G. Providing Current and Accurate Instructions and Guidelines For IRS Employees and Taxpayers

IRS employees depend upon accurate, up-to-date instructions to perform their duties and use the proper procedures. Similarly, taxpayers depend on guidance and publications from the IRS to help them understand their obligations and how to fulfill them. Current instructions and guidelines are especially important given the frequency of tax law changes, which in recent years have occurred on an average of more than one a day.[1]

When principal sources of employee instructions, such as the Internal Revenue Manual (IRM), are not updated, employees may rely on outdated, incorrect information or no guidance at all. Letters, notices, publications, and forms must also be kept accurate and up to date, which includes having them reviewed by all relevant internal stakeholders. Published instructions and guidance, whether to employees or to taxpayers, are essential to fulfillment of the taxpayer's *right to be informed.*[2]

TAS Found the IRM Is Not Always Current, Leaving Employees Without Current Instructions for How to Perform Their Jobs.

IRS procedures and instructions must adapt and change frequently to accommodate changes in the law, IRS policy, tax compliance challenges, and taxpayer needs. According to IRM 1.11.2.3, *Keeping the IRM Current*, "to maintain the accuracy of the IRM content, the IRM owner is responsible for reviewing the IRM at least annually."[3] During its ongoing audit of the IRM for places to include taxpayer rights information, TAS found the manual is frequently not kept up to date.[4] We reviewed IRMs published through May 28, 2014. We found 121 sections of Part 7 of the IRM, *Rulings and Agreements,* of which 51 percent are more than ten years old and only 21 percent were published within the last year.[5] IRM Part 4, *Examining Process*, has 460 sections, but only 19 percent were issued since the end of May 2013, and over 50 of these sections were more than ten years old.[6]

When the IRS does not review and update instructions to staff regularly, especially instructions that concern compliance and enforcement functions, it creates the risk that evolving

1 Between 2001 and December 2012, there were approximately 4,680 changes to the tax code, an average of more than one a day. National Taxpayer Advocate 2012 Annual Report to Congress 6.

2 On June 10, 2014, the IRS adopted the Taxpayer Bill of Rights. *See http://www.irs.gov/Taxpayer-Bill-of-Rights* (last visited June 19, 2014) and http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights (last visited June 19, 2014). *See also* Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration (Recommendations to Raise Taxpayer and Employee Awareness of Taxpayer Rights) (Nov. 4, 2013), *available at*: http://www.taxpayeradvocate.irs.gov/userfiles/file/2013FullReport/Toward-a-More-Perfect-Tax-System-A-Taxpayer-Bill-of-Rights-as-a-Framework-for-Effective-Tax-Administration.pdf.

3 IRM 1.11.2.3 (May 11, 2012). The "program owner" is the organization or office responsible for establishing the program policy, process and procedures necessary to implement and manage the program area for the IRS. Each program owner is responsible for developing and publishing procedures in the IRM.

4 For a detailed discussion of TAS's ongoing audit of the IRM, see Implementing the Taxpayer Bill of Rights, *supra.*

5 IRS Intranet, http://publish.no.irs.gov/pubsys/irm/indp07.htm (last visited May 28, 2014).

6 IRS Intranet, http://publish.no.irs.gov/pubsys/irm/indp04.htm (last visited May 28, 2014). Because the IRM review team started with the IRM parts where taxpayers might be the most at risk if there was not sufficient taxpayer rights information, such as the compliance and enforcement parts, TAS has not yet reviewed its own Part 13. TAS expects to find that its own IRM sections are similarly out of date.

policies and procedures will not be timely communicated to employees and taxpayers will be harmed. An example of the problems caused by not having an updated IRM involves the IRS "Fresh Start" initiative.[7] Although the IRS implemented these procedural changes through interim guidance memoranda (IGM) in fiscal years 2011 and early 2012, it took a few years to add this material to the formal IRM. This prevented employees from easily finding current instructions on how to help taxpayers benefit from the initiative. Where there is a vacuum in instructions, some employees may even develop their own informal procedures.[8]

The Entire IRM, Including Interim Procedural Updates, Should be Easily Accessible to Employees in One Place and Available to Taxpayers on IRS.gov.

