

MSP
#11**COLLECTION STRATEGY: The Automated Collection System's Case Selection and Processes Result in Low Collection Yields and Poor Case Resolution, Thereby Harming Taxpayers****RESPONSIBLE OFFICIALS**

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DEFINITION OF PROBLEM

The Automated Collection System (ACS) is a computerized inventory system that sends taxpayers notices demanding payment, issues liens and levies, and answers telephone calls in an effort to resolve balance due accounts and delinquencies.¹ ACS collects tax largely by offsetting taxpayers' refunds, and eliminates much of its inventory by passing cases to other parts of the IRS:

- In fiscal year (FY) 2013, ACS collected approximately \$5.4 billion on open Taxpayer Delinquent Accounts (TDA).² However, \$2.5 billion (about 47 percent) of this amount came through automatic refund offsets, which are generally not attributable to ACS employees' direct efforts.³
- While collections on open TDA accounts totaled \$5.4 billion, ACS transferred approximately three times as much — \$16.1 billion — in unresolved tax liabilities to other IRS collection inventory, *i.e.*, the Queue, the Collection Field function (CFf), or Shelved Inventory.⁴

ACS's failure to resolve cases is due in part to approach to working cases and the types of cases it is assigned.⁵ More specifically:

- Rather than applying the appropriate type of contact for each type of taxpayer, ACS generally relies on notices of intent to levy or systemically generated levies, which are often not effective. For instance, in FY 2013 the ACS received 2,889,971 new taxpayer cases and issued 1,216,302 levies, averaging almost one levy for every two cases received.⁶ Although this is still a high number of levies, it is about 46 percent lower than in FY 2012.⁷ Despite this substantial reduction, ACS's overall collections actually increased for the latter period. This result is not surprising, based on a TAS

1 The ACS call center assigns incoming calls to contact representatives or tax examiners who work with taxpayers. ACS's telephone call center is designed to get taxpayers into the phone-based system as quickly as possible by sending them to the first available contact representative or tax examiner who can assist them, regardless of where the assistor is located geographically.

2 TDAs are collection accounts that remain unresolved at the conclusion of the collection notice process and have been designated for additional collection activity, *e.g.*, ACS or the Collection Field function (CFf). A taxpayer may have multiple TDAs (*e.g.*, one for each delinquent tax period).

3 IRS Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2013). In FY 2013, the IRS collected \$2.8 billion of the \$5.4 billion through taxpayers making full or partial payments on their delinquent accounts.

4 *Id.* The Queue is a holding inventory where collection cases sit, usually after being in ACS, and before being assigned to the CFf or reassignment to ACS. Cases sit in the Queue based on business rules and available resources. Shelved Inventory means accounts that are not being worked due to resource limitations. The CFf is predominantly staffed by revenue officers who make field contact with taxpayers, secure delinquent returns and financial information, initiate installment agreements, and take enforcement action including liens, levies, and seizures of property.

5 National Taxpayer Advocate 2012 Annual Report to Congress 381.

6 IRS Collection Activity Report, NO-5000-24, *Levy & Seizure Report* (Sept. 2013).

7 In FY 2012, ACS received 2,758,926 new taxpayer cases and issued 2,247,168 levies. The decrease from FY 2012 to FY 2013 likely results from the IRS's decision to dedicate three ACS call sites to Accounts Management call center duties this past filing season.

review of ACS cases that found about 75 percent of levies were unproductive (*i.e.*, did not attach to a payment source).⁸

- Several studies show that letters and phone calls are superior to levies in generating a response and collecting outstanding tax.⁹ In one IRS study, the rate of response from taxpayers after receiving letters was nearly three times greater than the rate for those who received levies.¹⁰ A recent study showed that an expanded use of predictive dialer calls that were connected to live assistants generated a 45 percent contact rate.¹¹
- Some types of cases are more suitable to ACS treatment than others. For instance, in FY 2013, only four percent of the cases processed through the Wage and Investment (W&I) division's ACS were sent to the Queue, while Small Business/Self-Employed division (SB/SE) ACS, which receives many employment tax cases, transferred 31 percent.¹²

An ACS collection strategy that places less emphasis on levies and instead identifies which taxpayers would best respond to other collection approaches, and initiates that approach early in the life of the debt, would yield effective contacts and better case resolutions. Further, an early intervention strategy in which the IRS first attempts to talk to the taxpayer by making an outgoing call or sending a notice, and then considers whether a levy is appropriate, would reduce the risk of placing the taxpayer in economic hardship, which could endanger the taxpayer's health or a business's viability. In addition, this approach would prevent the liability from growing to an amount that cannot be resolved and reduce the need for more extreme collection measures.

