

**MSP
#4****TAXPAYER RIGHTS: Insufficient Education and Training About Taxpayer Rights Impairs IRS Employees' Ability to Assist Taxpayers and Protect Their Rights****RESPONSIBLE OFFICIALS**

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DEFINITION OF PROBLEM

While the Internal Revenue Code (IRC) guarantees certain rights to taxpayers, IRS employees do not always clearly communicate these rights to taxpayers at appropriate times. A recent nationwide survey found only 46 percent of U.S. taxpayers believed they have rights before the IRS, and only 11 percent knew what those rights were.¹ When employees inform taxpayers of their rights, they rely on Publication 1, *Your Rights as a Taxpayer*.² However, TAS focus groups indicate that taxpayers often do not read the publication.³

This lack of awareness of taxpayer rights is further compounded when IRS employees themselves do not sufficiently understand taxpayer rights. Only some employees receive initial training about taxpayer rights, and this information is not regularly reinforced during later periodic training, such as Continuing Professional Education (CPE). Information about taxpayer rights is scattered throughout the Internal Revenue Manual (IRM) and pertains to narrow circumstances or specific phases of taxpayers' dealings with the IRS. The IRS should provide employees with an overarching, comprehensive education about taxpayer rights, supplemented by training and guidance about how those rights adhere in specific situations.

1 Forrester Research Inc., *The TAS Omnibus Analysis*, from North American Technographics Omnibus Mail Survey, Q2/Q3 2012, 19-20 (Sept. 17, 2012).

2 The Technical and Miscellaneous Revenue Act of 1988 requires the IRS to distribute to taxpayers a statement of their rights and the obligations of the IRS during an audit when the IRS contacts the taxpayer regarding the determination or collection of tax. See Pub. L. No. 100-647, 102 Stat 3342 (1988). The IRS generally satisfies this requirement by providing taxpayers with Publication 1.

3 2011 IRS Nationwide Tax Forums TAS Focus Group Report, *Publication 1 - Taxpayer Rights* (Oct. 2011).

ANALYSIS OF PROBLEM

Background

The Code includes a number of taxpayer rights specific to certain situations, but it contains no organizing principles or formal acknowledgement of the fundamental taxpayer rights from which these statutory rights derive.⁴ The information about taxpayer rights is scattered throughout the IRM and, as a result, IRS employees might be inclined only to uphold taxpayer rights in specific situations.

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The National Taxpayer Advocate has recommended that a Taxpayer Bill of Rights (TBOR), a list of fundamental taxpayer rights and obligations, modeled after the United States Constitution's Bill of Rights, be formally codified.⁵ However, the IRS does not have to wait for legislative action. As recommended in this year's Annual Report to Congress, the IRS could follow the lead of other countries by adopting a TBOR through a taxpayer charter or other administrative statement of agency policy.⁶ The TBOR would be a formal declaration of taxpayer rights and responsibilities written in plain language.⁷ It would not provide additional rights not already statutorily or administratively granted. A TBOR is an essential platform for employee training, for taxpayer education, and, ultimately, for enabling taxpayers and employees to reach just and fair resolutions of tax liabilities.⁸

Recent IRS Actions to Improve Taxpayer Rights Awareness

As a result of the IRS's review of its handling of exempt organization applications, Acting Commissioner Werfel committed the IRS to evaluate training for employees to ensure taxpayers know their rights.⁹ In her report to the Acting Commissioner on November 4, 2013, the National Taxpayer Advocate urged the adoption of the TBOR and outlined mechanisms that raise taxpayer and employee awareness of taxpayer rights.¹⁰ TAS is examining taxpayer rights training and has begun a comprehensive review of the Internal Revenue Manual (IRM) to identify places to insert:

- References to taxpayer rights;
- Guidance for employees to refer a taxpayer to a Low Income Taxpayer Clinic (LITC); and

⁴ For example, the right of a taxpayer to be informed is included in a number of different IRC provisions. IRC § 6213(a) requires the IRS to provide a notice of deficiency at least 90 days (150 days for taxpayers residing abroad) before it can take collection action. This notice informs taxpayers of the right to petition Tax Court and, as required by IRC § 7522(a), and must describe the basis for and the amount of tax, interest, and penalties due. IRC § 6330 requires the IRS to notify taxpayers 30 days before a levy and provide the amount of unpaid tax, the IRS's proposed action, the IRC provisions relating to levy, the procedures available to the IRS, the administrative appeals available to the taxpayer, and the alternatives available to prevent the levy. IRC § 6320(a) requires the IRS to notify a taxpayer of federal tax lien within five days of when the lien is filed.

