal IRS.

TAS Recommendation	**[9-1] Conduct research into the outreach and education needs of taxpayers, broken down by various demographics**
IRS Response	IRS Actions Already Implemented.
IRS Action	The IRS conducts demographic research through the Taxpayer Experience Survey (TES) that informs outreach and education efforts. This annual survey of taxpayers is provided without regard as to whether they have experience with the IRS and is broken down by various demographics including income, Limited English Proficient Spanish, rural location, and disability. The needs for outreach and education are assessed in the TES through measures of awareness.

TAS Response	We do not believe that the IRS's Taxpayer Experience Survey (TES) addresses the type of research we have recommended to assess the diverse outreach and education needs of taxpayers across the country, and therefore the IRS has not implemented our recommendation. For the 2016 TES, over 90 percent of the respondents answered an online survey and less than 10 percent answered a phone survey. Moreover, 98 percent of the respondents had internet access at home.[1] Yet TAS research has shown that over 41 million US taxpayers do not have broadband access in their homes, and 14 million US taxpayers do not have any internet access in their homes.[2] With the exception of the Earned Income Tax Credit (EITC) and Affordable Care Act (ACA) awareness questions, the 2016 TES questions focused primarily on the respondents' use and awareness of various IRS service channels. It also did not include any questions requesting substantive topics on which the respondents would like to receive more information.[3]

TAS Recommendation	**[9-2] Evaluate and implement two-way digital communication models into the outreach and education strategy (instead of one-way messaging).**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

1 IRS, *2016 Wage and Investment (W&I) Taxpayer Experience Survey* 6, 150 (Oct. 2016).
2 National Taxpayer Advocate 2017 Annual Report to Congress vol. 2, 62-146 (Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*).
3 IRS, *2016 W&I Taxpayer Experience Survey* 6, 150 (Oct. 2016).

IRS Action	This area continues to be under development at the IRS. Two-way engagement with stakeholder groups is critical to the IRS and occurs year-round. The IRS has numerous forums and channels for sharing information with stakeholders and partners and for soliciting their input and feedback. These well-established relationships have proven extremely valuable to our operations, and we continue to work to improve and expand these efforts. We also have processes for staying abreast of issues raised by individual taxpayers by listening to our employees, social media, and other channels that help us understand the taxpayer experience. We also factor input from the Taxpayer Advocacy Panels to gain insight into taxpayer perspectives. Early identification of any issues taxpayers encounter allows us to eliminate the issue and prevent other taxpayers from experiencing it. Information obtained through this listening process is used for proactive outreach, when appropriate. For instance, the IRS distributes content for social media, partner websites, partner newsletters, and more. If an issue is widespread, we issue news releases, post information on IRS.gov, and communicate through all of our channels. While we are exploring the potential of two- way digital interactions, we must consider other concerns, including staffing limitations and privacy concerns on publicly visible platforms.
TAS Response	We commend the IRS for acknowledging the importance of and exploring potential future avenues of two-way digital communication. We agree that safeguards to protect taxpayer privacy are essential in these types of communications. We firmly believe such efforts will assist the IRS in early issue identification and enable the IRS to hear directly from taxpayers, especially in geographic areas where the IRS does not have outreach and education staff physically present.

TAS Recommendation	**[9-3] Incorporate into the IRS outreach and education strategy the findings of TAS research on taxpayers' varying abilities and attitudes toward IRS taxpayer service, as well as the needs and preferences of low income and Hispanic taxpayers, and the recommendations from the National Taxpayer Advocate's 2016 Public Forums.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	Outreach at the IRS is undergoing a fundamental change in direction. As part of these efforts, we will be discussing a new, evolving outreach model and looking for feedback from a variety of sources, including veteran IRS employees, members of the tax professional community, IRS advisory groups, and other external partners, as well as the Taxpayer Advocate Service. We will consider the TAS research findings as well as information on taxpayer preferences in making decisions regarding the IRS outreach and education strategy. This change was part of a wider effort to centralize and rejuvenate the IRS's outreach function to reach more taxpayers and partners across the nation. This new approach is aimed at providing new and expanded ways of reaching community groups even in the face of continuing resource declines in this area. A key part of this approach will be establishing a new branch focused on reaching out to groups and associations that don't normally interact with the IRS. In addition, steps will be taken to supplement this work and coordinate it with other areas of the agency to widen the reach of existing efforts. Special emphasis will be placed on working with younger taxpayers and students, Hispanic groups and others with English as a second language, and other underserved communities, such as the sharing or gig economy. Interim steps to expand outreach into new areas include the Individual Taxpayer Identification Number (ITIN) renewal effort, which included outreach to organizations working with ITIN communities, low-income taxpayer clinics, and others able to reach the affected taxpayers. The IRS developed and delivered outreach materials in seven languages to support the effort.
TAS Response	The National Taxpayer Advocate appreciates the IRS's commitment to consider TAS research in developing its new evolving outreach model. We also look forward to receiving a briefing on the IRS's plans for its new outreach and education strategy. During such briefing, we can assist in identifying key findings of our research that are pertinent to the design of the new strategy

TAS Recommendation	**[9-4] Assign at least one employee to conduct outreach activities in each state, territory, and the District of Columbia (and who resides in that state, territory, or district) and provide each employee with sufficient resources to travel and engage in regular face- to-face communications with taxpayers throughout the state.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Although the IRS does not have outreach and communications employees in every state, we do have a local presence in every state. IRS employees across the agency work closely together to deliver an outreach strategy using leveraged services and shared educational products. The IRS also has public affairs specialists and congressional liaison employees who work with outreach employees across the agency to deliver services at the state level where applicable and needed. Our media relations employees are often at the forefront of our outreach efforts and communication products, attending and representing IRS at outreach events, congressional sessions, security awareness events, and conducting media interviews on hot topics, breaking news, filing season information, and tax law changes.
TAS Response	The IRS's response focuses mainly on presence through either leveraged partnerships or digital communications. In most cases, relying on these two avenues of communication is not as beneficial as IRS outreach employees actually going out and talking with taxpayers, preparers, and other representatives to really understand where confusion lies, the best channels to deliver messages, how to develop better publications and materials, and what national messages need to be modified or reinforced. We understand that the IRS does have a local presence in some states, but there is no strategy to establish presence in every U.S. state, territory or district.

TAS Recommendation	**[9-5] Establish a program in which the IRS provides various services, including traditional face-to-face outreach and education, through the use of mobile taxpayer assistance stations (vans) in rural and underserved communities.**

IRS Response	NTA Recommendation Not Adopted. The IRS has decided to invest its resources in more efficient web-based and live services that will allow it to serve a greater number of taxpayers. During 2008 through 2011 in North Dakota, IRS used Tax Tours, a "mobile" concept where temporary offices were set up at alternative locations, such as community colleges and universities. The IRS used radio, newspaper, and flyers to advertise the dates and times we would be available at these alternative locations. The number of taxpayers served during these tours was 76 in 2008, 12 in 2009, 13 in 2010, and 13 in 2011. The IRS concluded taxpayers do not come to sites that are not established on a regular basis and determined that the use of mobile vans was not the best use of resources. Additionally, we believe the expansion of Virtual Service Delivery will help us provide more face-to- face opportunities for taxpayers.
IRS Action	N/A
TAS Response	We are disappointed that the IRS has rejected this recommendation based on one unsuccessful program implemented nearly a decade ago. The IRS has previously provided the same response regarding its test of Tax Tours in North Dakota in response to other National Taxpayer Advocate recommendations to implement a mobile van program.[4] However, as noted in a prior TAS response to this assertion, the IRS has yet to provide the National Taxpayer Advocate with details and results of the program in order to allow TAS to evaluate the program design. Successful pilots of van and co-location programs must contain several key elements. The programs must be consistent; that is, taxpayers must be able to expect that certain services will be available on certain days in certain locations. Haphazardly advertising a mobile van program through print and advertising, holding the program for one day, and then declaring it was unsuccessful because only a few taxpayers availed themselves of the service does not reflect a well-structured pilot program. It will take time for taxpayers to realize and trust that a mobile Taxpayer Assistance Center (TAC) will be in their area every other Thursday offering full-scale IRS services. A one-day trial, even with advertising, will not give the IRS useful information about the extent to which taxpayers use the program. Furthermore, we encourage the IRS to consult with other government agencies that have had successful experiences with mobile van programs to deliver services locally.

[4] *See* National Taxpayer Advocate 2012 Annual Report to Congress 273.

MSP #10 – TAXPAYER ASSISTANCE CENTERS (TACs): Cuts to IRS Walk-In Sites Have Left the IRS With a Substantially Reduced Community Presence and Have Impaired the Ability of Taxpayers to Receive In-Person Assistance

PROBLEM

Taxpayer Assistance Centers (TACs), formerly called walk-in sites, became the primary local face of the IRS after it reorganized around central campus locations and business divisions, severely reducing presence in local communities. Furthermore, recent changes to TACs have chipped away at the services provided and the ability of taxpayers to receive prompt, in-person service, which negatively affected the image of the IRS in local communities. As the IRS moves towards online self-service it must consider taxpayers who cannot complete tasks online or prefer not to use the internet for interacting with the IRS. The strategy of reducing a service to the point that taxpayers can no longer easily access it, then declaring no one uses the service and eliminating it entirely has proven successful for the IRS in the past, and it appears the IRS is moving in the same direction with TACs.

TAS Recommendation	**[10-1] Institute a dual appointment and walk-in structure at TACs at the taxpayer's choice**
IRS Response	IRS Actions Already Implemented.
IRS Action	Appointment procedures include same day appointments and management-approved exception appointments for taxpayers who walk-in.

TAS Response	The National Taxpayer Advocate is pleased with this change to the appointment service at TACs, however, she does not believe the IRS has actually implemented this recommendation. Serving taxpayers who arrive without appointments reduces the burden on taxpayers from having to return to receive assistance at a later date. As discussed above, the current TAC signage *literally* belies the IRS's stated intent that it will accept walk-ins on all issues. Therefore, the National Taxpayer Advocate strongly urges the IRS to adjust the signs at the TACs to reflect this change in policy as the sign still reflects "Appointments Required" as the main language and shows no indication that a taxpayer could walk in and potentially get an appointment immediately. The signs should read along the lines of "Appointments Recommended, but Walk-ins Are Welcome."

TAS Recommendation	**[10-2] Request the funding for, and in consultation with TAS, develop a pilot mobile van program.**
IRS Response	NTA Recommendation Not Adopted. The IRS has tested this option in the past and received low taxpayer interest and turnout. For example, the IRS conducted a mobile Tax Tour in North Dakota using alternative locations. Despite efforts to promote the IRS's availability in the mobile locations through radio announcements, newspaper ads, and local flyers, the number of taxpayers served was 76 in 2008, 12 in 2009, and 13 in 2010. Based on these tests, we have observed that taxpayers do not come to sites that are not established and staffed on a regular basis.
IRS Action	N/A

TAS Response	The IRS has previously provided the same response regarding its test of Tax Tours in North Dakota in response to other National Taxpayer Advocate recommendations to implement a mobile van program.[1] However, as noted in a prior TAS response to this assertion, the IRS has yet to provide the National Taxpayer Advocate with details and results of the program in order to allow TAS to evaluate the program design. Successful pilots of van and co-location programs must contain several key elements. The programs must be consistent; that is, taxpayers must be able to expect that certain services will be available on certain days in certain locations. Haphazardly advertising a mobile van program through print and advertising, holding the program for one day, and then declaring it was unsuccessful because only a few taxpayers availed themselves of the service does not reflect a well-structured pilot program. It will take time for taxpayers to realize and trust that a mobile TAC will be in their area every other Thursday offering full-scale IRS services. A one- day trial, even with advertising, will not give the IRS useful information about the extent to which taxpayers use the program.

TAS Recommendation	**[10-3] Answer tax law questions throughout the year, at both TACs and on the phones.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issus Raised by NTA.

[1] *See* National Taxpayer Advocate 2012 Annual Report to Congress 273

IRS Action	The IRS provides guidance to taxpayers through a variety of channels year-round. Taxpayers can find tax law information 24 hours per day, seven days per week, at IRS.gov. Through IRS.gov, taxpayers have access to numerous Publications, Tax Topics, Frequently Asked Questions, and Tax Trails. Through the Interactive Tax Assistant (ITA), taxpayers can easily access various self-service options. The ITA is a very heavily used tool, thus, our goal is to annually increase the number of available ITA topics on IRS.gov to assist taxpayers with their tax law questions. Currently, there are 44 topics covered and usage for FY 2017 of the ITA tool was over 1.8 million. Tax law inquiries that are within the scope of our TACs and telephone assistors are answered from January through mid-April; in addition, such inquiries are answered all year if the question is related to the resolution of an account inquiry. Tax law assistance is provided on the telephone year-round for a number of subject areas, including Affordable Care Act, International, Tax-Exempt/Government Entities, Business Master File (Employment Tax), and Special Services (Disaster, Combat Zone, etc.). We also intend to assist taxpayers, year-round, with the recent tax reform legislation. We are still determining how we will deliver that assistance.
TAS Response	The National Taxpayer Advocate is pleased that the IRS has moved disaster relief to the list of in-scope tax law topics covered year-round.[2] She looks forward to reviewing the IRS's plan to assist taxpayers year-round with tax law questions related to the recently enacted Tax Cuts and Jobs Act. While ITA is a promising tool for taxpayers who are internet savvy, with only 44 topics covered currently, it is not a fully robust tool. The National Taxpayer Advocate supports the IRS's effort to continue to flesh out additional topics areas, however, taxpayer service must meet the needs of all taxpayers, not just those who are able to access internet content and apply the answer to their specific situation. As noted elsewhere in this Report, 41 million U.S. taxpayers do not have broadband in their homes, and 14 million have no internet access at all in their homes. In addition, the online ITA tool cannot substitute fully for person-to-person interaction between a taxpayer and an assistor, when a taxpayer can ask follow up questions and request clarifications.