ANALYSIS OF PROBLEM

Background

ACS Is the IRS's Collection Call Center.

When a delinquent account is not resolved through the normal notice process, the IRS typically assigns it to the ACS.¹³ Cases are assigned to contact representatives or tax examiners. If the accounts remain unpaid or unresolved in ACS, they are transferred to the Collection Queue or to the Collection Field function. If a case moves to the Queue, the IRS makes little attempt to stay in contact with the taxpayer, unlike other creditors such as credit card companies that send regular notices.

When in ACS, taxpayers will often find themselves subject to a lien or levy. In cases where a levy source is available, one of ACS's first actions is usually to send out a *Final Notice of Intent to Levy and Your Notice of*

8 TAS reviewed 579 taxpayers in ACS.

9 ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000).

10 *Id.* This only included levies and Letters 16 that were presumed to reach the taxpayer (*i.e.*, did not come back as undelivered).

11 Predictive Dialer Test – ACS Accounts, Wage and Investment, Research and Analysis (May 2013). The 45 percent response rate is for accounts where a call was made and a letter sent. However, when just a call was made on the account the response rate was 37 percent. A predictive dialer is a telephone control system that automatically calls a list of telephone numbers in sequence, screening out no-answers, busy signals, answering machines and disconnected numbers and predicting when a live person will answer the call.

12 IRS Collection Activity Report NO-5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2013).

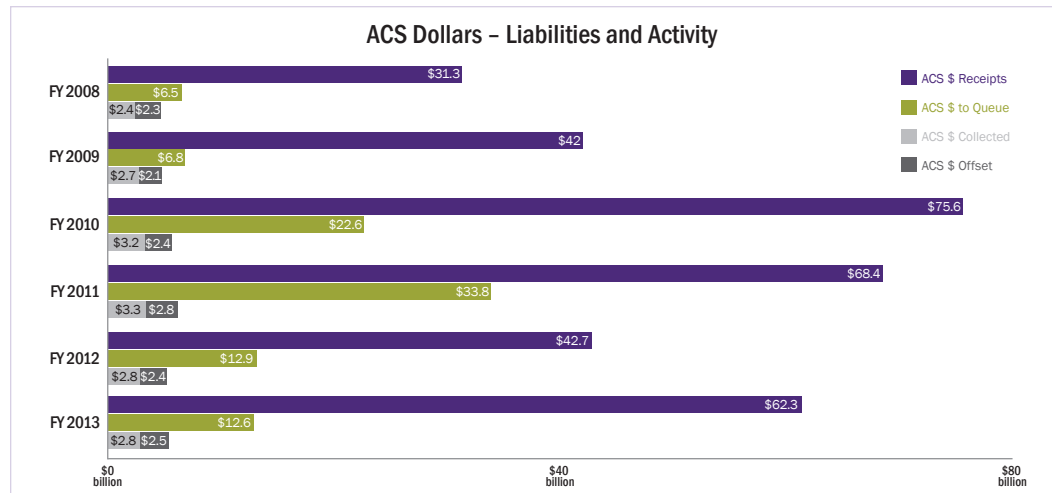
13 Internal Revenue Manual (IRM) 5.19.5.1 (Mar. 6, 2009); IRM 5.19.5.2 (Dec. 1, 2007). When a case is assigned to ACS it may take steps to issue a lien or levy against the taxpayer or send the taxpayer one of the following letters: Letter 16, *Please Call us About Your Overdue Taxes or Tax Return*; Letter 99, *Please Call Us About Your Overdue Taxes or Tax Returns*; Letter 40, *Advisory Notice to Taxpayer of Need to Contact Third Parties*; Letter 11, *Final Notice, Notice of Intent to Levy and Your Notice of a Right to a Hearing*.