⁵ See National Taxpayer Advocate 2011 Annual Report to Congress 493-518; National Taxpayer Advocate 2007 Annual Report to Congress 478-89.

⁶ See OECD Committee of Fiscal Affairs Forum on Tax Administration, Centre for Tax Policy and Administration, GAP002, *Taxpayers' Rights and Obligations* 3 (2003), available at <http://www.oecd.org/ctp/taxadministration/14990856.pdf> (analyzing survey results published in 1990).

⁷ See OECD Committee of Fiscal Affairs Forum on Tax Administration, Centre for Tax Policy and Administration, GAP002, *Taxpayers' Rights and Obligations* 6 (2003), available at <http://www.oecd.org/ctp/taxadministration/14990856.pdf> (analyzing survey results published in 1990).

⁸ See Most Serious Problem: *Taxpayer Rights: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*, *supra*. See also National Taxpayer Advocate's Report to the Acting Commissioner, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013).

⁹ See IRS, *Charting a Path Forward at the IRS: Initial Assessment and Plan of Action* 34 (June 24, 2013), available at <http://www.irs.gov/uac/Newsroom/IRS-Charts-a-Path-Forward-with-Immediate-Actions>.

¹⁰ National Taxpayer Advocate's Report to the Acting Commissioner, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013), available at (insert link). See Most Serious Problem: *Taxpayer Rights: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*, *supra*.

- Instructions to provide Publication 1 where it is not currently required.

The Taxpayer Advocate Service recently collaborated with the IRS to develop language for the TBOR, and is planning to launch its own taxpayer rights website that includes the TBOR in 2014. TAS is drafting new versions of Publication 1 for the IRS to give to taxpayers at different points in the tax controversy process, including examination, appeals, and collection. TAS will conduct focus groups on the new publications in early 2014 and finalize them during the year. While these actions are encouraging, the lack of comprehensive training and education for employees on taxpayer rights remains a significant problem.

Employee training on taxpayer rights varies across the IRS.

The initial training for many new IRS employees contains only minimal instruction on taxpayer rights and varies greatly by employee position. A lack of continuing education on taxpayer rights negatively reflects on employees' ability to assist taxpayers and protect their rights because the basic knowledge acquired at initial training gradually fades over time without continuing education or reminders about how rights apply in specific contexts. TAS requested from the IRS detailed information about taxpayer rights training and education for new and current employees. Below are some of TAS's findings based on the IRS responses.

Examination¹¹

- The Core Competency Training for newly hired Revenue Agents (*i.e.*, auditors or examiners) includes a 575-page participant guide, but only six paragraphs mention discussing taxpayer rights and the audit process with taxpayers.¹²
- For compliance employees¹³ working examination cases, taxpayer rights are covered as parts of various processes, for example, review of installment agreements; but the actual rights are not explicitly explained. The IRS's response to TAS's information request includes six Automated Underreporter courses that discuss representation. However, the response merely states, "Tax examiners are trained when and how to accept 3rd party representation."¹⁴ Issues relating to representation go beyond when and how to accept a power of attorney. The course should discuss informing taxpayers of their right to retain representation, as well as information on access to representation, including through Low Income Taxpayer Clinics that provide low to no-cost tax assistance.
- The Examination Toll-Free Telephone Assistor Training covers only selected taxpayer rights topics, such as taxpayer authentication and power of attorney.¹⁵ While the scripts used in the training touch on a taxpayer's right to appeal by discussing Tax Court deadlines, they lack comprehensive information explaining taxpayers' appeal rights, the significance of the Tax Court as a pre-payment judicial forum, and the consequences of failing to act.