TAS Recommendation	**[10-4] Reinstate return preparation for amended disaster-based casualty loss returns.**

[2] Internal Revenue Manual 21.3.4.3.4, *Tax Law Assistance* (May 1, 2018).

IRS Response	NTA Recommendation Not Adopted. In 2015, the IRS implemented the Service Approach model because we recognized there was an increase in electronic filing, with fewer returns being prepared at walk-in offices each year, and a steady increase in tax returns prepared through other channels. Because of this trend, TACs no longer prepare tax returns or amended returns, and no longer maintain the tax return preparation software needed to complete original or amended returns. Taxpayers have many alternatives for free return preparation service such as Free File, which is available on IRS.gov, and other free software and local resources. Although casualty loss returns are outside the scope of the Volunteer Income Assistance and Tax Counseling for the Elderly programs, this is another alternative for free return preparation.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate is perplexed by the IRS response to this recommendation. The recommendation is extremely narrow — offer tax return preparation for one category of amended returns in TACs. Yet, the IRS describes two options that taxpayers can use for free return preparation while at the same time acknowledging that neither of those options can prepare the specific type of return addressed in the recommendation. This response is not germane to the recommendation.

TAS Recommendation	**[10-5] Staff TACs during peak times with co-located staff such as revenue officers or revenue agents to handle overflow and appointments.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issus Raised by NTA.

IRS Action	The Field Assistance Scheduling Tool (FAST), which was implemented in January 2018, is an upgrade from the prior appointment service scheduling tool with features that are easy to use, and which allow for a more intuitive approach to managing and scheduling taxpayer appointments. The FAST may negate the need for additional staff during peak times. Nonetheless, Field Assistance has adopted a model to collaborate with Accounts Management and Campus Compliance to staff TACs with extra resources during peak times, when required
TAS Response	The National Taxpayer Advocate is pleased that the IRS has implemented FAST to streamline the appointment service and facilitate same-day appointments. The National Taxpayer Advocate urges the IRS to allow taxpayers to use FAST from their own devices to self-schedule TAC appointments at their convenience, eliminating the need for taxpayers to call the IRS for an appointment. However, the National Taxpayer Advocate is concerned that the IRS has misconstrued the recommendation to staff TACs during busy times with co-located employees such as Revenue Officers (ROs) and Revenue Agents (RAs). While the IRS says it will utilize co-located Accounts Management and Campus Compliance staff to assist at TACs during peak times, this action will impact only a small fraction of TACs as these employees are only located in IRS Campuses and Remote Sites, of which there are 25, while there are 371 TACs.[3] The National Taxpayer Advocate believes, that in addition to assisting additional taxpayers during peak TAC hours, ROs and RAs would benefit from directly interacting with taxpayers as they attempt to comply with the law. Understanding the full picture of a taxpayer's situation as the taxpayer tries to comply with the law would help ROs and RAs develop empathy for the taxpayer.

[3] IRS, *AM [Accounts Management] Sites*, http://win.web.irs.gov/accountsmgmt/amdocs/AM_HQ/AM_Field_Directorates/AM_ Sites.htm (last visited June 12, 2018). IRS response to TAS information request (Nov. 3, 2017).

MSP #11 – VITA/TCE PROGRAMS: IRS Restrictions on Volunteer Income Tax Assistance (VITA) and Taxpayer Counseling for the Elderly (TCE) Programs Increase Taxpayer Burden and Adversely Impact Access to Free Tax Preparation for Low Income, Disabled, Rural, and Elderly Taxpayers

PROBLEM

Restrictions and limitations the IRS imposes on Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) sites, compounded with the elimination of tax preparation services at Taxpayer Assistance Centers (TACs), increase taxpayer burden and may adversely impact low income, disabled, rural, and elderly taxpayers. Several IRS policies affect taxpayers' ability to obtain free tax return preparation services and meet their reporting obligations, including "out-of-scope" restrictions; income limits failing to account for family size; the lack of IRS tracking volunteers certified in specific "in-scope" law issues; the unavailability of most VITA and TCE sites after April 15 each year; and restrictions the IRS places on grant funds that cannot be used to compensate for services provided by screeners, quality reviewers, and Certified Acceptance Agents (CAAs).

TAS Recommendation	**[11-1] Allow VITA and TCE Partners, at their discretion, to prepare returns with issues that are currently out-of-scope, including:** • **Home office deduction (*e.g.*, day care providers);** • **Standard mileage vs actual costs (*e.g.*, Uber/Lyft drivers);** • **Casualty losses (*e.g.*, disaster relief);** • **Cancellation of debt due to bankruptcy or insolvency; and** • **Farm income.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The VITA and TCE programs are focused on serving taxpayers. The IRS already has a process in place for partners to request scope changes via Form 14793, *VITA/TCE Program Scope Change*. These procedures were developed to ensure continuity of processes across all our sites. Our established processes are necessary and have proven to increase the accuracy of returns prepared at VITA/TCE sites. We evaluate requests for changes to determine the viability of implementation. Allowing volunteers to prepare tax returns with more complex tax law topics could negatively impact the accuracy of volunteer prepared returns.

TAS Response	The National Taxpayer Advocate agrees that more complex tax law topics are oftentimes better suited for professional tax preparers to handle. However, there are others that Stakeholder Partnerships, Education and Communications (SPEC) should allow volunteers to assist with if volunteers are certified at the appropriate level. For example, many Schedule C returns that are currently defined as out-of-scope are unreasonably defined as such. In early 2011, SPEC initiated a Schedule C pilot program to determine the effectiveness of allowing tax law issues or topics relating to small business owners into the VITA/TCE program. SPEC ultimately determined that pilot sites, although preparing Schedule C returns with about 99 percent accuracy, were not preparing many returns with the expanded parameters and the Schedule C Pilot was discontinued. The Pilot was not discontinued because the topics were considered too complex for volunteers; rather, it was discontinued because the IRS did not believe it was in high demand. That said, SPEC agreed to allow return preparation with business expenses up to $25,000, but inexplicably there is now stricter criteria for VITA-prepared Schedule C returns than existed under the Schedule C pilot. Because of the arbitrary income limit for VITA-prepared Schedule C returns, VITA and TCE volunteers cannot assist most entrepreneurs who qualify to take an office-in-home deduction, including, for example, day-care providers. This population could greatly benefit from VITA services. In addition, as the National Taxpayer Advocate pointed out in the 2017 Annual Report to Congress, taxpayers who have experienced disasters frequently have characteristics that qualify for VITA assistance. Yet, claiming *any* casualty loss is out of scope for VITA. The IRS should be commended for its efforts in assisting disaster-area taxpayers; however, disaster victims are still unable to seek tax preparation assistance at VITA and TCE sites. Additionally, for example, despite the approximately 2.06 million farms currently in operation, the IRS further burdens a vulnerable taxpayer population that should have access to free tax preparation by arbitrarily restricting low-income farmers from VITA and TCE Programs. Those taxpayers whose debts are canceled or forgiven are another group of vulnerable taxpayers who might be eligible for volunteer income tax assistance and least able to pay for professional representation. If this topic were considered in-scope, at the very least, VITA volunteers could access the worksheets in IRS publications to accurately complete tax returns. The National Taxpayer Advocate did not propose allowing volunteers to prepare *any* complex tax returns on an *ad hoc* basis. Instead, she recommended allowing VITA and TCE partners discretion in deciding whether to prepare returns with specific issues that are currently out-of-scope. Moreover, as the National Taxpayer Advocate recommended in her report, to support those higher more complex issues, the IRS can develop additional certification levels, such as a home office module, a disaster loss module, or a Schedule C or F module. Programs seeking expansion could be required to describe to the IRS their training, oversight and quality review plans on those issues.

TAS Recommendation	**[11-2] Implement financial guidelines for the VITA/TCE Program which account for both family size and income, similar to that used by LITC Programs.**

IRS Response	NTA Recommendation Not Adopted. The IRS VITA/TCE program guidelines are determined by tax law complexity. Implementing financial guidelines would increase scope and complexity, and would result in fewer taxpayers served overall due to additional screening time. This type of scope change may also exclude some taxpayers who are eligible for service under the current guidelines. Additionally, a change in scope and complexity could negatively affect the accuracy of returns prepared.
IRS Action	N/A
TAS Response	The National Taxpayer Advocate fully acknowledges that the definition of in-scope refers to permissible tax law topics in a tax return and does not refer to income levels. However, these programs are based on the Earned Income Tax eligibility level. The EITC is one of the most complex provisions in the Internal Revenue Code, and VITA programs prepare many returns including the EITC. Therefore, complexity is not the overriding factor in setting income levels. Moreover, current income limitations exclude many taxpayers who are low income under Low Income Taxpayer Clinic (LITC) guidelines, yet are excluded from VITA income guidelines. To qualify for assistance from an LITC, generally a taxpayer's income must be below 250 percent of the current year's federal poverty guidelines, based on family size and with income adjustments for Hawaii and Alaska. VITA income guidelines, using the EITC threshold as the income floor, could include some flexibility for extenuating circumstances. As the chart below shows, an expansion of income guidelines would not exclude taxpayers who are eligible for service under the current guidelines, but to the contrary.

TAS Response Continued

FIGURE 11-2.1, Comparison of Incomes Under EITC and 250 Percent Below Federal Poverty Guidelines[1]

Household Characteristics			2017 250 percent of Federal Poverty Guideline			TY 2016 EITC
	Possible Household Combination					
Household Size	Marital Status	Qualifying Children	48 Contiguous States, DC and Puerto Rico	Alaska	Hawaii	TY 2016
1	Single	0	$30,150	$37,650	$34,650	$14,879
2	Single	1	$40,600	$50,725	$46,675	$39,295
2	Married	0	$40,600	$50,725	$46,675	$20,429
3	Single	2	$51,050	$63,800	$58,700	$44,647
3	Married	1	$51,050	$63,800	$58,700	$44,845
4	Single	3	$61,500	$76,875	$70,725	$47,954
4	Married	2	$61,500	$76,875	$70,725	$50,197
5	Single	4	$71,950	$89,950	$82,750	$47,954
5	Married	3	$71,950	$89,950	$82,750	$53,504
6	Single	5	$82,400	$103,250	$94,775	$47,954
6	Married	4	$82,400	$103,250	$94,775	$53,504

For example, under a 250 percent standard, a family of five would be eligible for VITA services up to an annual income of nearly $72,000. Under the current standard, a family of five would be eligible for VITA services up to an annual income of $54,000.[2] For one person with no children, the income under the 250 percent of the federal poverty guidelines is twice the amount of income under EITC guidelines. For two persons filing married filing jointly, the income is greater than the EITC level by $20,171.[3]

We disagree with the IRS's speculation that the additional screening time would result in fewer taxpayers served. The VITA Program already requires volunteers to screen taxpayers. Volunteers who screen taxpayers could easily refer to a figure that is prominently posted of the incomes meeting the 250 percent of Federal Poverty Guidelines. LITCs do this all the time.

[1] The tax year (TY) 2016 earned income and adjusted gross income (AGI) must each be less than the numbers listed in this table for taxpayers to be eligible for the EITC. *See* IRS, *2016 EITC Income Limits, Maximum Credit Amounts and Tax Law Updates*, https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/eitc-income-limits-maximum-credit- amounts-1-year (last visited Jun. 13, 2018) and Federal Poverty

TAS Recommendation	**[11-3] Create a tracking system for volunteers and their certifications so that taxpayers can be referred to a specific VITA or TCE site handling a specific tax law issue.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS currently has a tracking system in place for volunteers and their certification levels, via Link and Learn Taxes. This e-learning application identifies the specific certifications volunteers have completed. Classifying and tracking this information at the site level would be resource intensive as there is no guarantee that a volunteer trained in a more complex tax issue would be available on any specific day.
TAS Response	We are aware of the Link and Learn Taxes functionality to track volunteer certification levels. However, this application does not track where particular volunteers are working. It appears from the IRS's response, that the e-learning application is fully capable of tracking this information. The National Taxpayer Advocate is concerned that the IRS rejects this recommendation without quantifying the amount of resources needed to allow this capability. Furthermore, it is irrelevant whether a volunteer trained in a more complex tax issue would be available on any specific day, because any scheduling issues can be resolved between the taxpayer and the volunteer after a referral.

Guidelines, published at 81 Fed. Reg. 8831-32 (Jan. 31, 2017). For each additional person, the Federal Poverty Guideline increases by $10,450 for the 48 contiguous states, DC, and Puerto Rico; $13,075 for Alaska; and $12,025 for Hawaii. VITA income qualifications for calendar year (CY) 2017 are based on TY 2016 returns which are filed in 2017.

[2] The $54,000 figure is based on the Earned Income Tax Credit (EITC) threshold; family size is not a factor. *See* IRS response to TAS Information Request (Sept. 21, 2017). Each year, the IRS suggests an income threshold for which free tax preparation will be offered. Currently, the Volunteer Income Tax Assistance (VITA) income threshold is $54,000. *See* IRS, *Free Tax Return Preparation for Qualifying Taxpayers*, https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers (last visited Jun. 13, 2018.

[3] For taxpayers living in the 48 contiguous states, DC, and Puerto Rico.

