



*This report is dedicated*

*to*

*The Honorable Dave Camp,*

---

*Upon his retirement from Congress,*

*In recognition of*

*And appreciation for*

*His tireless work*

*To advance the cause*

*of*

*Comprehensive tax reform.*



*This page intentionally left blank.*

## Contents

<b>PREFACE: Introductory Remarks by the National Taxpayer Advocate</b> .....	vii
<b>TAXPAYER RIGHTS ASSESSMENT: IRS Performance Measures and Data Relating to Taxpayer Rights</b> .....	xv
<b>THE MOST SERIOUS PROBLEMS ENCOUNTERED BY TAXPAYERS</b>	
<b>Introduction</b> .....	1
<b>The Right to Quality Service</b>	
1. TAXPAYER SERVICE: Taxpayer Service Has Reached Unacceptably Low Levels and Is Getting Worse, Creating Compliance Barriers and Significant Inconvenience for Millions of Taxpayers .....	3
2. TAXPAYER SERVICE: Due to the Delayed Completion of the Service Priorities Initiative, the IRS Currently Lacks a Clear Rationale for Taxpayer Service Budgetary Allocation Decisions .....	26
3. IRS LOCAL PRESENCE: The Lack of a Cross-Functional Geographic Footprint Impedes the IRS’s Ability to Improve Voluntary Compliance and Effectively Address Noncompliance .....	31
4. APPEALS: The IRS Lacks a Permanent Appeals Presence in 12 States and Puerto Rico, Thereby Making It Difficult for Some Taxpayers to Obtain Timely and Equitable Face-to-Face Hearings with an Appeals Officer or Settlement Officer in Each State .....	46
5. VITA/TCE FUNDING: Volunteer Tax Assistance Programs Are Too Restrictive and the Design Grant Structure Is Not Adequately Based on Specific Needs of Served Taxpayer Populations .....	55
<b>The Right to a Fair and Just Tax System: Complexity</b>	
6. HEALTH CARE IMPLEMENTATION: Implementation of the Affordable Care Act May Unnecessarily Burden Taxpayers .....	67
7. OFFSHORE VOLUNTARY DISCLOSURE (OVD): The OVD Programs Initially Undermined the Law and Still Violate Taxpayer Rights .....	79
8. PENALTY STUDIES: The IRS Does Not Ensure Penalties Promote Voluntary Compliance, as Recommended by Congress and Others .....	94
9. COMPLEXITY: The IRS Does Not Report on Tax Complexity as Required by Law .....	102
10. COMPLEXITY: The IRS Has No Process to Ensure Front-Line Technical Experts Discuss Legislation with the Tax Writing Committees, as Requested by Congress .....	108
11. WORKLOAD SELECTION: The IRS Does Not Sufficiently Incorporate the Findings of Applied and Behavioral Research into Audit Selection Processes as Part of an Overall Compliance Strategy .....	112
<b>The Right to Be Informed: Access to the IRS</b>	
12. ACCESS TO THE IRS: Taxpayers Are Unable to Navigate the IRS and Reach the Right Person to Resolve Their Tax Issues .....	123

- 13. CORRESPONDENCE EXAMINATION: The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers . . . . . 134
- 14. AUDIT NOTICES: The IRS’s Failure to Include Employee Contact Information on Audit Notices Impedes Case Resolution and Erodes Employee Accountability . . . . . 145
- 15. VIRTUAL SERVICE DELIVERY: Despite a Congressional Directive, the IRS Has Not Maximized the Appropriate Use of Videoconferencing and Similar Technologies to Enhance Taxpayer Services . . . . . 154

**The Right to Be Informed: Adequate Explanations**

- 16. MATH ERROR NOTICES: The IRS Does Not Clearly Explain Math Error Adjustments, Making it Difficult for Taxpayers to Understand and Exercise Their Rights . . . . . 163
- 17. NOTICES: Refund Disallowance Notices Do Not Provide Adequate Explanations . . . . . 172