11 This section pertains to examination employees in the Small Business/Self-Employed (SB/SE) Operating Division and the Wage and Investment (W&I) Operating Division.

12 SB/SE Core Competency Training 29689-102 (May 2011).

13 Compliance employees include examination and collection employees, primarily in centralized locations.

14 IRS response to TAS information request (Oct. 22, 2013).

15 Exam Toll-Free Telephone Assistor Training Course 12256-102 (Rev. June 2013).

- The fiscal year (FY) 2013 CPE schedule for Revenue Agents has six required and ten optional courses that focus primarily on technical topics, with no mention of taxpayer rights in the descriptions.¹⁶

Tax Exempt / Government Entities (TE/GE) Division

- TE/GE has multiple courses for Revenue Agents that cover taxpayer rights. Chapter 1 of the Employee Plans Examination Phase II course includes an entire section on taxpayer rights.¹⁷ This training surpasses merely mentioning taxpayer rights. One section states: “Publication 1 (EP) is mailed with the initial appointment letter and explains these rights and the examination process. **This, however, is merely the first step.**”¹⁸ The course details how the employee must continue communicating taxpayer rights during the process. The Exempt Organizations Basic Law Course includes a roleplaying session where employees discuss Publication 1 with taxpayers and representatives.¹⁹
- Conversely, the TE/GE response showed Tax Examiners receive only one course on taxpayer rights, which is only for new hires and does not mention Publication 1. Taxpayer rights material includes two ten-minute mock interviews conducted by the instructors.²⁰

Collection²¹

- The training module for newly hired Revenue Officers (ROs) provides a comprehensive introduction to taxpayer rights with two hours of lessons focusing on all aspects of rights related to collection.²²
- Automated Collection System (ACS) employees, who work the majority of IRS lien and levy cases,²³ have two lessons on taxpayer rights as part of the ACS Basic New Hire Course.²⁴ One lesson explains communicating with the taxpayer about appeal rights, and the other provides training on appeal rights after an installment agreement is denied. Unlike the RO training, there is no stand-alone course that emphasizes overall rights.²⁵
- ACS’s e-guide is lacking when it comes to explaining and educating taxpayers on their rights as they go through the collection process.²⁶ For example, the “Refusal to Pay Situations” section of the e-guide advises the employee to tell the taxpayer that if he or she cannot pay, the IRS will

16 IRS, FY 13 Exam CPE, Mandatory Lessons (June 28, 2013); FY 13 Exam CPE, Optional Lessons (July 18, 2013).

17 See IRS response to TAS information request (Sept. 19, 2013).

18 Employee Plans Examinations – Phase II course, Chapter 1 Pre-Contact Analysis/Pre-Audit, 11313-002, 1-37 (course delivered Jan. 31, 2013).

19 See IRS response to TAS information request (Sept. 19, 2013).

20 See *id.*

21 This section pertains to employees in Field Collection, part of the SB/SE Division and employees in the Automated Collection System, part of the Wage and Investment (W&I) Division.

22 IRS, Revenue Officer Training Unit 1, Module I Introduction to Taxpayer Rights Overview (Apr. 2012).

23 In fiscal year (FY) 2013, there were: 638,793 field levies versus 1,216,302 ACS levies; 63,944 field installment agreements versus 699,200 ACS installment agreements; and 228,318 currently not collectible field cases versus 346,576 currently not collectible ACS cases. Collection Activity Reports No. 5000-24 (Oct. 29, 2013), No. 5000-6 (Oct. 29, 2013), No. 5000-149 (Oct. 29, 2013). Currently not collectible numbers are hardship only.

24 See IRS response to TAS information request (Oct. 17, 2013) (discussing the ACS Basic-Taxpayer Appeal Rights and the ACS Basic-Independent Review).

25 *Id.*

26 The e-guide provides employees with an ongoing reference and source of education while on the job. See IRM 5.19.16.3.1 (Oct. 25, 2011).

take enforcement action.²⁷ There is no emphasis on explaining rights, specifically appeal rights or collection due process hearings.