TAS Recommendation	**[11-4] Ensure that more volunteer tax sites are open until October 15 each year.**
IRS Response	NTA Recommendation Not Adopted. While the IRS encourages partners to be open year-round, the majority of volunteer sites are open from January through April. Partners determine site operations based on demand for the services and availability of resources, which can vary across the country and among partners.
IRS Action	N/A
TAS Response	The IRS could easily encourage its partners to provide services after the tax return filing date. As the National Taxpayer Advocate pointed out in the report, in tax year 2016, over 36,000 low income taxpayers filed returns with extensions after the regular filing due date. Importantly, the ability to request an extension to file suggests that the taxpayer should have access to assistance to meet their statutory requirement at least until October 15th. Even though partners may choose not to keep their VITA sites open, the IRS itself can do more to encourage service to these taxpayers outside of the filing season. For instance, as mentioned in the report, the VITA Hotline is staffed only from mid-January to mid-April each year. In addition, taxpayers cannot conveniently obtain information about all VITA sites open year-around at one web page. To obtain a list of such sites, taxpayers must access the VITA Locator on irs.gov and then plug in their zip code and the number of miles they are willing to travel, or call the IRS. Another vulnerable group of taxpayers who may legitimately need to file extensions include those impacted by presidentially declared disasters who may need assistance in filing amended returns declaring casualty losses after April 15th. The IRS can and should encourage partners to provide service at least through the extended due date and should continue to provide support and assistance to the open sites throughout the year. At the very least, the IRS could require the VITA and TCE programs who receive grant funds to be open through October 15th since it is the IRS who controls the funds.

TAS Recommendation	**[11-5] Allow grant funds to be used for quality review and QTEs, CAAs, and year-round services at select sites.**
IRS Response	NTA Recommendation Not Adopted. The VITA/TCE Grant Program supplements the work already being done at the sites. Grant funds can be used to support sites that are open year-round. Funds spent to support such sites should be necessary, reasonable, and allowable per the guidance outlined in the Code of Federal Regulations, Part 200. VITA and TCE grant funds are not allowed to be used to compensate tax return preparers, quality reviewers, or certifying acceptance agents for services provided. The VITA and TCE Grant Program does, however, allow grant funds to be used to reimburse volunteers for out of pocket expenses, such as transportation, meals, or other expenses incurred in the volunteer preparation of tax returns. Yet, expenses solely related to serving as a CAA are not included. The VITA/TCE Grant Program does not allow grant funds to reimburse these costs so that the VITA/TCE Grant Program can leverage limited grant funds to serve the greatest number of people.
IRS Action	N/A
TAS Response	Part 200 of the Code of Federal Regulations (CFR), permits funds to be used for the payment of reasonable, necessary, allocable and otherwise allowable costs incurred and not prohibited by any other provisions. Specifically, Section 200.404 defines reasonable costs. The regulation clearly authorizes clinics to manage day-to-day activities, as they are already doing. Moreover, the regulation does not specifically prohibit paying for expert quality reviews. We appreciate the IRS's concern about the potential for volunteer liability under the Volunteer Protection Act of 1997. However, the National Taxpayer Advocate strongly urges the IRS to examine CFR guidance to determine how quality reviewers may be paid to assist VITA volunteers, as we believe this type of review is essential to a successful VITA program. Either way, the quality reviewer does not have to change the actual return; instead, the quality reviewer could easily note the error and the volunteer could change it. By designing definitions and rules that would allow this, the IRS would resolve how quality reviewers may be paid to assist VITA volunteers.

MSP #12 – EARNED INCOME TAX CREDIT (EITC): The IRS Continues to Make Progress to Improve Its Administration of the EITC, But It Has Not Adequately Incorporated Research Findings That Show Positive Impacts of Taxpayer Education on Compliance

PROBLEM

The Earned Income Tax Credit (EITC) is a tax credit targeted at low income workers (primarily workers with children). For Tax Year (TY) 2015 returns filed during 2016, over 27 million taxpayers received about $67 billion in EITC. However, as a result of its complex rules and the ever-changing population of eligible taxpayers, the EITC is associated with a high improper payment rate. Despite reaching out to a broad array of experts via its two EITC Summits and working jointly with TAS on the EITC Audit Improvement team, the IRS's primary tool to combat the improper payment rate thus far has been the audit process.

TAS Recommendation	**[12-1] Send out pre-filing season letters to taxpayers who break certain return filters. These letters should be written in plain language and be tailored to the taxpayer's particular needs.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	We continue to identify alternative treatments to improve voluntary compliance, reduce improper payments, and change taxpayer behavior. We tested the use of notices sent to taxpayers who claimed the EITC in fiscal year 2016. We implemented the test to determine the effectiveness of using notices to promote a change in behavior of taxpayers who self-prepared EITC claims erroneously. We issued approximately 25,600 soft notices to taxpayers who appeared to have filed tax year 2014 returns claiming the EITC with either qualifying child or Schedule C income errors. We analyzed processing year 2016 data to determine the effectiveness of the notices in promoting changed behavior and voluntary compliance. We are currently conducting additional analysis. Upon completion of the analysis, based on available resources, we will refine and issue letters accordingly. Additionally, we are planning an EITC outreach study for filing season 2019. The study will evaluate the effectiveness of soft-touch outreach in reducing erroneous EITC claims by taxpayers with self- employment income that results in the maximum amount of the EITC. Soft notices will promote compliance through self-correction, and provide taxpayers with specific resources on the EITC eligibility rules and how to correctly report self-employment income and expenses.
TAS Response	The National Taxpayer Advocate encourages the IRS to publish the findings from its Fiscal Year 2016 study. She also looks forward to seeing the results from the IRS's filing season 2019 study. However, the IRS does not need to wait to incorporate research findings from other studies, such as the research done by TAS reported in the 2017 Annual Report to Congress, to improve EITC compliance even in a tight budget environment. For instance, the soft notice to taxpayers will be useful if it is tailored to the taxpayer's particular circumstances and is written in plain language

TAS Recommendation	**[12-2] Provide a dedicated toll-free Help line for EITC taxpayers during the filing season.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	Despite significant budget reductions, the IRS continues to offer taxpayers with EITC-related inquiries multiple options for obtaining assistance from IRS employees and volunteers versed in the tax law. Options include calling the IRS toll-free telephone line, visiting a Volunteer Income Tax Assistance or Tax Counseling for the Elderly program, using the EITC Assistant online, or making an appointment to visit the local Taxpayer Assistance Center. Various outreach and educational events, hosted by the IRS, also help raise awareness of the credit and guidelines. For example, "EITC Awareness Day" is a nationwide effort led by the IRS to help taxpayers get more information through traditional and social media channels, and to promote use of the EITC Assistant on IRS.gov). Each year, the IRS uses its available communication resources to reach the broadest range of taxpayers. To provide taxpayers another option to secure information on the EITC, the IRS is currently working with TAS, through the Audit Improvement Team, to design an interactive tool tailored to the taxpayers' situation, based on their responses. The tool will be able to direct the user to the correct documents needed to resolve an audit, or help them understand why they don't qualify for the EITC. This effort is based on feedback from tax preparers, Low Income Tax Clinic counselors, and taxpayers who shared concerns about the difficulty in identifying the documents to provide for their unique situation using the Form 886-H-EIC, *Documents You Need to Send to Claim the Earned Income Credit on the Basis of a Qualifying Child or Children for Tax Year 2017*.
TAS Response	The National Taxpayer Advocate is glad to see multiple options for an EITC taxpayer to contact the IRS. However, the one aspect that is missing is that the taxpayer needs tailored assistance to address questions specific to the EITC. This is why a dedicated Extra Help line for taxpayers to receive information over the phone is so important. We know from our surveys that not all low income taxpayers have easy access to the internet. Additionally, the EITC is a complex area of law that impacts many personal aspects of a taxpayer's life, such as their income, marital status, and living arrangements. This area of tax law requires a small cadre of specially trained IRS employees who can speak directly with taxpayers to identify and resolve any areas of confusion related to the EITC.

TAS Recommendation	**[12-3] Expand the list of acceptable documentation under IRM 4.19.14-1 and train employees on the importance of this list.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS updated Internal Revenue Manual (IRM) 4.19.14.5.4, *EITC Qualifying Child (QC)*, on July 29, 2016. A new exhibit was added, Exhibit 4.14-1, *Examples of Acceptable Documentation for EITC claims (not all-inclusive)*, which includes the following six additional documents: 1) Social service records (relationship). 2) Earnings statement/check stub (residency). 3) Bank statements (residency). 4) Military records (relationship). 5) Parole office files (residency, relationship, citizenship). 6) Eviction notice (residency). In addition, the IRS will include in the IRM examples of other documents that tax examiners should consider to determine the taxpayer's eligibility. There are several training courses dedicated to evaluating taxpayers' correspondence. The training reiterates procedures outlined in IRM 4.19.14.5. For filing season 2017, the IRS delivered a training lesson entitled "One Response Does It All," during continuing professional education. The lesson outlines how to communicate what the appropriate documents are to resolve audit issues. It also provides tax examiners guidance to follow when reviewing documents submitted by the taxpayer. This guidance helps the tax examiner to make the correct determination by understanding the taxpayer's situation. The IRS will review the existing training prior to the next filing season to determine if revisions are warranted to reiterate the acceptance of the alternative documentation.
TAS Response	TAS continues to see cases in its inventory which demonstrate that some IRS employees are not accepting a variety of documents. TAS is actively working with the IRS on the EITC Audit Improvement team in order to improve training. The National Taxpayer Advocate will continue to monitor this aspect of EITC audits.

TAS Recommendation	**[12-4] Continue to expand the use of third-party affidavits, thereby making them available to all EITC taxpayers.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS will implement the use of third-party affidavits as proof of residency for a limited population of taxpayers beginning with tax year 2018 audits. The affidavit will be incorporated into the initial audit mailing and allowed as proof of residency at all stages of the audit. We will continue to use data analysis to help identify any additional populations that would be best served by using third- party affidavits during the audit process.
TAS Response	Since the IRS has implemented the use of third-party affidavits for a limited population of taxpayers and will continue to use data to help identify additional populations, the National Taxpayer Advocate believes the IRS has partially agreed with this recommendation. The third-party affidavit has proven to be an effective tool for taxpayers to substantiate their EITC claims. The National Taxpayer Advocate is pleased that third-party affidavits will now be available to a limited population of taxpayers. However, the use of third-party affidavits benefits both the taxpayer and the IRS as it is a credible document and saves time and money. The National Taxpayer Advocate strongly urges the adoption of third-party affidavits as a tool for all taxpayers claiming the EITC. Since the IRS's actions appear to show that it partially agrees with this recommendation, it should provide an implementation date for its analysis of data to help identify any additional populations that can receive the third-party affidavit during the audit process.

MSP #13 – MILITARY ASSISTANCE: The IRS's Customer Service and Information Provided to Military Taxpayers Falls Short of Meeting Their Needs and Preferences

PROBLEM

There are about 1.3 million active duty service members and over 800,000 Reserves and National Guard personnel in the United States. Those in uniform have undergone repeated deployments to war zones and many have endured extreme, and often invisible, psychological pain. Tax issues pertaining to the military are complex and very few military tax experts outside the IRS are available to assist the tens of thousands of active and reserve military taxpayers with preparing returns and other tax issues. However, the IRS does not have employees assigned solely to assist service members or dedicated telephone lines for military taxpayers to call with questions. The IRS's service to the military population is generally limited to posting information on the web, and providing tax software and training to military partners who prepare tax returns at installations around the world. Because of the challenging situations and unique tax issues they face, members of the military and their families face unusual difficulties in meeting their tax obligations and need specialized assistance.

TAS Recommendation	**[13-1] Assign a dedicated IRS employee to routinely update the military information on irs.gov website.**
IRS Response	IRS Actions Already Implemented

IRS Action	The recommendation as written has been fully implemented. There is a broad range of topics on IRS.gov and each is assigned a specific functional owner and subject matter expert. These individuals are responsible for performing regular content reviews and updates, as needed. They review user data analytics and reprioritize the content on the main landing page for members of the military (https://www.irs.gov/individuals/military) several times each year, based on seasonal needs. For example, the IRS prioritizes VITA and Free File services at the beginning of the filing season and provides links to filing for an extension during the latter part of the filing season. Our IRS website content team includes veterans, and we also work with the Department of Defense to review and revise content. In situations where we identify potentially incorrect or out of date information, we quickly partner with stakeholders to rectify the guidance provided. We appreciate the National Taxpayer Advocate for identifying a section on the web for Soldiers & Sailors Civil Relief Act (SSCRA) that unfortunately had not yet been updated. Based on feedback contained in your report, we have updated the content on the following web pages: https://www.irs.gov/retirement-plans/retirement-plans-faqs-regarding-userra-and-sscra, https://www.irs.gov/newsroom/miscellaneous-provisions-combat-zone-service, and https://www.irs.gov/newsroom/highlights-military-family-tax-relief-act.
TAS Response	The National Taxpayer Advocate appreciates the IRS's acknowledgement that the identified information for military service members on IRS.gov was out-of-date or inaccurate. We are pleased that in response to the National Taxpayer Advocate's recommendation, the IRS has corrected its online content. The National Taxpayer Advocate applauds the IRS's renewed efforts to assign a specific functional owner and subject matter expert to perform regular content reviews and updates to military taxpayer information, as needed — actions that have not in recent years been taken regarding military tax issues

TAS Recommendation	**[13-2] Create a special unit of SPEC staffed with veterans whose responsibilities are to develop and conduct outreach, education, and assistance to current military taxpayers, including National Guard and Reservists, and to those organizations that provide tax assistance to these taxpayers.**
IRS Response	NTA Recommendation Not Adopted. The IRS' Stakeholder Partnerships, Education and Communication (SPEC) organization has an employee assigned within each Territory Office to assist military partners with outreach, education, and tax preparation. These employees are IRS certified and qualified to handle military issues. The IRS will continue to develop training material that can be used in a virtual format, meet outreach requests from domestic military installations, partner with the military on changes to military tax law, and reach out to all services in the Armed Forces Tax Council to ensure that their members are aware of the available programs.