**The Rights to Privacy and to a Fair and Just Tax System**

- 18. COLLECTION DUE PROCESS: The IRS Needs Specific Procedures for Performing the Collection Due Process Balancing Test to Enhance Taxpayer Protections . . . . . 197
- 19. FEDERAL PAYMENT LEVY PROGRAM: Despite Some Planned Improvements, Taxpayers Experiencing Economic Hardship Continue to Be Harmed by the Federal Payment Levy Program . . . . . 197
- 20. OFFERS IN COMPROMISE: Despite Congressional Actions, the IRS Has Failed to Realize the Potential of Offers in Compromise . . . . . 206
- 21. OFFERS IN COMPROMISE: The IRS Does Not Comply with the Law Regarding Victims of Payroll Service Provider Failure . . . . . 218
- 22. MANAGERIAL APPROVAL FOR LIENS: The IRS’s Administrative Approval Process for Notices of Federal Tax Lien Circumvents Key Taxpayer Protections in RRA 98 . . . . . 225
- 23. STATUTORY NOTICES OF DEFICIENCY: Statutory Notices of Deficiency Do Not Include Local Taxpayer Advocate Office Contact Information on the Face of the Notices . . . . . 237

**LEGISLATIVE RECOMMENDATIONS**

- Introduction** . . . . . 245

- National Taxpayer Advocate Legislative Recommendations with Congressional Action** . . . . . 254

**Taxpayer Bill of Rights**

- 1. TAXPAYER RIGHTS: Codify the Taxpayer Bill of Rights and Enact Legislation that Provides Specific Taxpayer Protections . . . . . 275

**The Right to Quality Service**

- 2. ACCESS TO APPEALS: Require that Appeals Have At Least One Appeals Officer and Settlement Officer Located and Permanently Available within Every State, the District of Columbia, and Puerto Rico . . . . . 311
- 3. RETURN PREPARATION: Require the IRS to Provide Return Preparation to Taxpayers in Taxpayer Assistance Centers and Via Virtual Service Delivery . . . . . 315
- 4. VIRTUAL SERVICE DELIVERY (VSD): Establish Targets and Deadlines for the Development and Implementation of VSD in Brick & Mortar Locations, in Mobile Tax Assistance Units, and Over the Internet . . . . . 320

**The Right to a Fair and Just Tax System: Complexity**

- 5. SECTION 501(c)4 POLITICAL CAMPAIGN ACTIVITY: Enact an Optional “Safe Harbor” Election That Would Allow IRC § 501(c)(4) Organizations to Ensure They Do Not Engage in Excessive Political Campaign Activity . . . . . 325
- 6. FOREIGN ACCOUNT REPORTING: Legislative Recommendations to Reduce the Burden of Filing a Report of Foreign Bank and Financial Accounts (FBAR) and Improve the Civil Penalty Structure . . . . . 331
  - PENALTIES: Improve the Proportionality of the Civil FBAR Penalty . . . . . 334
  - PENALTIES: Require the Government to Prove Actual Willfulness Before Imposing the Penalty for Willful FBAR Violations. . . . . 339
  - CLOSING AGREEMENTS: Authorize the IRS to Modify Closing Agreements to Treat Taxpayers Who Correct Violations Early the Same As (or Better Than) Those Who Correct Them Later . . . . . 341
  - FBAR FORMS: Reduce the Burden of Foreign Account Reporting. . . . . 343
- 7. FILING STATUS: Clarify the Definition of “Separate Return” in IRC § 6013 and Allow Taxpayers Who Petition the Tax Court to Change Their Filing Status to Married Filing Jointly in Accordance with the Tax Court’s Rules of Practice and Procedure . . . . . 346
- 8. ERRONEOUS REFUND PENALTY: Amend Section 6676 to Permit “Reasonable Cause” Relief . . . . . 351

**The Right to Be Informed: Access to the IRS**

- 9. ACCESS TO THE IRS: Require the IRS to Publish a Public Phone Directory and Report on Implementing an Operator System Similar to “311” Lines. . . . . 357
- 10. IRS CORRESPONDENCE: Codify § 3705(a)(1) of RRA 98, Define “Manually Generated,” and Require Contact Information on Certain Notices in All Cases . . . . . 361

**The Right to Be Informed: Adequate Explanation**

- 11. ANNUAL NOTICES: Require the IRS to Provide More Detailed Information on Certain Annual Notices it Sends to Taxpayers . . . . . 366