Office of Appeals

- The Appeals Basic Training Course for new hires contains numerous references to appeal rights, including advising employees to explain these rights to the taxpayer at different points in the process. However, most of the course deals with procedures without emphasizing the taxpayer rights underlying those procedures. For example, the mediation training contains information about how a taxpayer can request mediation, the modification of *ex-parte* rules in mediation, and impartiality; but the course is mainly focused on how to conduct a mediation and reach a mutually acceptable agreement rather than on explaining and preserving foundational taxpayer rights in the process.
- The FY 2013 Appeals CPE schedule includes ten Customer Satisfaction courses, nine of which are from an outside vendor and focused on customer relationships in the private sector, along with one internal course on Cultural Competence and Effective Communication.²⁸ While the courses may encourage effective communication, they do not discuss taxpayer rights at all.

The Internal Revenue Manual (IRM) frequently lacks comprehensive information about taxpayer rights and their importance for due process and fair tax administration.

The IRS frequently relies on the IRM to educate employees. IRM sections that cover specific situations may include reminders about taxpayer rights that apply in those situations, but do not provide comprehensive information about the rights and why they are important. For example, the Collection Appeals Rights section of the Collection IRM states broadly, “The CDP appeal provisions give taxpayers an opportunity for an independent review by Appeals, to ensure that the proposed levy or lien filing is warranted.”²⁹ However, the description does not contain information about the fundamental elements of a Collection Due Process (CDP) hearing, including the statutorily mandated determination of “whether

any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.”³⁰ As a result, employees may not fully understand the purpose of a CDP hearing, its role in ensuring the fairness of tax administration, and the scope of a taxpayer’s right to appeal. Thus, some may view CDP hearings as a nuisance or a delaying tactic and discourage taxpayers from acting upon their rights, instead of encouraging them to take advantage of an important due process protection.

Another example of the IRM failing to properly educate employees is the section regarding transferring taxpayer examinations to a field office.³¹ The IRM cites Treas. Reg. 301.7605-1(e)(2), which provides that requests for transferring an

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27 ACS E-guide, *Refusal to Pay* (July 23, 2013).

28 FY13CPE_TopicSchedule.xls posted on the IRS Office of Appeals internal website (last modified July 1, 2013).

29 IRM 5.19.8.4.1 (Aug. 27, 2010).

30 IRC § 6330(c)(3). Congress created CDP hearings not merely to ascertain whether the collection action was warranted, but, *inter alia*, to verify that the IRS had followed proper procedures in filing the lien or notice of levy and whether collection alternatives had been considered.

31 IRM 4.19.13.14.1 (Aug. 1, 2012).

exam are generally granted. However, the IRM fails to explain this procedure as an aspect of the taxpayer's right to be heard. Instead the IRM instructs employees to rely on a decision tree (If/Then) chart, which, in turn, directs the examiner to "provide assurance that the issue can be resolved at the campus" when a taxpayer requests a transfer to an area office.³² Employees may simply rely on the chart without understanding how a taxpayer's request for a local transfer may be vital to that taxpayer being able to present his case in the format most conducive to his concerns being heard. If the request is viewed as simply an inventory and work assignment problem rather than the realization of a fundamental taxpayer right, the employee may discourage or improperly dissuade a taxpayer from making a legitimate request.

IRM sections sometimes instruct employees to take a specific action as a part of a process or procedure without explaining the underlying taxpayer right. In examination cases where the IRS issues a statutory notice of deficiency and the taxpayer requests additional time to respond, the IRM advises employees to inform the taxpayer that any extension to submit documents will not extend the time to petition the Tax Court.³³ However, employees may not understand why this is important for taxpayers, *i.e.*, if the taxpayer does not petition the Tax Court within a certain number of days, he or she will lose the ability to challenge the liability in Tax Court, which is the *only* federal judicial forum available to litigate a tax liability *before* paying the tax first.³⁴

As these examples demonstrate, the lack of comprehensive information about taxpayer rights may be detrimental to employees' ability to assist taxpayers and protect their rights. The IRS could improve employees' understanding of fundamental taxpayer rights by incorporating the TBOR in the IRM and including examples of potential impact in key enforcement sections such as Lien and Levy actions in Collection, and Statutory Notices of Deficiency in Exam.