IRS Action	N/A
TAS Response	Although SPEC provides free tax software and limited training for military tax volunteers, there are no SPEC employees who are dedicated solely to assist this vulnerable taxpayer population with the myriad of unique and challenging tax issues they face. Service members have limited options for obtaining assistance with tax filing and must rely primarily on military VITA sites where they can speak with a tax preparer trained in military tax law. Even that option is only available during the tax season. Establishing a specialized unit within SPEC whose role would be to service members and their families is essential to a population that has a very difficult time in reaching an IRS employee over the phone, much less reaching one who is well-versed in the nuances of military tax law. The National Taxpayer Advocate urges the IRS to create a special SPEC unit to provide military service members with tax assistance which would be consistent with recently introduced legislation, entitled "Military Taxpayer Assistance Act." (H.R. 5479 (2018)).

TAS Recommendation	**[13-3] Allocate ample funding for SPEC to provide face-to-face training for military VITA volunteers in overseas locations.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS provides annual training support to prepare military volunteers to certify and to prepare accurate tax returns, both virtually and in-person. The SPEC organization has provided face-to-face VITA training to armed forces volunteers at domestic and overseas military installations since 2000.
TAS Response	We are pleased to learn that the IRS has indicated that SPEC VITA trainers will be sent to South Korea in December 2018 to train military tax volunteers for the upcoming tax filing season. We commend the IRS for reinstating in-person face-to-face training in South Korea. As stated in the annual report, for the first time in many years, SPEC decided to forego in-person VITA training in South Korea in 2017, citing personal safety concerns for their employees. Shortly after the publication of our report and after the Olympics were held in Pyeongchang, South Korea, in February 2018, SPEC reported it would send VITA trainers back to South Korea, as it had done for many years

TAS Recommendation	**[13-4] Provide a year-round dedicated toll-free telephone line for service members and their families to answer tax law and filing questions, and to resolve their tax account and compliance issues.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS is committed to helping all taxpayers resolve their issues as expeditiously as possible. Our telephone assistors are trained to address questions from service members who are currently in, or have been in, a combat zone. Our telephone assistors rely on a suite of resources, including the Servicewide Electronic Research Program, and Internal Revenue Manual (IRM), to specifically address military-related account and tax law issues. For example, IRM Part 5, Collecting Process, covers how to handle balance due inquiries to ensure military personnel are afforded deferred payment opportunities as well as special treatment of penalties and interest. We provide a Special Services telephone line to handle military-related questions. Overall customer satisfaction for our toll-free services was 90% in fiscal year (FY) 2017. The fiscal year 2017 level of service for taxpayers attempting to reach an assistor improved to 77%, versus 53% in FY 2016. Our analysis indicates that approximately 1% of the toll-free calls the IRS receives relate to former or current military taxpayers, and the associated issues identified can be resolved through our normal menu of telephone options. In addition to our toll-free telephone support, active duty military personnel can take advantage of our suite of online services available 24 hours a day, seven days a week, through IRS.gov. By simply entering the word “military” into the IRS.gov search field, users are provided with information about several topics, including tax law provisions (*e.g.*, taxability of military income, filing extensions, claiming the EITC); free tax filing services such as Free File or VITA; explanations of notices such as Letter 2761C, *Request for Combat Zone Service Dates*; access to Publication 3, *Armed Forces Tax Guide*, and Publication 4940, *Tax Information for Active Duty Military and Reserve Personnel*; and links to other services including self-service applications that allow for handling account issues such as obtaining an installment agreement for a balance due or securing transcripts.

TAS Response	The National Taxpayer Advocate is pleased that IRS telephone assistors are trained to address questions from service members who are currently in, or have been in, a combat zone. However, the myriad of unique and very complicated tax issues related to deployments in combat zones, direct support areas, and qualified hazardous duty areas require more than a generalist answering the phone lines. In her 2017 Annual Report to Congress, the National Taxpayer Advocate cited the IRS estimate that in FY 2018 less than 40 percent of those who attempted to call the IRS would be able to speak to a live phone assistor. Importantly though, service members and their families cannot be confident the IRS employees on the other end of the line understand their issues. The IRS response does not even begin to address the problem that military taxpayers have when stationed abroad and trying to find answers outside the domestic filing season (January 1– April 15), but within the overseas filing season (January 1–June 15). Additionally, the IRS does not consider the additional six months outside the filing season, during which the IRS does not answer these questions and military taxpayers have few tax resources available to them. Additionally, since 2014, the IRS has limited the scope of questions it answers over the phone. For instance, the IRS has designated questions about transportation and travel expenses of military personnel as well as uniforms as out-of-scope for its Customer Service Representatives using the Interactive Tax Law Assistor when responding to telephone tax law inquiries. Therefore, the IRS has not addressed the issues raised by our recommendation.

MSP #14 – SHARING ECONOMY: Participants in the Sharing Economy Lack Adequate Guidance From the IRS

PROBLEM

The "sharing" economy (also known as the gig economy) links a willing provider to a consumer of goods or services (coordinated through a community-based online service). Nearly a quarter of the US population earns money from the sharing economy. However, many of the service providers are not familiar with tax filing and recordkeeping requirements. The majority of them do not receive any tax information from the sharing economy platform they used to earn their income. This demonstrates both the need for guidance from the IRS and the opportunity to create a culture of tax compliance among participants in the sharing economy from the outset.

TAS Recommendation	**[14-1] Develop and publicize new guidance for sharing economy participants that includes a publication and a checklist of issues of which first-time, self-employed persons participating in the sharing economy should be aware.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	As stated above, significant resources are readily available to taxpayers participating in the sharing economy. Participants in the sharing economy follow the same general guidance provided for all businesses, employees, and independent contractors to help them understand and meet their tax obligations for their individual situations. We will continue to provide updates on IRS.gov as well as through outreach efforts to address any specific issues or trends identified with the sharing economy.

TAS Response	The National Taxpayer Advocate understands that participants in the sharing economy must follow the same framework of rules as traditional taxpayers. However, we believe that due to inexperience with the tax system and the overwhelming volume of tax guidance from the IRS, it will be beneficial for sharing economy participants who want to comply to have as a starting point a dedicated IRS publication that addresses the basic issues, including those the IRS identified above. This new publication for sharing economy participants need not be long and all-encompassing, but it should at a minimum provide a checklist of issues that first-time, self-employed persons participating in the sharing economy should be aware of, and explain the practical impact of these issues. We fully expect the IRS to continue to use the irs.gov web site to reach this target group. In no way are we suggesting that the creation of a sharing economy publication take the place of the Sharing Economy Tax Center on its website, but to consolidate and supplement it.

TAS Recommendation	**[14-2] Create a one-page brochure touching on some basic points relevant to service providers in a sharing economy and containing a link to the resources available for sharing economy participants.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	As noted above, the Sharing Economy Tax Center contains a wealth of information, including links to available resources for those participating in the sharing economy industry.
TAS Response	As noted above, the National Taxpayer Advocate sees a benefit to the IRS creating a formal publication that pulls together many of the common tax issues potentially encountered by participants of a sharing economy. As a companion to this publication, we believe that the IRS should create a one-page brochure that contains some quick-hit issue-spotting, along with a link to the Sharing Economy Tax Center web page. The existence of one should not preclude the IRS from developing the other. Because the IRS does not agree to publish such a brochure, TAS will create and publish such a brochure as part of its Consumer Tax Tips series, and we will ourselves work with large service coordinators so they can distribute it to their participants.

TAS Recommendation	**[14-3] Require third-party service coordinators to provide the one-page brochure on the sharing economy to service providers at the same time they receive the Form W-9, *Request for Taxpayer Identification Number and Certification*, from the service provider.**
IRS Response	NTA Recommendation Not Adopted. The Internal Revenue Code does not give IRS the authority to require a taxpayer to provide IRS publications to a third party. In addition, the IRS does not believe the benefits of such a requirement would outweigh the burden on taxpayers. Nor would there be a mechanism for IRS to monitor compliance. However, as mentioned above, we continue to build two-way relationships with sharing economy organizations and taxpayers, and provide them with tailored educational materials addressing topics such as estimated taxes and tax fraud prevention.
IRS Action	N/A
TAS Response	This recommendation is moot, as the IRS has not agreed to develop a one-page brochure on the sharing economy. As noted above, TAS will create and publish such a brochure as part of its Consumer Tax Tips series. Because it will be in electronic format, it will be easy for service coordinators to make this info readily available. We will also make it available on the TAS webpage.

TAS Recommendation	**[14-4] Partner with TAS to develop an online wizard for taxpayers in the sharing economy, which may include interactive online tools such as a mileage log app or an estimated tax payment calculator.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA
IRS Action	Resources are readily available on IRS.gov to assist taxpayers on a variety of tax topics related to filing requirements, starting a new business, the distinction between employees and independent contractors, and paying taxes. In addition, online tools, such as mileage log apps and estimated tax payment calculators, are already generally available to the public to assist taxpayers with determining income and expenses and general recordkeeping.
TAS Response	In the near future, some taxpayers will start using irs.gov as an online portal to the agency. (Sharing economy participants are more likely to be adept online users.) Forrester Research found that although people generally do not use government online services, there is one type of online tool they find particularly helpful — an online "wizard."[1] The IRS should provide an online wizard that walks them through each step of the process to understand and meet their tax compliance obligations. The use of an online wizard will help taxpayers navigate through the wealth of information the IRS posts on its website.

TAS Recommendation	**[14-5] Designate liaisons to participate in online forums to identify emerging issues for sharing economy participants.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA
IRS Action	The IRS has participated in online forums including a web conference in February 2017 discussing on-demand workers, independent contractors, and self-employed and independent business owners. More than 76,000 participated in two sessions. We continue to share information on various tax topics with taxpayers through outreach opportunities such as the annual tax forums and industry meetings.

[1] Oral statement of Rick Parrish, Forrester Research, National Taxpayer Advocate Public Forum (May 17, 2016).

TAS Response	The National Taxpayer Advocate is pleased to learn of the IRS's recent participation in a widely- attended web conference. Embracing new ways to reach taxpayers is forward-thinking. The IRS should evaluate the pros and cons of having an official presence in online forums, where it can help shape the discussion of tax issues impacting the sharing economy. This is the 21st century and the IRS should explore new modes of direct communication with its taxpayers.

MSP #15 – INTERNATIONAL: The IRS's Approach to Credit and Refund Claims of Nonresident Aliens Wastes Resources and Burdens Compliant Taxpayers

PROBLEM

IRS policy is that nonresident aliens (1042-S filers) are only entitled to credits and refunds when the information on Forms 1040NR, *U.S. Nonresident Alien Income Tax Return*, substantially matches the information on Forms 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, issued directly to the IRS by withholding agents. This approach, however, does not appear to be firmly grounded in comprehensive statistical analysis. Rather than using available data to focus compliance and enforcement efforts on high-risk taxpayers, the IRS has adopted an undifferentiated approach to 1042-S filers that wastes resources, needlessly burdens compliant taxpayers, and treats 1042-S filers inconsistently from analogous domestic taxpayers. Additionally, the IRS has demonstrated a reluctance to enforce compliance among Form 1042-S withholding agents, even though it generally has the ability to do so.

TAS Recommendation	**[15-1] Compile and internally publish data relating to the results of manual review of frozen Form 1042-S credits and use this data to better understand and identify the sources and income stratifications generating increased risks of noncompliance.**
IRS Response	IRS Actions to be Adopted/Addressed if Resources and Budget Allow.
IRS Action	We instituted new processes in February 2017 based on problems identified in prior years and will continue to analyze data as resources become available and more forms are filed electronically.

TAS Response	As discussed above, the approach adopted in February 2017 brings substantial improvements to the matching program. Only systematic quantitative analysis, however, can accurately gauge the ultimate effectiveness of these steps and provide a useful road map for future policies and procedures. The National Taxpayer Advocate is sensitive to resource limitations in all areas of tax administration. Nevertheless, the compilation and analysis of quantitative data are indispensable tools for determining the best means of utilizing these resources. The National Taxpayer Advocate requests that the data and analysis associated with the results of manual review of frozen Form 1042-S credits based on the "new processes" instituted in 2017 be shared with her when complete.

TAS Recommendation	**[15-2] Implement a policy that relies on data as the basis for developing effective programs and systems for validating the credit and refund claims of those relatively few Chapter 3 and Chapter 4 filers for whom such scrutiny is statistically justified.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	We implemented policies and procedures for granting withholding credits that are similar to processes currently in place with respect to other matching programs.
TAS Response	In implementing policies and procedures for granting withholding credits that are similar to processes currently in place with respect to other matching programs, LB&I has generally acted in accordance with TAS recommendations made in prior MSPs. Moreover, the February 2017 program changes result in a focus of attention and resources on those Form 1042-S filers presenting the greatest risk for noncompliance and lost tax revenue. The National Taxpayer Advocate urges that these improvements remain in place and that their efficacy be tested and refined by in-depth quantitative analysis.

TAS Recommendation	**[15-3] Energetically enforce the withholding, reporting, and remittance obligations of withholding agents, rather than attempting to shift this obligation to nonresident taxpayers in ways that create hazards of litigation.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA
IRS Action	In addition to compliance examinations of withholding agents conducted by the Foreign Payments Practice area of Withholding International Individual Compliance, the IRS is developing a compliance program directed toward U.S. and foreign withholding agents.
TAS Response	The National Taxpayer Advocate commends the IRS for beginning to develop a compliance program directed toward U.S. and foreign withholding agents. Along with compliance examinations, this program may improve the reporting and remittance behavior of withholding agents and reduce the compliance burden of Form 1042-S filers. It will also identify the challenges withholding agents face when complying with the law, and may result in process improvements. Withholding agents, not Form 1042-S filers, should be responsible where reporting and remittance failures are attributable to those withholding agents. A rebalancing of the enforcement scales and increased collaborative outreach to withholding agents are necessary so that Form 1042-S filers are subject to refund delays or additional compliance burdens only on account of their own noncompliance, not that of their withholding agents, over which they generally exercise no control.