In addition to the IRM not being updated regularly, employees may not be able to find the most current version of an IRM[9] because the manual is housed on multiple sites. IRM authors use two main sites to "host" instructions to IRS employees. The first site, IRM Online, includes all IRMs but because they are not automatically updated, it may take as long as a year for an updated IRM to appear.[10]

The second internal site, the Servicewide Electronic Research Program (SERP), is used by authors to distribute interim procedural updates (IPUs) to the IRM. These post within 48 hours of receipt.[11] However, because the authors can decide whether to put their IRMs on SERP for employees to access, some IRMs remain unavailable. Even some IRMs on SERP may not actually provide the content of the interim guidance that is the reason for the update and instead instruct the user to view the interim guidance on the public IRS.gov site.[12] Thus, if an employee wants to find updated instructions about how to perform his or her job, the employee may have to navigate three different sites to find them. If employees do not choose the right site and fail to access the most current IRM, they may not follow the proper procedures, which could mislead or even harm taxpayers.

In addition to the internal sites, the IRS also posts the IRM on its public site, IRS.gov – but this version does not include the updated IRMs found on SERP. A user who wants to know if the IRS has interim procedures or instructions must check a separate page that lists interim guidance.

7 The IRS's Fresh Start Initiative encompassed a number of changes to the IRS's lien filing and collection practices, such as significantly increasing the dollar threshold when liens are generally issued, resulting in fewer tax liens, and making it easier for taxpayers to obtain lien withdrawals after paying a tax bill. IRS, *IRS Announces New Effort to Help Struggling Taxpayers Get a Fresh Start; Major Changes Made to Lien Process*, IR-2011-20 (Feb. 24, 2011), *available at*: http://www.irs.gov/uac/IRS-Announces-New-Effort-to-Help-Struggling-Taxpayers-Get-a-Fresh-Start;-Major-Changes-Made-to-Lien-Process.

8 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2013-10-053, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013).

9 "An IRM" refers to an individual IRM section or subsection.

10 See IRM 1.11.8.7.1 (Feb. 1, 2013). IRM Online is not updated automatically when authors issue Interim Procedural Updates (IPUs). Authors must incorporate the guidance into the published copy of the IRM within one year of the date of the IPU.

11 IRM 1.11.8.7.1.3 (April 25, 2013).

12 For example, SERP IPU 14U0483, issued for IRM 5.1.5 on March 13, 2014, does not contain the actual instructions to employees, but instead provides the reason why the interim guidance was issued. The IPU provides a link for the reader to use to go to IRS.gov to read the actual interim guidance. In this case, the guidance was also posted to the SB/SE website.

Table II. 11, *IRS Sites That Host IRMs*, compares the coverage of the three sites. To obtain a complete set of instructions, employees must understand the limitations and differences across all these sites, and be willing to jump back and forth among them, all while trying to resolve issues for taxpayers.

TABLE II.11, IRS SITES THAT HOST IRMs

IRM Part	Servicewide Electronic Research Program (SERP)[1]	IRM Online[2] or Electronic Publishing[3]	IRS.gov (public access)[4]
Part 4, Examining Process	Less than half available (42% of the Part 4 is available - 195 sections out of 460)	Available, but requires a separate search for Interim Guidance	Available, but requires a separate search for Interim Guidance Only Interim Guidance that the IRS determines meets e-FOIA criteria is available
Part 5, Collecting Process	Largely available (96% of Part 5 is available - 174 out of 181 sections)	Available, but involves separate search for Interim Guidance	Available, but involves separate search for Interim Guidance Only Interim Guidance that the IRS determines meets e-FOIA criteria is available
Part 7, Rulings and Agreements	Not available	Available, but involves separate search for Interim Guidance	Available, but involves separate search for Interim Guidance Only Interim Guidance that the IRS determines meets e-FOIA criteria is available
Part 13, Taxpayer Advocate Service	Largely available (97% of Part 13 is available - 32 of 33 sections)	Available, but involves separate search for Interim Guidance	Available, but involves separate search for Interim Guidance
Part 21, Customer Account Services	Available (All 65 sections are on SERP)	Available, but involves separate search for Interim Guidance	Available, but involves separate search for Interim Guidance Only Interim Guidance that the IRS determines meets e-FOIA criteria is available

[1] SERP was designed to facilitate access to IRMs by employees and has grown from hosting a few IRM sections in the 1990s to nearly 900 sections in 2013. SERP News, Apr. 2013, http://serp.enterprise.irs.gov/databases/local-sites-other.dr/author_resource/SERP_Newsletter.html (last visited Mar. 31, 2014).
[2] http://irm.web.irs.gov/ (last visited Mar. 31, 2014).
[3] http://publish.no.irs.gov/pubsys/irm/numind.html (last visited Mar. 31, 2014). Note: this site does not contain any interim guidance.
[4] Does not include "Official Use Only" information.