a *Right to a Hearing*, rather than trying to contact the taxpayer through an outgoing call. ACS employees spend only about two percent of all their direct time making outbound calls.¹⁴

ACS Performance

ACS is not using the most effective methods for resolving cases and collecting liabilities. Over the past six years, ACS has consistently collected a modest percentage of dollars placed in its inventory, and almost half of those dollars came through computer-generated refund offsets, which are not part of ACS employees' direct efforts. Rather than collecting the outstanding liabilities, ACS has routinely transferred a large percentage of its inventory to the Queue or Shelved Inventory where penalties and interest continue to accrue. The chart below details ACS's performance.

FIGURE 1.11.1, ACS Activity by Fiscal Year



The IRS should reassess its ACS collection strategy, which relies almost exclusively on its enforcement power (*i.e.*, issuing a lien or levy) to establish contacts with delinquent taxpayers. The IRS's own studies show a more conscientious and intentional (as opposed to automatic) use of liens and levies, outgoing phone calls, regular reminders of payment due, and "soft" notices to specific segments of taxpayers would be more effective.

ACS's Overreliance on its Levy Authority Is Counterproductive.

A recent study indicates ACS's current practice of relying primarily on its levy authority to generate taxpayer contacts may not maximize case closures. The SB/SE Denver ACS study reviewed 72,770 TDA cases that were in SB/SE ACS, and were closed during May of 2011 either as:

- 1) Fully Satisfied;
- 2) Taxpayer entered into an installment agreement (IA); or

¹⁴ IRS response to TAS research request (Oct. 24, 2012). In FY 2012, the percentages of ACS employees' direct time spent making outgoing calls on cases were 2.4 percent for SB/SE and 2.0 percent for W&I. A Treasury Inspector General for Tax Administration (TIGTA) report showed SB/SE ACS as spending 62 percent of its time answering incoming calls, 35 percent of its time working correspondence and research on accounts, and three percent of its time making outbound calls. For W&I ACS, 74 percent of its time was spent answering incoming calls, 24 percent of its time was spent working correspondence inventory and research accounts, and two percent making outbound calls. TIGTA, Ref. No. 2010-30-046, *More Management Information Is Needed to Improve Oversight of Automated Collection System Outbound Calls* 6 (Apr. 28, 2010).

3) The liability was currently not collectible (CNC).¹⁵

To determine what actions led to these case closures, the study reviewed actions taken during the 180 days prior to closure. The study showed that out of the 72,770 TDA cases closed in May of 2011, 25,657 (or 35 percent) had a levy action taken 180 days prior to closure.¹⁶ In other words, the levy action contributed directly to closure in only those 25,657 cases. Despite the fact that levies were only responsible for closing 35 percent of the cases, a primary recommendation of the report was for ACS to issue even more levies to close cases.

A significant omission of the SB/SE Denver ACS study was that it did not consider levies issued during the 180-day period that did not result in a case closure (*i.e.*, unproductive levies). However, TAS did conduct such an analysis in a separate review of a statistically representative sample of 579 ACS cases that were in ACS inventory from about mid-2012 to mid-2013, and found most ACS levies are unproductive. In the analysis of the 579 ACS cases, 227 were issued a levy, but only 56 of these levies (or about 25 percent) were productive (*i.e.*, attached to a revenue source).¹⁷ The remaining 75 percent of levies were unproductive, and possibly discouraged the taxpayer from contacting ACS.

Reliance on ACS Enforcement Powers Can Cause Economic Hardship to Taxpayers and Unnecessarily Tie Up IRS Resources.

ACS's tendency to rely heavily on its levy authority can produce severe consequences for the taxpayer and the IRS alike. For instance, when ACS issues a levy without first attempting to contact the taxpayer, it risks causing economic hardship. Once a taxpayer has shown hardship, the IRS is required by law to release that levy, creating unnecessary work for the IRS.¹⁸ Not only do these levies unnecessarily harm the taxpayer, but the release process unnecessarily ties up IRS resources in resolving problems that could have been avoided altogether. Both the taxpayer and the IRS would be better served if the IRS designed its collection action to be "no more intrusive than necessary."¹⁹ It can do this by attempting to ensure upfront that the levy is the best way to collect the tax and that all other methods of collection, including outgoing calls, are ineffective.