**The Rights to Appeal and to Challenge the IRS’s Position and Be Heard**

- 12. EO JUDICIAL AND ADMINISTRATIVE REVIEW: Allow IRC § 501(C)(4), (C)(5), or (C)(6) Organizations to Seek a Declaratory Judgment to Resolve Disputes About Exempt Status and Require the IRS to Provide Administrative Review of Automatic Revocations of Exempt Status . . . . . 371
- 13. STANDARD OF REVIEW: Amend IRC § 6330(d) to Provide for a *De Novo* Standard of Review of Whether the Collection Statute Expiration Date Is Properly Calculated by the IRS . . . . . 380
- 14. APPELLATE VENUE IN NON-LIABILITY CDP CASES: Amend IRC § 7482 to Provide That the Proper Venue to Seek Review of a Tax Court Decision in Collection Due Process Cases Lies with the Federal Court of Appeals for the Circuit in Which the Taxpayer Resides . . . . . 387

**The Rights to Privacy and to a Fair and Just Tax System**

- 15. OFFERS IN COMPROMISE: Authorize the National Taxpayer Advocate to Determine Whether an Offer in Compromise Submitted by a Victim of Payroll Service Provider Fraud Is “Fair and Equitable” . . . . . 392

16. MANAGERIAL APPROVAL FOR LIENS: Require Managerial Approval Prior to Filing a Notice of Federal Tax Lien in Certain Situations . . . . .	396
17. MANAGERIAL APPROVAL: Amend IRC § 6751(b) to Require IRS Employees to Seek Managerial Approval Before Assessing the Accuracy Related Penalty Attributable to Negligence under IRC § 6662(b)(1) . . . . .	411
18. CONTACT INFORMATION ON STATUTORY NOTICES OF DEFICIENCY: Revise IRC § 6212 to Require the IRS to Place Taxpayer Advocate Service Contact Information on the Face of the Statutory Notice of Deficiency and Include Low Income Taxpayer Clinic Information with Notices Impacting that Population . . . . .	417
19. LATE-FILED RETURNS: Clarify the Bankruptcy Law Relating to Obtaining a Discharge. . . . .	417

## THE MOST LITIGATED ISSUES

<b>Introduction</b> . . . . .	423
<b>Significant Cases</b> . . . . .	427
1. Accuracy-Related Penalty Under IRC § 6662(b)(1), (2), and (3) . . . . .	443
2. Trade or Business Expenses Under IRC § 162 and Related Sections . . . . .	453
3. Summons Enforcement Under IRC §§ 7602, 7604, and 7609 . . . . .	462
4. Gross Income Under IRC § 61 and Related Sections . . . . .	472
5. Appeals From Collection Due Process Hearings Under IRC §§ 6320 and 6330 . . . . .	477
6. Failure to File Penalty Under IRC § 6651(a)(1), Failure to Pay Amount Shown as Tax on a Return Under IRC § 6651(a)(2), and Failure to Pay Estimated Tax Penalty Under IRC § 6654 . . . . .	495
7. Civil Actions to Enforce Federal Tax Liens or to Subject Property to Payment of Tax Under IRC § 7403 . . . . .	503
8. Frivolous Issues Penalty Under IRC § 6673 and Related Appellate-Level Sanctions . . . . .	510
9. Charitable Deductions Under IRC § 170 . . . . .	513
10. Passive Activity Losses (PAL) Under IRC § 469 . . . . .	520

<b>TAS CASE ADVOCACY</b> . . . . .	528
------------------------------------	-----

<b>APPENDICES</b> . . . . .	550
-----------------------------	-----

## Volume Two: TAS Research and Related Studies

---

1. Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help from the Clinics. . . . .	1
2. Estimating the Impact of Audits on the Subsequent Reporting Compliance of Small Business Taxpayers: Preliminary Results . . . . .	27
3. Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014 . . . . .	43

## PREFACE: Introductory Remarks by the National Taxpayer Advocate

---

### HONORABLE MEMBERS OF CONGRESS:

I respectfully submit for your consideration the National Taxpayer Advocate's 2014 Annual Report to Congress. Section 7803(c)(2)(B)(ii) of the Internal Revenue Code requires the National Taxpayer Advocate to submit this report each year and in it, among other things, to identify at least 20 of the most serious problems encountered by taxpayers and to make administrative and legislative recommendations to mitigate those problems.