TAS Recommendation	**[15-4] Consider more effective ways of discouraging noncompliance by, and collecting unremitted funds from, foreign withholding agents, including exploring cooperative agreements with foreign jurisdictions.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS is developing a compliance program directed toward U.S. and foreign withholding agents.
TAS Response	This proposed compliance program constitutes a positive step aimed at increasing the accountability of withholding agents for their reporting and remittance obligations. The National Taxpayer Advocate commends LB&I for these efforts. As discussed above, an effective compliance program will place equal emphasis on ensuring that withholding agents and Form 1042-S filers adequately undertake their respective responsibilities and will allocate compliance burdens, oversight mechanisms, and enforcement activities accordingly.

MSP #16 – INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITINs): The IRS's Failure to Understand and Effectively Communicate with the ITIN Population Imposes Unnecessary Burden and Hinders Compliance

PROBLEM

Individuals who are ineligible for Social Security numbers need Individual Taxpayer Identification Numbers (ITINs) to file required returns and pay taxes. The IRS fails to adequately analyze the characteristics of the ITIN population, including where they live, how they file taxes, what language they speak, and what community resources are available to help them meet their tax obligations. Nor does the IRS communicate effectively with ITIN taxpayers by providing sufficient notices in the taxpayer's language and targeted outreach to underserved taxpayers. The IRS continues to overlook necessary changes and make others that prevent taxpayers from obtaining ITINs, filing their returns, and receiving tax benefits to which they may be entitled. Furthermore, without using its understanding of the ITIN population when developing its communication strategy, the IRS risks any positive changes not being effective because taxpayers do not understand or are not aware of them.

TAS Recommendation	**[16-1] In collaboration with TAS, conduct a comprehensive study of ITIN taxpayers that includes data such as geographical location, distance to a CAA, TAC, or VITA site, country of origin, language usage, paid preparer usage, and filing characteristics over multiple years.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The PATH Act required that the IRS complete an ITIN study to include an evaluation of specific components. As a part of this study, we evaluated filing characteristics of ITIN tax returns, before and after enactment of the law, to ensure ITIN users have access to entities that can provide them with assistance to apply for and receive an ITIN. The study included geographical data on locations of ITIN taxpayers and distances to CAAs, TACs, or Volunteer Income Tax Assistance (VITA) sites that provide ITIN services. We will share the final report when it is available.

TAS Response	Although TAS has not viewed the final report, the Most Serious Problem raises some data points that TAS believes the IRS may not be fully exploring in the ITIN study. For example, TAS reported data regarding the proportion of Hispanic individuals in a county, Volunteer Income Tax Assistance sites, and ITIN returns prepared by a paid preparer. Furthermore, the National Taxpayer Advocate recommends that the IRS include TAS as part of the team conducting the study so that it may benefit from insights about ITIN taxpayers drawn from TAS's casework, systemic advocacy projects, and TAS's administration of the low income taxpayer clinic program.

TAS Recommendation	**[16-2] Create a comprehensive outreach plan that includes materials to distribute to preparers; local community organizations; non-profit organizations; and local, state, and federal government agencies, with a particular focus on communities where there are high concentrations of ITIN filers.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	As acknowledged in your report, the IRS launched public outreach campaigns, holding approximately 250 outreach events. The IRS continues to work closely with a variety of partner and outreach groups to share information about changes to the ITIN process and help raise awareness of the new guidelines in response to the PATH Act. We established a comprehensive communication strategy that includes efforts to engage internal and external stakeholders and solicit their support, educate taxpayers on the impact of the new legislation, and encourage practitioners and community-based entities to become CAAs. During FY 2016 and FY 2017 we conducted numerous outreach activities through a number of internal and external IRS channels to reach ITIN filers, particularly those with expired or expiring ITINs. We provided TAS a detailed list of outreach sessions we conducted in our response to their ITIN MSP Information Request (October 2017). Between July 2017 and September 2017 we also met with key stakeholders such as the Congressional Hispanic Caucus, the National Council of La Raza (now Unidos US), volunteer return preparation partners, the Department of State and other government organizations, national English and Spanish media outlets, and the Service's outreach functions to educate them on the ITIN issues. We provided each group with the appropriate background material, as well as outreach products available in seven languages (English, Spanish, Chinese, Haitian Creole, Russian, Korean, and Vietnamese).

TAS Response	The Most Serious Problem details how the IRS conducted numerous outreach events, but focused primarily on practitioners and neglected community-based organizations and non-profit stakeholders. Only 10 of the 250 events the IRS held during the time period were delivered to an English as a Second Language audience. TAS identified communities with a high number of ITIN taxpayers where outreach was disproportionately low. The National Taxpayer Advocate hopes the IRS will consider some of TAS's findings from the Most Serious Problem to improve and fine- tune its outreach plan and tailor its approach to different groups including taxpayers, preparers, community organizations, and other stakeholders in communities with many ITIN filers.

TAS Recommendation	**[16-3] Use data regarding the geographic location of ITIN taxpayers to create a list of underserved communities in need of greater CAA, TAC, and VITA sites and apply resources to recruit and add more CAAs, VITA sites, and certifying TACs in these locations.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS currently leverages existing relationships with partners that serve English as a Second Language and underserved communities. Many of these partners are community-based organizations that are most familiar with the needs of the residents and that participate in the VITA and Acceptance Agent Programs. Similarly, we continue to evaluate the expansion of the number of TACs that provide ITIN services and actively recruit CAAs at practitioner outreach events and forums. In 2017 we increased the number of TACs performing ITIN document verification from 110 to 310. Additionally, all TACs and Virtual Service Delivery sites will provide assistance with ITIN procedural questions.
TAS Response	Although the National Taxpayer Advocate is pleased the IRS has increased the number of Taxpayer Assistance Centers offering ITIN services, the IRS should compile comprehensive data so it can incentivize other ITIN resources, such as Volunteer Income Tax Assistance (VITA) sites and Certifying Acceptance Agents (CAAs) in those locations. To the extent the IRS is already using this data to recruit new VITA sites and CAAs, this recommendation should be characterized as adopted.

TAS Recommendation	**[16-4] Use data regarding ITIN taxpayers who incorrectly claimed refundable credits via a paid preparer to provide targeted outreach to segments of the preparer community.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS compiles annual filing statistics for the Child Tax Credit (CTC) and the Additional Child Tax Credit (ACTC) that include an ITIN component with a breakdown by preparers. We use this data to guide us in our outreach and compliance activities. Other outreach includes Nationwide Tax Forum seminars, where the IRS provides technical information and information about meeting due diligence requirements for the CTC and ACTC to the preparer community. In addition, the IRS provides, in English and Spanish, general outreach and due diligence information for preparers and ITIN holders on the Earned Income Tax Credit (EITC), CTC, ACTC, and American Opportunity Tax Credit through the IRS webpage on EITC and other refundable credits (www.eitc.irs.gov).
TAS Response	If the IRS already compiles annual statistics on refundable credit claims by paid preparers for ITIN taxpayers, and it uses this data to conduct outreach events, it is not clear why the IRS has characterized this recommendation as not adopted as written. The IRS response appears to fulfill the recommendation. However, the IRS has not provided evidence that the obtained data is used to guide outreach and compliance events besides the seminars offered only at five venues nationwide for the whole year. The IRS should consider interactive outreach events in affected communities, working directly with preparer organizations and through local continuing education events.

TAS Recommendation	**[16-5] Update its systems to provide that when a limited English proficiency indicator is placed on a taxpayer's account, all IRS notices will be issued in the taxpayer's preferred language when available.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Similar to other IRS notice language patterns, ITIN notices are only issued in English and Spanish. The CP-48 notice is issued to advise taxpayers of the need to renew an ITIN. The language in which the notice is issued is based on the type of Form 1040, *U.S. Individual Income Tax Return*, the taxpayer filed. If the individual filed a Form 1040-PR, *Self-Employment Tax Return – Puerto Rico*, the ITIN notice will generate as a CP-748, the Spanish-language version of the notice. Once a taxpayer files a Form W-7, *Application for IRS Individual Taxpayer Identification Number*, whether an individual receives the English or Spanish version of the notice will be based on the type of Form W-7 submitted; if the applicant submits a Form W-7(SP), the ITIN renewal notice will generate in the Spanish version.
TAS Response	Although the IRS bases the ITIN application correspondence on the language of the ITIN application the taxpayer filed, the only way a taxpayer can currently receive a deactivation notice in Spanish is to happen to live in Puerto Rico such that the taxpayer files a Form 1040-PR. The Most Serious Problem explains that the IRS has an account indicator for Spanish language preference, but it is either unable to or chooses not to use it to cause correspondence to be issued in Spanish. In the same way that a taxpayer filing Form W-7 in Spanish causes ITIN application correspondence to then be issued in Spanish, the filing of the Spanish Form W-7 should also trigger Spanish versions of important legal correspondence such as the statutory notice of deficiency, collection due process hearing letters, and math error notices. TAS is pursuing an advocacy project to determine how this indicator can be used, not only in the context of ITIN notices, but for other notices for which the IRS has a Spanish version, but does not fully utilize them.

TAS Recommendation	**[16-6] Update Form W-7 instructions and CAA outreach materials to emphasize the importance of informing the IRS about a change of address.**
IRS Response	IRS Actions to be Adopted/Addressed.

IRS Action	The IRS plans to implement the recommendation as written. IRS.gov provides detail on several ways a taxpayer may notify us of an address change. Additionally, Form W-7 instructions currently include guidance on how address information is used and when it is appropriate to submit a Form 8822, Change of Address. However, in the next revision of the Form W-7 instructions, we will consider an additional edit, as well as inclusion of CAA outreach material, to emphasize the importance of informing the IRS about a change of address.
TAS Response	The National Taxpayer Advocate is pleased the IRS plans to update the Form W-7 instructions to encourage taxpayers to change their addresses. This change should benefit taxpayers and the IRS in reducing the amount of undelivered mail, ensuring taxpayers receive their original documents back, and allowing the IRS to more reliably deliver important information to ITIN holders.

TAS Recommendation	**[16-7] Update Form W-7 instructions to explain on the first page the requirement to apply for an ITIN by the tax return due date in order to receive certain refundable credits.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The need to apply for an ITIN by the tax return due date in order to receive certain refundable credits is already appropriately addressed within the Form W-7 instructions, under the heading “When to Apply.” Moreover, the first page of the 2017 instructions alerts individuals to the expiration and renewal of ITINs and refers readers to the “When to Apply” section, as well as IRS.gov, for additional information. The purpose of Form W-7 is to apply for or renew an ITIN if the taxpayer will have a tax return filing requirement, while refundable tax credits relate to the tax return itself. As such, the IRS provides details regarding tax credit eligibility in the instructions for the relevant tax returns, as well as in multiple other dedicated IRS publications.

TAS Response	As explained in the Most Serious Problem, the legislative change requiring ITINs to be issued by the tax return due date to claim the American Opportunity Tax Credit is significant because if a taxpayer does not meet this requirement, there is no possibility of fulfilling the requirement retroactively and receiving the tax benefits that were forfeited. Thus, this information belongs upfront within the ITIN application instructions. Although refundable credits relate to the tax return itself, the fact remains that a taxpayer cannot claim the refundable credits on the tax return unless she knows to file the ITIN application timely. Thus, the ITIN application is an appropriate place for reminding taxpayers of this requirement. We do not consider the IRS to have addressed the concerns raised in the Report.

TAS Recommendation	**[16-8] Develop a system for tracking missing document requests and the actions the IRS has taken to address the missing document.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS returns identification documents to the applicant's address of record, which is the mailing address the applicant provided to the IRS on the Form W-7 ITIN application. If the applicant provides a prepaid addressed envelope with the W-7 application, the IRS will use the prepaid addressed envelope to return the identification documents. The IRS receives missing document requests from various sources throughout the agency and through direct taxpayer correspondence. In response, the taxpayer is notified of the disposition of the missing documents and corresponding comments are placed on the specific applicant's record in the ITIN Real-time System. We do track undeliverable mail containing identification documents returned to the IRS by the United States Postal Service, using the Loose Document Database. This database, which is used to track identification documents, did not support data retrieval prior to enhancements implemented in June 2017. The recent enhancements enable data capture and reporting, in addition to tracking of identification documents. Guidance for this process is outlined in IRM 3.21.263.6.3.4.2.5, *Maintaining Supporting Identification Documents*, and in 3.21.263.6.10.4, *Undeliverable Mail*.

TAS Response	The National Taxpayer Advocate welcomes the IRS's recent enhancements to its database that will allow it to track undeliverable mail containing identification documents. This should allow the IRS to better gauge the extent of the problem and proactively identify methods to mitigate the problem. Nonetheless, the IRS should also track missing document requests from taxpayers to capture data on times when the IRS itself loses a document or the document is lost but not returned to the IRS as undeliverable. Thus, the IRS has partially addressed the recommendation.