ACS Can Limit its Use of Levies, Reducing Harm to Taxpayers without Reducing Dollars Collected.

ACS's most recent performance supports the premise that more levies do not necessarily translate into more dollars collected. For example, in FY 2013, ACS issued approximately 1.2 million levies, a

15 ACS Closed Case Actions Project DEN0181, SB/SE Research (Aug. 2012). Fully Satisfied applies to cases that were resolved by payment or abatement of assessed amounts. Installment agreements are not fully satisfied at time of closure and the case may reopen if the taxpayer does not keep the terms of the agreement. Cases closed as CNC have a balance due that is not being pursued.

16 Within 180 days of the levy being issued 25,657 cases were closed. Further, 12,455 of these cases were fully satisfied, 9,241 were put into IAs, and 3,961 were placed in CNC status.

17 TAS reviewed 600 taxpayers in ACS. The ACS sample was selected by extracting Individual Master File (IMF) and Business Master File (BMF) taxpayers assigned to ACS at some time from cycle 201230 forward (from mid-2012 to mid-2013). Taxpayers were determined to be assigned to ACS from the Accounts Receivable Dollar Inventory entity table. After identifying this population, a sample of 600 taxpayers was randomly selected. TAS was able to obtain information to complete 579 data collection instruments (DCI). The other 21 DCIs could not be completed. The random sample of 579 taxpayers has a 90 percent confidence level with about a five percent plus or minus margin.

18 IRC § 6343(a)(1)(D).

19 IRC § 6330(c)(3)(C). See also National Taxpayer Advocate 2007 Annual Report to Congress 478 (Legislative Recommendation: *Taxpayer Bill of Rights and De Minimis "Apology" Payments*); National Taxpayer Advocate's Report to Acting Commissioner Daniel Werfel, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013) at 2, 3; National Taxpayer Advocate 2011 Annual Report to Congress 493 (Legislative Recommendation: *Enact the Recommendations of the National Taxpayer Advocate to Protect Taxpayer Rights*).

When ACS issues a levy without first attempting to contact the taxpayer, it risks causing economic hardship.

reduction of about 46 percent from FY 2012.²⁰ This decrease likely results from the IRS's decision to dedicate three ACS call sites to Accounts Management call center duties this past filing season. Despite this substantial reduction in levy action, dollars collected on TDAs actually increased for the latter period.²¹ Specifically, through FY 2013, the IRS reported collection revenue generated by ACS on TDAs as approximately \$2.8 billion, an increase of about \$25.5 million compared to 2012.²² The fact that revenue secured through ACS operations did not suffer in light of the substantial decline in ACS levies indicates that levies are not the principal drivers of ACS collections, and that other, proactive collection treatments may prove more effective, and reduce unnecessary harm inflicted on taxpayers.

ACS Could Improve Its Case Resolution Rate by Increasing the Use of Notices and Phone Calls.

Although levies are an important tool for the IRS in addressing uncooperative, “won't pay” taxpayers, systemically generated levies will unnecessarily harm many taxpayers, while failing to collect the optimal amount of revenue. By relying on one collection method over others, ACS is ignoring one of its own studies that shows certain letters generate a higher response rate when compared to levies. Ignoring this study, and maintaining a collection strategy that relies heavily on levies, fails to achieve the highest possible response or resolution rate.

Kansas City Customer Service Site Study Conducted in 2000

In a 2000 study by the Kansas City customer service site, the IRS compared the effectiveness of letters and levy actions in generating a telephone response from the taxpayer.²³ The study was conducted by randomly pulling and analyzing 2,000 delinquent accounts that had one of the following actions:

- 1) Letter 11, *Final Notice, Notice of Intent to Levy and Your Notice of a Right to a Hearing*;²⁴
- 2) Letter 16, *Please Call us About Your Overdue Taxes or Tax Return*;²⁵
- 3) Letter 40, *Advisory Notice to Taxpayer of Need to Contact Third Parties*;²⁶
- 4) Letter 99, *Please Call Us About Your Overdue Taxes or Tax Returns*;²⁷ and

20 IRS Collection Activity Report NO-5000-24, *Levy & Seizure Report* (Sept. 2013). In FY 2013, the field also issued fewer levies when compared to FY 2012, albeit it was not as significant of a decline as ACS's. Specifically, the CFF issued 11 percent fewer levies in FY 2013 when compared to 2012. IRS Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2013).