Employees need a framework of taxpayer rights that shows them where fundamental taxpayer rights arise in their daily work and assists them in communicating these rights to taxpayers.

Because the Code does not list fundamental rights, an employee has no framework to reason how rights apply in a particular context. While the IRS has tried to come up with a statement of rights with Publication 1, this publication may be confusing to taxpayers. In addition, there are situations where taxpayers would benefit from information about their rights, but the IRS is not required to distribute Publication 1. Notably, the Acting Commissioner in his review of IRS exempt organizations practices found applicants for exempt status never received Publication 1 because the Code only requires the IRS to give Publication 1 to taxpayers who are selected for audit or are in collection.³⁵ Also, relying solely on Publication 1 to educate taxpayers runs the risk of furthering a "checkbox" mentality.³⁶

³² IRM 4.19.13.14.1 (Aug. 1, 2012).

³³ IRM 4.19.13.9.6 (Apr. 9, 2012).

³⁴ See IRC § 6213(a).

³⁵ See IRS, *Charting a Path Forward at the IRS: Initial Assessment and Plan of Action* 34 (June 24, 2013), available at http://www.irs.gov/file_source/PUP/newsroom/Initial%20Assessment%20and%20Plan%20of%20Action.pdf. The Technical and Miscellaneous Revenue Act of 1988 requires the IRS to distribute to taxpayers a statement of their rights and the obligations of the IRS during an audit when the IRS contacts the taxpayer regarding the determination or collection of tax. Pub. L. No. 100-647, § 6227, 102 Stat 3342, 3731 (1988).

³⁶ An example is the Revenue Agent's classroom training, which teaches that employees can accomplish the task of informing taxpayers of their rights by providing Publication 1 and Privacy Act Notice 609. Revenue Agent Basic Classroom 1 Training, Trng. 31828-102, 9-20.

What the IRS needs is an improved Publication 1, and additional documents that explain the application of these rights in particular contexts, such as examination (Publication 1-E), collection (Publication 1-C), and appeals (Publication 1-A). This multi-step approach would enable taxpayers to:

1. Learn about their rights in general, so they know they have them and know to ask about them when a problem arises;
2. Learn about their specific rights as they need them within specific stages of the tax controversy process (Publication 1-E, Publication 1-A, Publication 1-C); and
3. Hear about these rights from IRS employees because the more contextual Publication 1 versions provide a vehicle for employees to explain the rights to taxpayers.

Although IRM sections direct employees to distribute Publication 1, they do not always instruct employees to engage the taxpayer regarding his or her rights.³⁷ The sections that do require the employee to explain rights to the taxpayer generally apply to only field collection and field examiners, who handle a minority of taxpayer cases.³⁸ Yet in FY 2013, ACS issued nearly double the number of levies, initiated nearly 11 times the number of Installment Agreements, and closed over half as many more (51.8 percent) cases as currently not collectible than the Collection Field function (CFf).³⁹ In FY 2012, about 76 percent of all exams were correspondence exams.⁴⁰

The majority of taxpayers with compliance issues, whose cases are worked by ACS or correspondence exam, will never receive a phone or in-person contact, and thus will never receive an explanation of their rights. Many of these taxpayers are unrepresented and thus unlikely to know their rights. Providing employees with expanded versions of Publication 1 that contain more detailed information about taxpayer rights would give employees a tool to use in explaining these rights to taxpayers and ensuring they understand them.

Employees' Lack of Understanding of Taxpayer Rights Leads to Poor Policy Decisions.