MSP #17 – APPEALS: The IRS Office of Appeals Imposes Unreasonable Restrictions on In-Person Conferences for Campus Cases, Even As It Is Making Such Conferences More Available for Field Cases

PROBLEM

Appeals changed its policies in 2016 to establish a default telephone conference rule, remove taxpayers' right to choose an in-person conference, and restrict the circumstances under which a Hearing Officer could elect to hold such a conference. These changes negatively impacted the ability of many taxpayers to adequately present their cases. After an outcry from stakeholders, Appeals recently announced that it would return to making in-person Appeals conferences available in Field cases, a step which the National Taxpayer Advocate applauds. Nevertheless, a number of important restrictions on in-person conferences are still in place, such as those for Campus Appeals. These prohibitions raise serious equity and due process concerns, as many Campus cases involve lower income and unrepresented taxpayers. These limitations on in-person Appeals conferences are unnecessary in light of prevailing trends, should be replaced by quality conference alternatives, and could do substantial harm to taxpayers and the IRS while they remain in place.

TAS Recommendation	**[17-1] Honor all good-faith requests for an in-person Appeals conference.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA. As described above, Appeals uses its best efforts in Field cases to schedule an in-person conference on a date and at a location that is reasonably convenient for the taxpayer and Appeals, and we are currently working to identify ways to expand the availability of in-person conferences to Campus cases.
IRS Action	N/A

TAS Response	As noted in the overall TAS response, the National Taxpayer Advocate applauds Appeals' progress since October of 2016 with respect to reinstating in-person conferences for Field cases. Nevertheless, this momentum must continue so that the availability of an in-person conference is not dependent on Appeals' best efforts, but becomes a right on which taxpayers can rely in all but the rarest instances. Further, taxpayers whose cases are assigned to a Campus currently have no access whatsoever to an in-person conference. If a taxpayer chooses case assistance, the taxpayer will sit in a room with an Appeals Technical Employee (ATE) and be connected via teleconferencing to another ATE who ultimately will render a decision in the case. This alternative, however, cannot serve as a substitute for an in-person conference where taxpayers desire to sit across the table from an ATE with whom they are attempting to resolve their case. Appeals itself created the circumstances that are cited as the reasons why in-person conferences cannot be allowed for Campus cases; therefore, the National Taxpayer Advocate is heartened by Appeals' representations that it is exploring the means of remedying these limitations. As one possibility, Appeals could simply reinstitute the right of taxpayers to seek a case transfer out of a Campus and into a Field office to facilitate an in-person conference. Further, in order to accommodate these in-person conferences, as well as to better facilitate conferences for Field cases and to improve the overall taxpayer experience, Appeals can begin to expand its geographic footprint, as discussed below.

TAS Recommendation	**[17-2] Continue improving VSD (or its successor) and telephone conferences so that taxpayers have access to a range of quality options for interacting with Appeals.**
IRS Response	IRS Actions Already In Progress.
IRS Action	Appeals continues to explore how to expand and improve virtual conference opportunities for taxpayers. As part of this effort, we are pilot testing the use of Cisco WebEx Meeting Server (WebEx) technology with interested taxpayers. WebEx allows taxpayers and Appeals employees to conduct online meetings from their computers with video conferencing and screen sharing. The pilot, which began in August 2017 with a limited number of volunteer employees, is scheduled to conclude in September 2018.

TAS Response	The National Taxpayer Advocate commends Appeals for its efforts aimed at providing taxpayers high quality options for participating in conferences. Toward that end, WebEx appears to present exciting possibilities, and TAS looks forward to reviewing the results of the pilot program. However, all of these alternatives to in-person conferences, including WebEx, must be conceptualized as options presented to taxpayers, not as justifications for denying taxpayers access to in-person conferences. As these options increase, both in terms of quality and quantity, only taxpayers who believe that an in-person conference is essential for the adequate presentation of their case will generally make such a request. These requests should be honored.

TAS Recommendation	**[17-3] Through the use of attrition and other strategies, staff local Appeals offices so as to have a permanent Appeals office in every state, the District of Columbia, and Puerto Rico that provides effective in-person coverage for the full range of Appeals cases.**
IRS Response	NTA Recommendation Not Adopted. Appeals makes every effort to position our employees in geographic proximity to our work, even with our limited budget and employee attrition. Appeals takes a regional approach to staffing: we place our employees where they are most needed to effectively serve the public. Because some geographic areas generate more work than others, it would be inefficient to permanently station employees in states where they would have inadequate caseloads and would likely need to travel to conduct conferences in states with heavier caseloads. To be responsive to taxpayers located in states where Appeals does not have a permanent physical presence, we engage in circuit riding to those states. We also note that our technical specialists — those with expertise in international issues, financial products, estate and gift tax, exempt organizations, etc. — are geographically dispersed and limited in number. Matching the skills or expertise of the Appeals employee to the issues involved in a case is our primary goal for proper case resolution and taxpayer service. This goal informs our regional, rather than state-by-state, staffing approach.
IRS Action	N/A

TAS Response	Resource constraints and considerations of efficiency cannot be allowed to override *the right to quality service*. ATEs are most needed not in Campuses and regional offices, but in the communities that are impacted by their decisions. An essential aspect of quality case resolution is a rapport between a taxpayer and an ATE. Intangible but incalculably powerful benefits arise from a common understanding of the social and economic challenges facing the community in which a taxpayer lives. This shared knowledge of circumstances can most effectively be achieved when ATEs live in relatively close proximity to the taxpayers with whom they are interacting. Concentrating ATEs in Campuses and larger cities from which they communicate with taxpayers by telephone, by videoconferencing, or by occasionally traveling to distant locations to conduct circuit- riding conferences detaches ATEs from the taxpayers they serve. This trend toward consolidation and separation is precisely the opposite of what should be occurring. Instead, Appeals should expand its geographic footprint and reengage with taxpayers, which will help taxpayers gain confidence that their cases will be brought before ATEs who are accessible, committed to case resolution, and conversant with their circumstances. Workload and resource concerns are simply not insurmountable obstacles to this approach. As TAS has amply demonstrated through its own geographic footprint, it is possible to round out smaller locale inventories with assignments of cases that are resolvable independent of location. Moreover, Appeals can staff offices in those states currently without a geographic presence by allocating the new hiring made possible through campus retirements and other attrition to field offices, thereby allowing resource expenditures to be held constant.

MSP #18 – APPEALS: The IRS's Decision to Expand the Participation of Counsel and Compliance Personnel in Appeals Conferences Alters the Nature of Those Conferences and Will Likely Reduce the Number of Agreed Case Resolutions

PROBLEM

Effective October 2016, Appeals implemented guidance explicitly allowing Hearing Officers to invite IRS Counsel and Compliance to participate in Appeals conferences. This step, however, may have far-reaching negative consequences for Appeals' effectiveness in resolving cases with taxpayers. Among other things, Appeals' emphasis on expanding participation of Counsel and Compliance in conferences will fundamentally change the nature of conferences, jeopardize both the real and perceived independence of Appeals, and generate additional costs for taxpayers and the government.

TAS Recommendation	**[18-1] Preserve its actual and perceived independence by adopting IRM procedures that separate Counsel and Compliance from Appeals conferences unless their inclusion is mutually agreeable to the taxpayer and Hearing Officer involved.**
IRS Response	NTA Recommendation Not Adopted. The ATCL Conferencing Initiative is a limited pilot focused on a very small population of large, complex cases involving well-represented taxpayers. For these cases, we are testing to see whether allowing Appeals to hear both parties discuss the underlying facts and law (followed by taxpayer- only settlement negotiations) aids case resolution and supports Appeals' impartiality without undermining our independence. We will further evaluate the pilot upon its completion.
IRS Action	N/A

TAS Response	Including Compliance and Counsel in the Appeals conference may appear sensible, and tax practitioners sometimes find this approach to be helpful in resolving cases. Mandating this inclusion, however, even in large cases where taxpayers may be well represented, fundamentally disregards the very purpose of the Appeals conference, which is neither to give Compliance another opportunity to advocate for its position, nor to transform Appeals into a mediation forum. Instead, the credibility of Appeals hinges on its ability to undertake direct and independent settlement negotiations with taxpayers and their representatives. Even if Appeals is able to generate case resolutions that are unbiased, the necessary perception of independence will inevitably be compromised by Appeals' new approach, even if it is framed as a "limited pilot." Additional IRS participants cannot help but alter taxpayers' perception of the proceedings and the fairness of the outcomes. Taxpayers will not feel they are going before an independent and objective party to seek a resolution to their cases; instead, taxpayers will feel they are simply continuing their disagreements with the IRS as an institution, this time with an extra party or two added to the conversation — perhaps as overseers. Such an appearance is a far cry from the independent arbiter envisioned by the IRS Restructuring and Reform Act of 1998. "With this legislation, we require the agency to establish an independent Office of Appeals — one that may not be influenced by tax collection employees or auditors." Appeals would have been better served if it had undertaken a detailed consultation of stakeholders before pursuing this pilot. The National Taxpayer Advocate urges Appeals to consult with TAS, tax practitioner groups, and other stakeholders when evaluating the results of the pilot and when determining what follow-up measures, if any, should be subsequently adopted.

TAS Recommendation	**[18-2] Continue to involve Counsel and Compliance in preconference hearings and if, after the Appeals conference itself is complete, additional information from Counsel and Compliance proves necessary, explain the need to taxpayers and convene a post conference call or meeting in conformity with *ex parte* rules.**
IRS Response	NTA Recommendation Not Adopted. This recommendation presumes adoption of TAS Recommendation #18-1, which we do not adopt at this time. For ATCL Conferencing Initiative cases, Appeals will continue to follow all applicable pre-conference and conference procedures; for all other cases, Appeals will continue to follow its existing procedures. Appeals will continue to strictly adhere to the *ex parte* rules for all cases.

IRS Action	N/A
TAS Response	This recommendation is what the National Taxpayer Advocate would have provided, had she been consulted prior to implementation of the pilot. Taxpayers and tax practitioners are comfortable with the involvement of Compliance and Counsel in the pre-conference stage of an appeal. The challenge to the integrity and the effectiveness of an appeals proceeding arises when these personnel participate after the pre-conference. As a result, a general no-participation rule should be maintained. Thereafter, if additional information proves absolutely necessary, mechanisms for its acquisition can be established in conformity with the existing *ex parte* rules. The strong concerns expressed by the tax practitioner community with respect to this initiative were primarily attributable to its mandatory nature and the lack of consultation with which it was imposed. These are not attributes calculated to inspire confidence in, and openness to, any type of pilot program. To the extent Appeals believes that ATEs are lacking necessary information, other ways of addressing this issue exist that would do less violence to the integrity of Appeals proceedings. Allowing for this post-conference meeting is just one of these possible alternatives. Another is for the IRS to insist that Compliance provide Appeals, in the first instance, with the information needed to adequately fulfill Appeals' mission of undertaking independent and unbiased administrative dispute resolution.

TAS Recommendation	**[18-3] Track and analyze data relating to cycle times, outcomes, and subsequent litigation activity regarding conferences in which Counsel and Compliance participate so as to provide quantitative insight into the impact of such participation on Appeals proceedings.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Appeals regularly communicates with and solicits feedback from internal and external stakeholders about experiences with the ATCL Conferencing Initiative. This qualitative insight will inform future decisions made regarding Compliance attendance at ATCL conferences. In addition, Appeals collects data it deems appropriate that may also assist in informing future decision-making.

TAS Response	Qualitative insights regarding the ATCL Conferencing Initiative are worthwhile and the National Taxpayer Advocate commends Appeals for gathering this anecdotal evidence on an ongoing basis. A meaningful evaluation of the pilot, however, also requires the collection and analysis of in-depth quantitative data such as that enumerated in this recommendation. Without such rigorous and objective analytical tools, the pilot program likely will represent little more than a self-fulfilling prophecy in which the ultimate results mirror the expectations and desires with which the initiative commenced. The National Taxpayer Advocate urges Appeals to collect a broad range of quantitative data relating to this initiative and make that data broadly available. Thereafter, Appeals should work with the National Taxpayer Advocate, tax practitioner groups, and other stakeholders to analyze the quantitative and qualitative results it has compiled and to arrive at meaningful collective conclusions regarding the outcome of the pilot.

TAS Recommendation	**[18-4] Seek and carefully consider comments from tax practitioners and other stakeholders regarding when, and to what extent, the participation of additional IRS personnel in Appeals proceedings would contribute to case resolution.**
IRS Response	IRS Actions Already Implemented.
IRS Action	Since October 2016, Appeals has conducted regular, external outreach about Appeals' conference procedures and the ATCL Conferencing Initiative. We will continue to communicate with and engage external stakeholders on these and other issues of importance to Appeals and to the taxpayer community.

TAS Response	Communicating with and engaging external stakeholders is an important aspect in moving forward with the ATCL Conferencing Initiative. The National Taxpayer Advocate believes that listening to stakeholders is implicit in the communication and engagement surrounding the ATCL Conferencing Initiative. Nevertheless, the commitment to listen should be made explicit as well. To this point, the initiative has been unilaterally imposed by Appeals on a largely unwilling community of tax practitioners who have expressed substantial concerns about the initiative's operation and impact. Appeals should pay careful attention to the comments of these practitioner groups, as well as other stakeholders throughout the implementation and evaluation of the pilot. Appeals should move away from the *fiat*-based approach that, to this point, has characterized the ATCL Conferencing Initiative, toward a more collaborative method of tax administration. This type of transparency and partnership among taxpayers, tax practitioners, and Appeals is particularly well suited to the Appeals environment, in which cooperation will only lead to more effective administrative case resolution.

MSP #19 – IDENTITY THEFT: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures

PROBLEM

Tax-related identity theft is an invasive crime that has significant impact on its victims and the IRS. The IRS has made significant strides in revamping its identity theft victim assistance procedures, including centralizing its identity theft victim assistance units. Yet cyber criminals are continually evolving their schemes, figuring out more creative methods of committing tax-related identity theft.