21 This revenue is collected by the use of Collection resources. It includes levies, IAs, payments on collection notices, etc. It does not include refund offsets.

22 IRS Collection Activity Report No. 5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2013). The \$2.8 billion collected on TDAs for FY 2013 does not include dollars collected through offsets. When offsets are included for FY 2013, \$5.4 billion was collected. About \$5.2 billion was collected for FY 2012 when including offsets, which means that ACS actually collected about \$200 million more in FY 2013 than it did in FY 2012, despite the reduction in the issuance of levies.

23 See ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000). While not specified in the study, the sample size would generally yield results with a margin of plus or minus five percent at the 95 percent confidence level.

24 This letter is sent by certified mail with a return receipt and is required before the IRS can take any enforcement action.

25 This letter asks the taxpayer to call the IRS regarding overdue taxes or tax returns.

26 This letter advises the taxpayer that the IRS could be contacting a third party regarding a balance due and does not require a response. Even though it requires no response by taxpayers, the study found it was the most effective tool in prompting telephonic customer contact, because taxpayers were concerned that their neighbors or employers would become aware of their affairs. (This form letter is no longer in use.)

27 This letter is the same as Letter 16, but mailed out when a new case comes to ACS.

5) Levy.²⁸

The 2,000 TDAs were broken up into five groups of 400 (one group of 400 for each of the letters and levies).²⁹ The sample consisted of TDAs for which the letter or levy had been outstanding for at least 45 days.³⁰

This study concluded, “[a]ny of the four letters sent prompted a higher rate of telephone response from the taxpayer than levy action.” More specifically, the response rate for levies was about 13 percent, while the response rate for Letter 16, *Please Call Us About Your Overdue Taxes or Tax Return*, was nearly 37 percent, and all letters had a response rate over 30 percent.³¹ Further, the study concluded that ACS could increase the effectiveness of its letters by securing better addresses, which could be done by enhancing its efforts to search for a last known address.³² This step could have a significant impact as the study found about 29 percent of ACS letters were returned as undelivered.³³

Although the finding that a levy notice was not the most effective way to generate a response from the taxpayer was significant, this was probably not the most important conclusion from the report. The key point was the significance of determining what type of action best generates a resolution. The study found that a case is twice as likely to close when a taxpayer responds to a letter.³⁴ This finding is consistent with TAS’s review of ACS cases described above, which showed a case was resolved in 50 percent of cases where an ACS letter or phone call resulted in a contact with the taxpayer.³⁵

The Kansas City study also found certain actions that generated a response led to case resolution more often than others. For instance, the study showed not only that taxpayers are less likely to respond to a levy action than letters, but that when taxpayers do respond to these actions, levy actions were less likely to lead to closed cases. When taxpayers responded by telephone to a levy, the IRS closed only 24 percent of their cases. Conversely, when taxpayers responded by telephone to a letter titled *Please Call Us About Your Overdue Taxes or Tax Returns*, 35 percent of the cases ended in closure. Moreover, only eight percent of the taxpayers who responded by telephone to a levy fully paid their accounts and only six percent entered into installment agreements. By comparison, 17 percent of taxpayers who responded by telephone to a letter paid in full and 12 percent entered into an IA.³⁶ Therefore, when crafting the best collection strategy, ACS’s study shows that considering what action will most likely generate a response and a resolution to the case is critical.

28 After a Letter 11, *Final Notice, Notice of Intent to Levy and Your Notice of a Right to a Hearing*, has been sent, a levy is sent to both the levy source and the taxpayer. The levy sources may have been contacted on some of the cases in order to verify financial relationship with the taxpayer.

29 The sample was further divided to 200 of each for W&I and 200 each for SB/SE.

30 The data was captured in date increments to show the impact of letter mailing over the 30 days.

31 See ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000). This only included levies and Letters 16 that were presumed to reach the taxpayer (*i.e.*, did not come back as undelivered).