When employees are not adequately trained on taxpayer rights, they may make poor policy decisions, as evidenced by the IRS's recent revisions to one version of the Statutory Notice of Deficiency (SNOD).⁴¹ The IRS attempted to put the SNOD in plain English, but removed some critical information that appeared in previous versions. Although the revised notice states that the taxpayer has the right to petition the United States Tax Court, nowhere does it explain that the Tax Court is the only judicial forum in which to contest the liability before paying it. The ability to appeal without pre-payment is a major

37 See, e.g., IRM 4.23.3.7.5 (July 19, 2013) (requiring examination employees to provide Publication 1 to taxpayers with initial contact letters regarding an employment tax exam); IRM 4.81.5.6.1 (Oct. 1, 2009) (requiring tax exempt bonds examination employees to include Publication 1 with all examination letters pursuant to IRC § 7521(b)(1)(A)).

38 As part of the initial contact, field collection employees must determine whether the taxpayer received Publication 1, ask the taxpayer if he or she has any questions about Publication 1, and answer those questions. IRM 5.1.10.3.2 (Oct. 28, 2011). Exam employees who make initial contact by phone or in person must explain the taxpayer's rights as outlined in Publication 1 and answer any questions the taxpayer may have. This generally only applies to field examiners because correspondence examiners generally contact the taxpayer by letter. IRM 4.10.2.7.3 (Aug. 1, 2007).

39 In fiscal year 2013, there were: 638,793 field levies versus 1,216,302 ACS levies; 63,944 field installment agreements versus 699,200 ACS installment agreements; and 228,318 currently not collectible field cases versus 346,576 currently not collectible ACS cases. Collection Activity Reports No. 5000-24 (Oct. 29, 2013), No. 5000-6 (Oct. 29, 2013), No. 5000-149 (Oct. 29, 2013). Currently not collectible numbers are hardship only.

40 IRS Data Book, Fiscal Year 2012, Table 9a, Examination Coverage: Recommended and Average Recommended Additional Tax After Examination, by Type and Size of Return. There were 1,122,216 correspondence exams in FY 2012 out of 1,481,966 total examinations.

41 See IRS, *Understanding Your CP3219A Notice*, <http://www.irs.gov/Individuals/Understanding-Your-CP3219A-Notice> for a sample CP 3219A notice (page last updated or reviewed Nov. 1, 2013).

component of the overall fairness and integrity of our tax system. Otherwise, only those who could afford to pay the tax would have the benefit of judicial review. Comments from practitioners participating in a Low Income Taxpayer Clinic listserv reflect the problems with this new notice:

- “This one looked just like another balance due notice.”
- The new notice is “[b]ordering on deceptive and coercive for the less sophisticated.”
- “I did a double take because it looked just like a collection notice. The previous client had the normal notice of deficiency. What a stark contrast!”⁴²

It appears that the employees redesigning and reviewing the SNOD may not have been properly trained about the significance of the language on contesting the determination in a pre-payment judicial forum. They may also have been confused about the underlying purpose of the notice — *i.e.*, providing the taxpayer a “ticket to Tax Court.” Without comprehensive training on taxpayer rights, employees may continue to make poor decisions, such as this one, that harm taxpayers.

IRS measures do not sufficiently take into account taxpayer rights.

The broad, overall guidelines for critical job elements (CJEs), which the IRS uses to assess employees’ performance, do not include taxpayer rights.⁴³ The description for “Customer Satisfaction - Application” focuses on communicating with taxpayers, but makes no mention of communicating taxpayer rights to taxpayers.⁴⁴ CJEs for different positions vary greatly in their focus on taxpayer rights. For example, the Revenue Officer CJEs include an entire subsection devoted to taxpayer rights under the category of Customer Satisfaction - Knowledge.⁴⁵ To receive an “Exceeds” rating in this category, an employee must always:

- Educate the taxpayer on his or her rights throughout the collection process;
- Ensure the taxpayer’s rights are observed and protected throughout the process;
- Protect the confidentiality of taxpayer return and case-related information; and
- Accurately explain the collection process throughout the case progression.⁴⁶

In contrast, the CJEs for Customer Service Representatives (CSRs), who make up much of the ACS, only have one taxpayer rights measure, even though CSRs have contact with more taxpayers than other employees. This measure, “ensures that taxpayer rights are appropriately protected,” is part of the broader subsection, Technical Knowledge/Research, and provides little specific guidance on how, precisely, the employee is to ensure such protection.⁴⁷ The contrast between CJEs for Revenue Officers and ACS

42 Comments from ABA-Tax Low Income Taxpayer Clinic Discussion (Oct. 10, 2013).

43 IRS, Guidelines for Developing Critical Job Element (CJE) Performance Plans.

44 *Id.*

45 See Performance Plan for Revenue Officer Advisor / Reviewer and Revenue Officer / Independent Administrative Reviewer GS-1169 (Mar. 2006).