Due to the difficulty of finding accurate and consistent information, IRS employees may not be able to do their jobs properly, and taxpayers may be unable to find correct and up-to-date information on the IRS website. TAS recommends the IRS merge its internal sites into one streamlined source under the guidance of the Office of Servicewide Policy Directives and Electronic Research (SPDER).[13] In addition, all interim procedural updates, redacted to exclude official use only information, should be incorporated into the IRM that is posted on IRS.gov.

13 SPDER has responsibility for the overall management of the IMD program. IRM 1.11.1.1(3) (Sept. 4, 2009).

TAS Will Continue Advocating for a Servicewide Clearance Process for Tax Forms, Publications, Letters, and Notices.

TAS and other internal stakeholders play a pivotal role in reviewing documents before they are issued to the public to ensure they provide for protection of taxpayer rights and contain accurate, helpful information. However, the lack of a well-defined review process creates a risk to taxpayers and the IRS. For example, the IRS recently changed various form letters for taxpayers to prepare for the implementation of the Affordable Care Act (ACA).[14] TAS was not given an opportunity to review these letters until very late in the process. TAS recommended a change to alert taxpayers that their liability for individual shared responsibility payments would be subject to the IRS Refund Offset program. This important information, which the IRS accepted, not only protects a taxpayer's *right to be informed*, but it may save the IRS resources in not having to respond to inquiries about reduced refunds. The IRS should enable its offices to work more collaboratively by creating a formal clearance process that provides all internal stakeholders, like TAS, with a chance to review these documents.

Due to the difficulty of finding accurate and consistent information, IRS employees may not be able to do their jobs properly, and taxpayers may be unable to find correct and up-to-date information on the IRS website.

Over the last year, TAS has made some progress in coordinating the review of IRS products. TAS reached an informal agreement with IRS Tax Forms and Publications (TF&P), the Wage and Investment (W&I) Division, and the Small Business/Self Employed (SB/SE) Division to create liaisons to help TAS find document owners (authors) who can address questions and concerns early in the review, improving the chances of resolving any differences through negotiation. However, these *ad hoc* processes are only a partial solution. The IRS still has no universal process for all internal stakeholders to clear forms, letters, notices, and publications.

Focus for FY 2015

TAS will continue to advocate for merging SERP IRM and IRM Online into a single, streamlined site that includes all IRM sections and interim procedural updates. This will allow employees to easily access the most current procedures and treat taxpayers fairly. TAS recognizes the process of updating tax forms, publications, letters, and notices involves many stakeholders who have different areas of responsibility. TAS will work with all stakeholders to develop guidance for clearing these documents. In FY 2015, TAS will advocate for the following IRS-wide clearance process:

1. The process for clearing tax forms, publications, letters, and notices should follow the guidance in IRM 1.11.9 for clearing internal management documents.[15] IRM 1.11.9 serves as a model because it provides for reviewing and approving changes to IRMs,

14 These include letters used to advise taxpayers of IRS decisions on claims.

15 IRM 1.11.9 (Nov. 1, 2011).

as well as soliciting responses from all affected IRS functions. It also describes how reviewers resolve conflicts prior to publication and when documents must be published expeditiously.[16]

2. The review process should give all affected IRS functions an opportunity to provide substantive changes as early as possible.
3. The clearance process should establish a method of controlling the flow of comments during reviews. TAS recommends sending all substantive review comments directly to the authors, with a copy to key stakeholders like Tax Forms and Publications and the Office of Taxpayer Correspondence (OTC). TAS recommends establishing a review matrix or similar template, such as the form (Form 2061) used in the IRM clearance process.
4. The SPDER office should have overall responsibility for the clearance process for forms, publications, letters, and notices.[17] This would ensure the IRS applies the same scope of internal review to communications to the public as it does to guidance for employees.

Creating a robust clearance process will provide all internal stakeholders with the opportunity to review these documents, ensuring the documents are not only correct and helpful to taxpayers but provide for taxpayer rights.

16 See IRM 1.11.9.9.1, Issuing IMD While Disagreements are Negotiated (Apr. 7, 2014).

17 The owner of the form, publication, letter, or notice would still be responsible for updating the content.