32 National Taxpayer Advocate 2009 Annual Report to Congress 221 (Most Serious Problem: *The IRS Has Not Studied or Addressed the Impact of the Large Volume of Undelivered Mail on Taxpayers*).

33 See ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000).

34 ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000). Case closure actions include: full payment of the liability, the taxpayer has entered into an IA, case is CNC, case is in bankruptcy status, or the case has been sent to the Queue or Cff.

35 TAS reviewed a sample of 579 taxpayers who were assigned to ACS at some time from cycle 201230 forward (from mid-2012 to mid-2013).

36 ACS Telephone Response Study, Kansas City Customer Service Site (Mar.–Apr. 2000). Taxpayers were responding to Letter 99, *Please Call Us About Your Overdue Taxes or Tax Returns*.

A Predictive Dialer Study Showed that a Number of Taxpayers Are Best Reached by an Outgoing Call.

A recent study provides more evidence that methods more effective than levies are at ACS's disposal. In 2013, W&I Research and Analysis tested the effectiveness of the W&I ACS predictive dialer system.³⁷ The study showed that when a live person answers predictive dialer calls, and the number of attempted calls is not limited, the system generated a contact rate of up to 45 percent.³⁸ This far exceeded the response rate when only Letter 16, *Please Call us About Your Overdue Taxes or Tax Return*, was sent out to taxpayers, which was at most 17 percent. Further, the contact rate for the predictive dialer calls exceeds the results of ACS levies in the SB/SE Denver ACS study, discussed above, which showed a 25 percent productive contact rate.³⁹ The predictive dialer study also observed that predictive dialer calls where the number of attempts was not limited and live assistants operated the line generated a "significantly higher proportion of contacts," and a "significantly higher proportion of IAs" than predictive dialer calls using a recorded voice.⁴⁰

ACS Is Not Very Successful at Working Business Cases.

In addition to using the right method to generate a contact with the taxpayer, and ultimately resolving the case, another part of making ACS more effective is assigning it the appropriate types of cases to work. An examination of ACS indicates that SB/SE ACS is being assigned cases that would be better worked in the field. More specifically, compared to W&I, SB/SE ACS is significantly less successful at resolving cases and placing taxpayers in installment agreements. For instance, in FY 2013, W&I ACS resolved (as a percentage) twice as many TDA cases with installment IAs as SB/SE ACS.⁴¹

However, the most significant difference between SB/SE and W&I ACS is the number of cases transferred to the Queue. In FY 2013, only four percent of the cases processed through W&I ACS went to the Queue, while SB/SE ACS transferred 31 percent.⁴²

37 Predictive Dialer Test – ACS Accounts, Wage and Investment, Research and Analysis (May 2013).

38 The study conducted a review of the effectiveness of the W&I ACS predictive dialer system by conducting a predictive dialer test with two different groups. In large part, the two test groups were conducted in the same manner. Test group one had a response rate of 37 percent. This test group included 12,497 taxpayers and was conducted in December of 2012, but only made outgoing calls. The 45 percent response rate was for test group two, which included 11,951 taxpayers and was conducted in February of 2013 but made outgoing calls and sent letters.