TAS Recommendation	**[19-1] Include identity theft case receipts received IRS-wide — including RICS and SP receipts — in its Global Identity Theft Report.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The Global IDT Report contains IRS-wide IDT information, in the "Prevention & Detection" and "Victim Assistance" sections. The Return Integrity and Compliance Services (RICS) and Submission Processing (SP) identity theft cases are accounted for in the report. Our analysis indicated there were 78,500 unreversed identity theft claim markers compared to the 178,000 identified in the National Taxpayer Advocate's report. Identity theft claim markers are placed on taxpayer accounts when the taxpayer initially contacts the IRS to report that they are a victim of identity theft. The taxpayer is advised to submit a Form 14039, *Identity Theft Affidavit*, to support their claim. Although the identity theft claim should be reversed if the taxpayer fails to submit their Form 14039 or other documentation to support their claim of identity theft, we have identified instances where the identity theft claim indicator was not reversed. We have submitted a programming change to correct this issue with a planned implementation date of 2019.

TAS Response	While RICS and SP IDT cases are included in Prevention & Detection inventory shown on the Global IDT Report, we do not agree with the IRS's assertion that the Global IDT Report includes RICS and SP cases in the Victim Assistance inventory. Per the Data Dictionary definition of Victim Assistance Inventory: > This area of the report includes the Identity Theft Victim Assistance Inventory (IDTVA). Displayed are the beginning inventory, receipts, closures, and ending inventory for each year with the last column showing the change in inventory from the current year to the prior year at the current reports point in time. The bullet at the bottom shows how many BMF receipts there were (included in the table), with a year to year comparison as well. This definition of Victim Assistance Inventory makes it clear that it includes IDTVA inventory, but does not make mention of IDT cases worked by other functions. Certain IDT cases may be worked outside of IDTVA, such as by RICS and SP, and are eligible to receive IP PINs (which are issued to victims of tax-related IDT, so these taxpayers should be counted as such). *See* IRM 25.23.2.19, *IMF Identity Theft Worked by Functions Outside Accounts Management IDTVA* (Oct. 13, 2016). Failure to include these cases in the Global IDT Report under Victim Assistance Inventory substantially underreports the volume of IDT cases the IRS receives and resolves. We commend the IRS for taking action to ensure that the pending IDT marker is reversed where the purported IDT victim fails to provide documentation to support the IDT claim. However, we note that the 178,000 unreversed IDT markers that TAS Research found in its data pull specifically excluded cases that had unresolved IDT markers with a pending claim (*i.e.*, where the IRS was awaiting documentation from the taxpayer to substantiate the IDT claim). Thus, all of the unreversed open IDT markers in our data pull were claims not properly worked to conclusion, after the documentation had been received from the victim. TAS Research re-ran the query in June 2018, and although it did not find as many taxpayers with unresolved TIN issues, it still found significantly more of these cases than indicated by W&I. TAS Research is working with W&I to reconcile the discrepancy.

TAS Recommendation	**[19-2] Expand its procedures so that all identity theft victims — including those with multiple tax issues and needing to interact with IRS functions outside of the Identity Theft Victim Assistance function — are assigned a sole contact person to assist them until all identity theft-related issues are resolved.**

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IDTVA function is a centralized operation that consolidates work previously performed by different parts of the IRS, reduces the need to refer work to other functions, and limits the creation of multiple cases for one taxpayer. The result is expedited resolution of all taxpayer issues. We expanded the case assignment logic to ensure victims are assigned to an employee with the necessary skill sets to address all issues and tax years. There is one caseworker to initiate and receive correspondence if additional information is required to resolve the case. The correspondence sent when a case is closed addresses each open tax year. The IRS provides victims of identity theft with a special toll-free hotline for assistance, ensuring taxpayers can reach an IDT specialist any time during business hours, and not depend on the availability of a single IRS employee. In addition, the IRS provides a special toll-free number for the Taxpayer Protection Program (TPP). All Customer Service Representatives staffing the IDT specialty line and the TPP toll-free line can review the taxpayer's case file and respond accordingly. We have also established a process for providing the assigned IDTVA caseworker's contact information.
TAS Response	We appreciate the clarification that the customer service representatives (CSRs) staffing the toll-free IDT hotline are able to provide, upon request from the victim, the contact information for the assigned IDTVA assistor. Some taxpayers may be perfectly fine calling the IDT hotline and speaking with the first-available CSR; other taxpayers may desire to speak with one assistor throughout the resolution of their IDT case. We applaud the IRS's decision to allow the IDT victim both options. However, we note that there is no process in place for an IDT victim to work with a sole contact person in situations where the IDT case is worked outside of the IDTVA organization. We believe that IDT victims should be entitled to speak with a sole contact person, regardless of which function in the IRS works the IDT case.

TAS Recommendation	**19-3] Set a limit of 35 percent for the false detection rate for its Taxpayer Protection Program identity theft filters for 2018 and 20 percent for 2019 and thereafter.**

IRS Response

NTA Recommendation Not Adopted.

As identity thieves continue to become more sophisticated, the IRS has tightened its security in response to the increased threat. We are taking steps to make it harder for identity thieves to successfully masquerade as taxpayers and file fraudulent refund claims on behalf of these taxpayers. The IRS recognizes that large data breaches of personally identifiable information (PII) create difficulties and frustration for the victims and financial ecosystem. Large-scale data breaches are a reminder of the value of data for fraudulent purposes and identity theft. Over the last several years, the IRS IDT fraud filtering processes have remained effective, even in situations of large losses of PII.

The IRS uses several robust tools to assist in combating tax-related identity theft and fraud, including tools that are specific to addressing taxpayers who have been victims of a data loss of federal tax information (FTI). Data losses involving federal tax-related data can be used to file returns that appear to be coming from the true taxpayer. The IRS' existing models and filters have been updated to address the level of sophistication used to file these fraudulent returns. We have implemented the use of Dynamic Selection Lists to allow monitoring of specific accounts of taxpayers who have been victims of an FTI data breach when the data compromised would have a direct impact on federal tax administration. This process allows the IRS to more effectively identify these suspicious returns and results in better protection for taxpayers' federal tax accounts and increased revenue protection. While this practice can result in a higher false detection rate, it is a necessary defense to protect taxpayers affected by known incidents and to deter bad actors from continuing to exploit compromised taxpayer data. The Taxpayer Protection Program has protected a substantial number of returns and amount of revenue:

Year	Confirmed IDT Returns	Revenue Protected ($ millions)
2012	323,000	2,200
2013	736,000	3,800
2014	1,070,000	6,500
2015	1,090,000	7,200
2016	852,000	5,200
2017	652,000	7,280

Under recently enacted legislation, the due date for filing Forms W-2, *Wage and Tax Statement*, and W-3, *Transmittal of Wage and Tax Statements*, with the Social Security Administration (SSA), and Form 1099-MISC, *Miscellaneous Income*, reporting nonemployee compensation to the IRS, has effectively been accelerated to January 31, beginning in calendar year 2017. Enhancements to IRS systems that allow income information received from SSA to be processed and, in turn, leveraged for systemic income and withholding verification enable the release of refunds related to validated returns quicker.

IRS Action	N/A
TAS Response	The National Taxpayer Advocate appreciates the daunting task the IRS has to protect the federal fisc from paying out improper refund claims. In no way are we implying that it is easy to stop fraudulent claims while maintaining a low false detection rate. However, we are saying that false detection rates in excess of 50 percent are unreasonably high, and that the IRS can do better. When legitimate filers are selected by a fraud detection filter, it interrupts their lives in a significant manner. Many taxpayers rely on their tax refund dollars to fund long-awaited repairs, to pay for holiday expenses, or simply to get through the heating season. A delay in getting their refund could constitute a hardship. If a filter is stopping refunds and the IRS later learns that more than half of the refunds stopped are legitimate, then the IRS is not doing its job effectively, to the detriment of taxpayers. The IRS mentioned the use of "Dynamic Selection Lists" to offer protection to victims of large scale data breaches. It causes us great concern that the IRS had an 85 percent false detection rate for the nearly 280,000 tax returns it selected for additional review due to a taxpayer identification number being on such a dynamic selection list.[1] 1 Given the extremely high false detection rate, it is unclear whether the IRS made any adjustments to its fraud detection filter after incorporating the experience of these taxpayers. It won't be easy, but we believe that the IRS can and should work with data analytics firms to develop/expand/modify fraud detection models that both protect revenue and minimize impact to legitimate filers. The National Taxpayer Advocate met with one data analytics firm this spring; they currently work with tax administrators from various states and from around the world, and felt confident that it could help the IRS use sophisticated modeling to achieve this goal.

TAS Recommendation	**[19-4] Expand the IP PIN program by offering it to all taxpayers to proactively protect their tax accounts against tax related identity theft.**

[1] IRS, *IDT and IVO Performance Report* 9 (Nov. 29, 2017).

IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Since the IRS started issuing them in 2011, the IP PIN has been an effective tool to prevent identity theft and facilitate the detection of refund fraud before it occurs. We are currently exploring the feasibility of expanding IP PIN eligibility to all taxpayers in its current state.
TAS Response	We commend the IRS for developing, improving, and expanding the IP PIN program since its inception in 2011. We believe that it is an extremely effective method of protecting a taxpayer. We understand that there are costs associated with administering the IP PINs (including staffing phone lines to assist taxpayers who inevitably misplace their IP PINs), but we note that there are even more significant costs from the risk of refund claims being paid out to identity thieves. The National Taxpayer Advocate is encouraged that the IRS is conducting a feasibility study regarding expansion of the IP PIN program (the IRS states that it expects to complete its analysis by August 2018).

TAS Recommendation	**19-5] Develop procedures to address large scale data breaches while minimizing the burden on victims.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	The IRS continues to take the protection of taxpayer information very seriously and looks for ways to provide secure, user friendly access to taxpayer information. Although not all data breaches result in tax-related identity theft, we acknowledge that personal information is widely available to fraudsters because of data breaches at external entities. The IRS has many existing policies, procedures, and technologies across the enterprise to combat this threat and mitigate these risks. In terms of taxpayer authentication, the IRS, along with all federal agencies, must follow the National Institute of Standards and Technology (NIST) Special Publication 800-63-2, *e-Authentication Guidelines*, when interacting with taxpayers through web-based, online applications. The NIST guidance ensures that taxpayer data is protected according to the OMB guidelines, which provide the method for assessing risk related to online transactions so that PII and federal tax information is protected and secured. When registering for the IRS' online services, through the Secure Access e-Authentication application, users go through multiple steps to verify their identity. To assist individuals and businesses who may have been a victim of a data breach, the IRS publishes information regarding how to report a data loss. The IRS has also established procedures for businesses to report a data loss to their local Stakeholder Liaison and to report a Form W-2 data loss to dataloss@irs.gov.
TAS Response	The IRS is put in a difficult position as more and more data breaches of third parties occur. There simply is so much personally-identifying taxpayer information out there for unscrupulous individuals to use to commit tax refund fraud. When the IRS is provided with a list of taxpayers who may have been potentially exposed, it has procedures in place to ensure those taxpayers receive special review. However, the IRS can do more to assist victims when a fraudulent return gets through the IRS fraud detection filters. For example, certain companies that have learned of a large-scale data breach offer credit monitoring services to impacted individuals for X number of years. This is a "free" service to the individuals, because the company pays for it. The IRS may be able to offer IP PINs to victims of large-scale data breaches by negotiating with the company that experienced the data breach to pay a user fee covering the cost of the IRS's administering the IP PINs. We believe this is an idea that should be explored.

MSP #20 – FRAUD DETECTION: The IRS Has Made Improvements to Its Fraud Detection Systems, But a Significant Number of Legitimate Taxpayers Are Still Being Improperly Selected by These Systems, Resulting in Refund Delays

PROBLEM

The IRS fraud detection system identifies illegitimate returns and prevents improper refunds from being issued. Over the past 14 years, the National Taxpayer Advocate has consistently advocated for taxpayers whose legitimate refunds have been unreasonably delayed by the IRS, and recommended improvements to reduce taxpayer burden while preventing refund fraud. Despite some improvements in recent years, this system remains highly inaccurate with a false positive rate (FPR) of about 66 percent. This resulted in about 60,000 legitimate returns being improperly selected and refunds being delayed. These delays are exacerbated by the inability of taxpayers to reach a live assistor in the IRS unit dealing with income and wage verification. The National Taxpayer Advocate is concerned that lingering problems with the IRS's fraud detection system continue to create economic burden and violate taxpayer rights.

TAS Recommendation	**[20-1] Expand the Security Summit by including participants from the financial sector, the banking sector, the commercial sector, and consumer and privacy advocate sectors.**
IRS Response	IRS Actions Already Implemented.
IRS Action	The recommendation as written has been fully implemented. The Security Summit currently includes partners in the financial and banking, commercial tax software, and payroll sectors.

TAS Response	This response does not fully address the National Taxpayer Advocate's recommendation. The Security Summit does not include representatives of the consumer and privacy advocate sectors. When considering how to detect and prevent refund fraud, it is critical that organizations from a variety of backgrounds have a seat at the table, thereby ensuring the free exchange of ideas and perspectives. Including consumer and privacy advocacy groups in the Security Summit would be another voice advocating for the protection of taxpayer's information and how that information is being used to detect and prevent fraud. The Security Summit's relevance and success will be limited if it is not brought in to include a wide array of participants. TAS will continue to advocate for the inclusion of representatives of these groups.