46 *Id.*

47 See Performance Plan for Customer Service Representative GS-0962 (Dec. 2004).

employees is troubling because ACS employees work far more collection cases and have contact with more taxpayers than Revenue Officers.⁴⁸

In addition, case quality scores do not include taxpayer rights measurements, other than ascertaining whether the employee provided the taxpayer with the required written notice or Publication 1. For example, the Office of Appeals Case Quality standards include “Did Appeals Provide Appropriate Taxpayer Customer Service and Respect Taxpayer’s Rights?”⁴⁹ To meet the standard of informing the taxpayer, employees only have to provide the Uniform Acknowledgement Letter timely (within 30 days of case receipt in Appeals) and communicate the status of the case within a reasonable time (generally every 90 days) until Appeals completes processing. Employees can demonstrate that the taxpayer was informed of his or her rights, including appeal rights, by providing the taxpayer with notices and publications. In contrast, TAS includes in its case quality attributes a measure for whether the employee educated the taxpayer and explained preventive actions to taxpayers. The IRS should adopt similar measures.

CONCLUSION

Many taxpayers have no knowledge of their rights, including specific rights that arise in certain situations or their fundamental rights as taxpayers. When employees also lack comprehensive knowledge of these rights, they may end up taking actions or establishing policies that violate these rights and harm taxpayers. At a time when the IRS budget is forcing difficult decisions across the agency, protecting taxpayer rights is more important than ever.

RECOMMENDATIONS

The National Taxpayer Advocate recommends the IRS:

1. Require all future updates of training modules to include a significant segment on taxpayer rights.
2. Require all training modules that will not be updated in the next year to include the independent taxpayer rights training module to be developed by TAS.
3. Require all IRS employees to take the TAS *Roadmap to a Tax Controversy* Level One training.
4. Require all operating divisions to include in their Business Performance Reviews an analysis of how employees were trained on taxpayer rights issues and what actions the operating divisions took to incorporate the TBOR into their programs.
5. Require operating divisions to update their case quality attributes to measure whether the employee informed the taxpayer of his or her rights beyond just requiring the mailing of a publication or notice.
6. Update the IRS’s guidance for developing CJE’s to include a focus on taxpayer rights.

⁴⁸ In fiscal year 2013, there were: 638,793 field levies versus 1,216,302 ACS levies; 63,944 field installment agreements versus 699,200 ACS installment agreements; and 228,318 currently not collectible field cases versus 346,576 currently not collectible ACS cases. Collection Activity Reports No. 5000-24 (Oct. 29, 2013), No. 5000-6 (Oct. 29, 2013), No. 5000-149 (Oct. 29, 2013). Currently not collectible numbers are hardship only.

⁴⁹ Appeals Quality Measurement System Reviewer’s Guide for Non-Collection Cases Standard 1, Did Appeals Provide Appropriate Customer Service and Respect Taxpayers’ Rights? 29-63 (Revised Oct. 1, 2012).

7. Distribute taxpayer rights posters to managers and require all employee offices to place them where the maximum number of employees will see them.
8. Update all IRM sections identified by TAS with language provided by TAS to incorporate the TBOR into the IRM.
9. Update all IRM sections identified by TAS to include requirements for employees to provide either Publication 1 or separate publications that explain the application of taxpayer rights in particular contexts, such as examination (Publication 1-E), collection (Publication 1-C), and appeals (Publication 1-A). Update all notices identified by TAS to include Publication 1, Publication 1-E, Publication 1-A, or Publication 1-C as a stuffer.