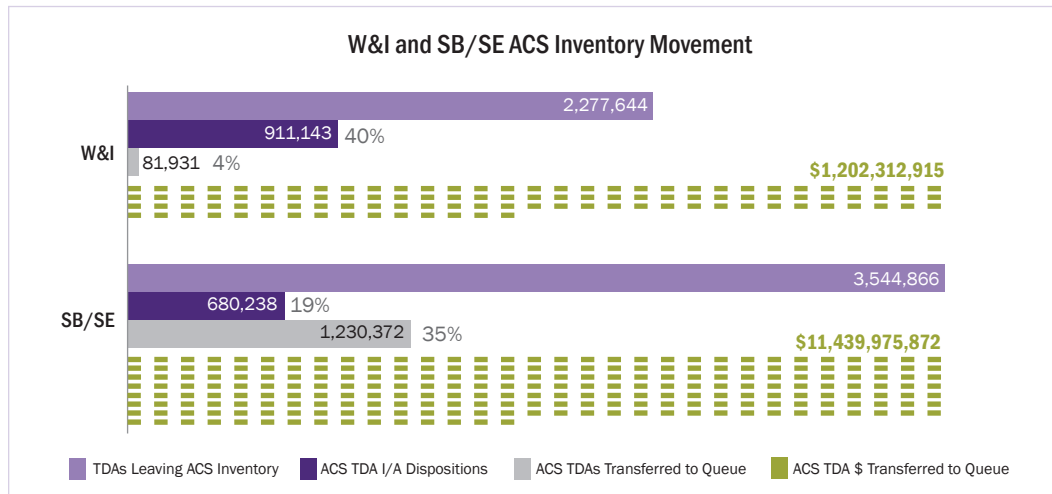
39 ACS Closed Case Actions Project DEN0181, SB/SE Research (Aug. 2012).

40 Predictive Dialer Test – ACS Accounts, Wage and Investment, Research and Analysis (May 2013).

41 IRS Collection Activity Report NO-5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2013).

42 *Id.*

FIGURE 1.11.2, ACS Inventory Movement



A large number of these unresolved cases are small business cases involving trust fund taxes.⁴³ ACS received \$2.9 billion in business trust fund cases, but \$1.6 billion — or 55 percent — left ACS as unresolved. Further, in regards to cases that were processed through SB/SE ACS, only \$310 million were collected (including refund offsets) while the accounts were in ACS’s inventory.⁴⁴ The low rate of collection for delinquent business taxes and the delay in resolution results in more accrued debt and increases overall uncollectible debt.⁴⁵

This comparison reveals that ACS can be effective in resolving TDAs of certain segments of the population, notably wage earners, but strikingly ineffective in collecting on other TDAs, namely, business trust fund cases.⁴⁶ It is unclear why the IRS places these cases in SB/SE ACS, especially when they are more likely to be resolved in the field. The field closed 57 percent of trust fund modules with a balance between \$1,500 and \$5,000 as full paid, while SB/SE ACS only closed 42 percent as full paid.⁴⁷ Of greater concern is the fact that SB/SE ACS transferred 42 percent of modules that have a liability within the \$1,500-\$5,000 range to the Queue, while the CFF transferred only four percent. This is yet another indicator that business trust fund cases are not being assigned appropriately, causing them to go unresolved, penalties and interest to accrue, and revenue to be lost. If the field is not available to work business trust

43 IRC § 7501 provides that taxes withheld from others, which are to be paid to the United States, are held in a special fund in trust for the United States. These taxes are often referred to as the “trust fund” taxes. Trust fund taxes include employment taxes, income tax withheld from employees’ wages, and certain types of excise taxes. IRC § 6672 provides for the assessment of a Trust Fund Recovery Penalty (TFRP) against those deemed responsible persons when these monies are not paid as required.

44 About \$1 billion of the \$2.9 billion in business trust fund cases received by ACS are uncollected dollars that remain in its inventory

45 IRS Collection Activity Report, NO-5000-2, *Taxpayer Delinquent Accounts Report* (Sept. 2012). As discussed further in Most Serious Problem: *Collection Process: IRS Collection Procedures Harm Business Taxpayers and Contribute to Substantial Amounts of Lost Revenue*, *infra*, SB/SE ACS employees are not authorized to consider a business taxpayer’s complex financial statements, such as cash flow and profit and loss statements, nor are they trained to complete a financial analysis of BMF cases. Further, ACS employees are limited to granting in-business trust fund express installment agreements (IBTFE) for business accounts with a balance due of \$25,000 or less. This means that business taxpayers who call ACS after receiving a notice (potentially a levy notice) will speak with an ACS assistor who has limited authority to agree to an IA.

46 National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2 (*A Comparison of Revenue Officers and the Automated Collection System in Addressing Similar Employment Tax Delinquencies*), *infra*.