TAS Recommendation	**[20-2] Revise the Security Summit's charter to broaden its scope to include non-identity theft refund fraud.**
IRS Response	NTA Recommendation Not Adopted. The IRS does not plan to implement the recommendation. After significant discussion with our partners at the inception of the Security Summit in 2015, there was agreement to focus strictly on IDT. Non-identity theft fraud is a much broader concept that could include such varied topics as money laundering, abuses of refundable credits, cryptocurrency, business fraud, false deductions, or the underground economy.
IRS Action	N/A
TAS Response	The Security Summit's success and relevance will remain limited if participants are not given the liberty to discuss problems and solutions surrounding non-IDT refund fraud. The inclusion of non-IDT refund fraud in the Security Summit's charter could be defined more narrowly than what the IRS set out in its response here. It seems likely that state departments of revenue would be interested in discussing non-IDT refund fraud with other stakeholders since it continues to plague those agencies, as well as the IRS. It is critical to the success of the Security Summit and to the IRS's fraud prevention efforts that the Summit is designed in a way that promotes the free exchange of ideas and solutions to combat a variety of fraud, not just IDT fraud.

TAS Recommendation	**[20-3] Reinstate the 11-week process thereby requiring the IRS to either release the refund or to take some other action on the account, such as requesting additional information from the taxpayer or sending a notice of disallowance.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

IRS Action	In 2015, the Treasury Inspector General for Tax Administration (TIGTA) conducted a review of IRS Integrity & Verification Operation (IVO) processes to ensure that tax refunds are not erroneously released (TIGTA Reference Number: 2016-40-006, *Improvements Are Needed to Better Ensure That Refunds Claimed on Potentially Fraudulent Tax Returns Are Not Erroneously Released*). The TIGTA review identified fraudulent refunds for tax year 2013 returns that were systemically released due to the expiration of the 11-cycle refund hold, even though IVO had controls in place to put unexpiring refund markers on questionable returns. To address this issue, TIGTA recommended that the IRS instead place an unexpiring refund hold marker on the taxpayer's account until after IVO's review is complete to prevent erroneous refunds. The IRS implemented this recommendation on October 29, 2015, by developing a marker that generates an unexpiring refund freeze and allows for systemic release when income and withholding are verified. This policy decision to implement an unexpiring refund freeze did not change any of the IVO processes in place to ensure that screening and verification actions are taken timely. Indeed, the IRS is committed to balancing increased detection of refund fraud and revenue protection with taxpayer burden concerns. Under recently enacted legislation, the due date for reporting employee and nonemployee compensation to the Social Security Administration (SSA) has effectively been accelerated to January 31, beginning in calendar year 2017. Enhancements to IRS systems that allow income information received from SSA to be processed and, in turn, leveraged for systemic income and withholding verification enable the release of refunds related to legitimate returns more quickly. As a result, refund inquiries requiring referral to IVO on Form 4442, *Inquiry Referral*, from other IRS functions were reduced by over 50% when comparing January 1–September 30, 2016, to January 1 – September 30, 2017. Operational Assistance Requests from the Taxpayer Advocate Service referred to IVO were also reduced by over 35% for the same period. We review the results of programming and processes implemented over the course of each filing season. During a review of processing year 2016, IVO became aware that there were limitations that prevented the Notice CP05, *Information Regarding Your Refund - Refund Being Held Pending More Thorough Review*, from being systemically generated on every return sent for income verification. As a result, for processing year 2017 we generated the Letter 4464C, *Questionable Refund 3rd Party Notification Letter*, through a batch process for all returns sent for verification to ensure that all taxpayers are notified of the refund delay. The Letter 4464C also provides the taxpayer with an expected timeframe for receiving the refund or other IRS correspondence requesting additional documentation to substantiate the income or withholding claimed on the return.

TAS Response	The IRS's response does not address the National Taxpayer Advocate's recommendation. The steps articulated in the above response focus on notifying taxpayers that their refund has been delayed, but does not implement timeframes in which actions must be taken, such as an 11-week time period, and then allowing exceptions if there are significant reasons as to why that time period must be extended. The fact that over one-third of the returns selected into the IVO program were held beyond 11 weeks illustrates the need for a safeguard on how long a refund can be held. Additionally, results from this year's filing season are quite different than the IRS's data set out above, and show the taxpayers being impacted by refund delays. IVO cases have increased and surpassed any other issue in TAS. Specifically, in fiscal year (FY) 2018, Pre-Refund Wage Verification is currently the number one issue among TAS case receipts (with a 180 percent increase from the prior year, through May), supplanting identity theft as the top issue for the first time since 2011.[1] The IRS reiterates in its response that it is concerned about the burden on taxpayers in this program, yet time and time again it seems willing to accept high FPRs and long refund delays as collateral damage in its efforts to fight refund fraud.

TAS Recommendation	**[20-4] Establish a direct phone line to the IVO unit and provide information via "Where is my Refund" application to those taxpayers whose refunds are held because of suspected fraud.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

[1] Data obtained from Taxpayer Advocate Management Information System (June 1, 2015; June 1, 2016; June 1, 2017; June 1, 2018).

IRS Action	The IVO currently uses multiple methods to conduct verification of income and withholding on potentially fraudulent returns, which can include front-end phone calls to employers for verification of the income claimed on the taxpayer's return. All returns sent for verification during processing year 2017 will generate a Letter 4464C to ensure that all taxpayers are notified of the refund delay and possible third-party verification. The Letter 4464C also provides the taxpayer with an expected timeframe for receiving the refund or other IRS correspondence requesting additional documentation to substantiate the income or withholding claimed on the return, as part of the appropriate disallowance treatment streams. Taxpayers can receive help by calling the regular toll-free number (1-800-829-1040), as listed on Letter 4464C. Phone assistors assigned to answer calls on this number are trained to respond to refund hold inquires and forward referrals to IVO in an expeditious manner, if required. Because income and withholding must be verified and substantiated by the employer or with additional documentation from the taxpayer, direct phone contact with the taxpayer within IVO would not expedite resolution. The IRS intends to update the "Where's My Refund" (WMR) application for those taxpayers whose refunds are held because of suspected fraud, when resources permit

TAS Response	The IRS's response does not address the National Taxpayer Advocate's concerns. Taxpayers are informed in the initial IVO notice of expected timeframes in which the matter will be resolved — approximately sixty days. But as has been mentioned previously, approximately one-third of the returns selected into the IVO program during the 2017 filing season were held beyond the timeframe set out in the notice. One way the IRS could improve customer service and eliminate the need for taxpayers to call the IRS is to be more informative in the initial Letter 4464C, *Questionable Refund 3rd Party Notification Letter*. For instance, the letter should instruct the taxpayer to verify their income documents versus what was reported on the return to ensure no filing inaccuracies. If a mistake was made, the letter should also instruct the taxpayer to file an amended return. This would alleviate the need for the taxpayer to contact the IRS to determine how to correct the problem when an inadvertent error was made. Also, the IRS should include procedural instructions for customer service representatives to provide this information when taxpayers contact the IRS. When the refund has been held beyond that timeframe, it is reasonable that the taxpayer will call the 1-800 number listed on the notice to inquire about the refund. However, the assistor on the other line is unable to determine what return information is causing the delay, as they do not have access to the IVO case management system or instructions on how to correct reporting mistakes. Having the assistor contact the IVO program regarding the delay causes unnecessary back and forth between the IRS and the taxpayer and puts the customer service assistor in the position of determining whether or not the taxpayer's inquiry is worthy of an IVO referral. It is important to note how drastically different this interaction is than the interactions the taxpayer may have with an assistor when the return is under audit, where the assistor would be able to provide specifics about what item is being examined and what the taxpayer needs to provide to resolve the issue. Although the IRS does not characterize a refund hold as part of verification of income and withholding as an audit, to the taxpayer, the experience feels like an audit and has thus been termed an "unreal audit" by the National Taxpayer Advocate.[2] This is poor customer service, and leads to frustration on the part of the taxpayer and falls far short of the taxpayer's *rights to be informed* and *to quality service*. The National Taxpayer Advocate is pleased that the IRS is willing to make adjustments to its *Where's My Refund* function, but finds its response to be too vague to be meaningful. If providing adequate customer service to taxpayers is truly a priority, along with a taxpayer's *right to be informed*, it would have identified and secured the resources needed to make this change, and would have provided an expected completion date. Because of the vagueness of this response, the recommendation can only be deemed "unagreed to".

[2] National Taxpayer Advocate 2017 Annual Report to Congress 47.

MSP #21 – REFUND ANTICIPATION LOANS (RALS): Increased Demand for Refund Anticipation Loans Coincides with Delays in the Issuance of Refunds

PROBLEM

Demand for refund anticipation loans (RALs) has more than tripled over the past year. Over 90 percent of the returns filed with RAL indicators were filed by February 15. This substantial increase in demand coincides with the effective date of the provision in § 201 of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) that requires the IRS to hold all refunds that include Earned Income Tax Credit and Additional Child Tax Credit until February 15. Such delay in refund issuance improves tax administration, but taxpayers are absorbing the costs of these short-term loans and, in many cases, they might not even realize the true cost due to the hidden nature of the indirect fees. In addition, the National Taxpayer Advocate is concerned about the noncompliance risk associated with these products.

TAS Recommendation	**[21-1] Survey the RAL products currently on the market, including detailed analysis of direct and indirect fees, to understand how taxpayers and tax administration are impacted.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	The IRS agrees to conduct an environmental scan of the top providers of products that involve advances on federal tax refunds, how they work, and what fees/charges (direct and/or indirect) may apply. At this time, it is not known whether the scan will provide a measure of the impact of RAL products on taxpayers or tax administration.
TAS Response	The National Taxpayer Advocate is pleased that the IRS has committed to conduct an environmental scan of the top providers of refund advance products. However, we encourage the IRS to expand its plans to include a sampling of smaller providers to fully understand the entire marketplace. The smaller providers may not have the same resources or industry support as the larger providers and, as a result, the fees and terms associated with their products may be vastly different than those offered by larger providers. We firmly believe that the results of a comprehensive scan of the industry as a whole will prove useful in understanding how these products influence preparer and taxpayer behavior.

TAS Recommendation	**[21-2] Conduct a consumer education campaign before the filing season about RALs and RACs, including some tips on how to identify indirect costs associated with these products.**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.
IRS Action	Even though the IRS is neither involved in offering, nor responsible for, RALs, RACs, and similar tax refund-related products, we do provide taxpayers with important information on RALs and RACs on IRS.gov, at https://www.irs.gov/e-file-providers/tax-refund-related-products. In particular, the webpage lays out the responsibilities of the authorized e-file Providers who assist taxpayers in applying for these financial products. Specifically, these providers must advise taxpayers of all fees and other known deductions to be paid from their refund and the remaining amount the taxpayers will actually receive, and that they may be liable to the lender for additional interest and other fees. Due to the variety and changeability of possible indirect fees and the products to which they relate, we believe requiring the provider to provide this is the best way to timely and accurately provide this information to taxpayers.

TAS Response	The refund product information on IRS.gov is certainly useful for those taxpayers who have internet access and actively seek out such information. However, we believe that the IRS should take additional efforts before each filing season to ensure that the information is received by a significant population of taxpayers before they begin the tax return preparation and filing process. We encourage the IRS to proactively issue news releases and consumer alerts on this topic before each filing season. The IRS should incorporate RAL information into outreach and education initiatives targeting both taxpayers and return preparers. The IRS cannot solely conduct outreach and education on RAL issues through digital channels. A recent TAS survey found that approximately 41 million U.S. taxpayers have no broadband access in their homes. More importantly, vulnerable populations, including low income taxpayers, elderly taxpayers, and taxpayers with disabilities, are particularly affected by the lack of broadband in their homes.[1] Therefore, it is essential to deliver the message to these taxpayers through more traditional channels, such as grassroot outreach. While IRS Publication 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*, sets forth the rules and requirements for providers to inform taxpayers of fees and terms of the refund products, it is unclear whether those standards are enforced in any manner pursuant to § 7 of Revenue Procedure 2007-40, 2007-26 I.R.B. (June 25, 2007). Therefore, it is best to take a multi-faceted approach to ensure that the necessary information reaches taxpayers before they purchase these products.

TAS Recommendation	**[21-3] Revise Revenue Procedure 2007-40; IRS Publication 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*; and IRS Publication 3112, *Applying and Participating in IRS e-file*, to require all e-file participants offering RAL and RAC products to provide a standard "truth-in-lending" statement to help the taxpayer better understand the terms of the loan product, including an "hidden" or "indirect costs of the loan product."**
IRS Response	NTA Recommendation Not Adopted as Written, but IRS Actions Taken to Address Issues Raised by NTA.

[1] *See* National Taxpayer Advocate 2017 Annual Report to Congress, vol. 2, 61-146 (Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*).

IRS Action	The IRS does not have the authority to require e-file providers to incorporate a standard "truth-in- lending" statement into their RAC and RAL products. The IRS agrees that e-file providers should be transparent about the costs associated with the loan products that are offered to taxpayers as part of the return preparation process. The IRS will work with the top providers of products to develop a "best practice" including a statement or statements that inform taxpayers about the direct and indirect costs of RAL and RAC products that are offered. The IRS will inform providers of the "best practice" information in IRS Publication 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*, and/or IRS Publication 3112, *Applying and Participating in IRS efile*.
TAS Response	The IRS has the authority to monitor and sanction e-file providers who violate the rules and requirements of Publications 1345 and 3112. Providing such a "truth-in-lending" statement would put some teeth into the requirements included in the publications. Currently the rules and requirements in Publication 1345 require the provider to advise the taxpayers of the fees and terms of the products. However, there is no requirement to put such information in writing or to indicate in the records that such discussion took place. Without any proof that the provider actually advised the taxpayer, it is difficult for the IRS to monitor such practice and sanction any violations. We encourage the IRS to work with the Office of Chief Counsel and the National Taxpayer Advocate to determine the extent of the IRS authority to require providers to provide written information to taxpayers on the terms and fees of refund products.