47 *Id.* These are rates of cases directly assigned to the Cff. In this Vol. 2 study, TAS focused on newly-delinquent taxpayers with one or two employment tax delinquencies TDA modules in 2003, and those with three delinquencies in 2003, provided they were not pyramiding (*i.e.*, there was a gap between the last two delinquencies).

fund cases at a particular time, the IRS should place those cases with a core ACS unit trained to work them effectively, rather than allowing them to sit in the queue unaddressed.⁴⁸

A Recent Change to the Internal Revenue Manual (IRM) Will Expand the Case Resolution Discussion Between the Taxpayer and ACS and Increase the Likelihood that Certain Cases Will Be Resolved.

Although ACS's overall collection strategy remains counterproductive, positive changes have occurred. A recent revision to IRM 5.19.1, *Liability Collection, Balance Due*, and proper training on the change for ACS assistors will expand collection alternatives to more taxpayers and remove barriers to resolving cases. Under the new provisions, the IRS will not require liquidation of assets or equity in an asset even when such liquidation would result in full or substantial partial payment of the liability, if:

- Factors such as advanced age, ill health, or other special circumstances would prevent the liquidation of the assets; or
- The taxpayer qualifies for guaranteed, streamlined, or in-business trust fund express agreements.⁴⁹

Further, under the IRM revisions, ACS assistors will no longer ask a taxpayer to liquidate or borrow against an asset if doing so will create an economic hardship.

The low rate of collection for delinquent business taxes and the delay in resolution results in more accrued debt and increases overall uncollectible debt.

Past IRS practice has been to push for full payment of the liability through liquidation of assets, and if the taxpayer was unable to make a full payment, the case was likely to land in the Queue. These changes should expand the conversation between ACS assistors and taxpayers. In the circumstances discussed above, assistors will be able to discuss collection options, such as IAs. To be effective, however, the IRS must train ACS assistors on this significant change.⁵⁰ Moreover, the IRS should expand these provisions to other taxpayer circumstances. Merely insisting on the taxpayer paying in full is not a realistic position in many situations, and, as the ACS data illustrate, doing so has not yielded and will not yield effective tax collection.

⁴⁸ See Most Serious Problem: *Collection Process: IRS Collection Procedures Harm Business Taxpayers and Contribute to Substantial Amounts of Lost Revenue*, *infra*.

⁴⁹ IRM 5.19.1.5.4.2 (Oct. 18, 2013). In Business Trust Fund Express Agreements can be granted for liabilities up to the aggregate assessed balance (CC SUMRY) of \$25,000. The entire liability, including accruals, must be paid within 24 months or before the Collection Statute Expiration Date (CSED), whichever is earlier. In order to qualify, the taxpayer must be in full filing compliance and current on tax deposits.

⁵⁰ See Most Serious Problem: *The Drastic Reduction in IRS Employee Training Impacts the Ability of the IRS to Assist Taxpayers and Fulfill Its Mission*, *supra*; Most Serious Problem: *Taxpayer Rights Training: Insufficient Education and Training about Taxpayer Rights Impairs IRS Employees' Ability to Assist Taxpayers and Protect Their Rights*, *supra*.

CONCLUSION

The ACS plays a vital part in collecting outstanding tax liabilities. However, the National Taxpayer Advocate believes a re-orientation of ACS practices could increase productive case resolutions, while reducing unnecessary harm to the taxpayer. This new approach should place more emphasis on better segmentation of taxpayer debtors and effective initial contacts. It should embody less immediate reliance on levy authority, which harms taxpayers, is not highly productive, and creates IRS re-work. Further, the IRS should immediately assign small business cases to a revenue officer to be worked, or place them with a core ACS unit that is trained and has the necessary skills to work cases when the field is unavailable.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that ACS:

1. Better identify groups of taxpayers that would more likely respond best to a particular collection action or communication.
2. In an attempt to establish contact with the taxpayer, include a soft notice in its systemic procedures that would discuss payment options up front.
3. Send out a monthly (or no less than quarterly) notice to taxpayers whose cases are in the Queue that informs them of the tax owed and penalty and interest accruals as well as payment options.
4. Create and properly train a core ACS unit that can work and resolve small business cases when the field cannot take on more assignments.
5. Expand the guidance under IRM 5.19.1, *Liability Collection, Balance Due*, to require ACS assistants to present all collection alternatives to the taxpayer upfront in all cases.