In this year's report, I attempt to make the case for four major points:

- First, the budget environment of the last five years has brought about a devastating erosion of taxpayer service, harming taxpayers individually and collectively;
- Second, the lack of effective administrative and congressional oversight, in conjunction with the failure to pass Taxpayer Rights legislation, has eroded taxpayer protections enacted 16 or more years ago;
- Third, the combined effect of these trends is reshaping U.S. tax administration in ways that are not positive for future tax compliance or for public trust in the fairness of the tax system; and
- Fourth, this downward slide can be addressed if Congress makes an investment in the IRS and holds it accountable for how it applies that investment.

Moreover, I believe we need fundamental tax reform, sooner rather than later, so the entire system does not implode.<sup>1</sup> Although this year's report does not focus on tax reform, I have recommended tax reform in my reports and congressional testimony for many years.<sup>2</sup>

### The devastating erosion of taxpayer service harms taxpayers individually and collectively.

As the nation's advocate for taxpayers, I feel compelled to speak up about the degradation of service provided by the IRS in all aspects of its work, primarily in its pre-filing and filing activities but also in its

---

1 For a discussion of the role the IRS could play in addressing the complexity of the tax code, see *Most Serious Problems: COMPLEXITY: The IRS Does Not Report on Tax Complexity as Required by Law; and COMPLEXITY: The IRS Has No Process to Ensure Front-Line Technical Experts Discuss Legislation with the Tax Writing Committees, as Requested by Congress, infra.*

2 See National Taxpayer Advocate 2012 Annual Report to Congress 3-23 (Most Serious Problem: *The Complexity of the Tax Code*); Testimony of Nina E. Olson, National Taxpayer Advocate, at *Hearing on Fundamental Tax Reform Before H. Comm. On Ways and Means*, 112th Cong. (2011), at <http://waysandmeans.house.gov/calendar/eventsingle.aspx?EventID=219701>; National Taxpayer Advocate 2010 Annual Report to Congress 3-14 (Most Serious Problem: *The Time for Tax Reform Is Now*); National Taxpayer Advocate 2010 Annual Report to Congress 365-72 (Legislative Recommendation: *Enact Tax Reform Now*); National Taxpayer Advocate 2005 Annual Report to Congress 375-80 (Key Legislative Recommendation: *A Taxpayer-Centric Approach to Tax Reform*); Presentation of Nina E. Olson, National Taxpayer Advocate, at Public Meeting of the President's Advisory Panel on Federal Tax Reform (Mar. 3, 2005) at <http://www.taxreformpanel.gov/meetings/meeting-03032005.shtml>. Over the past decade, the National Taxpayer Advocate's annual reports have contained dozens of additional proposals to simplify particular sections or areas of the tax code.

enforcement activities. We outline this sad state of affairs in the first five Most Serious Problems discussed herein, which cover in detail the crisis in taxpayer service and its effects on taxpayers of all ilk.<sup>3</sup>

As we note in Most Serious Problem #1, *TAXPAYER SERVICE: Taxpayer Service Has Reached Unacceptably Low Levels and Is Getting Worse, Creating Compliance Barriers and Significant Inconvenience for Millions of Taxpayers*, the IRS's inflation-adjusted budget has declined by about 17 percent between Fiscal Years (FYs) 2010 and 2015. Yet during this period, the number of taxpayers (individual and business) has increased significantly, along with the scope and complexity of the tax system and the duties assigned to the IRS. The sheer size of the IRS's annual workload can be demonstrated by just a few statistics for FY 2014:

- Nearly 160 million individual and business returns filed;<sup>4</sup>
- More than 100 million phone calls received;<sup>5</sup>
- Nearly 10 million pieces of correspondence received about taxpayer account issues;<sup>6</sup> and
- More than 5 million taxpayer visits to IRS walk-in sites.<sup>7</sup>

Similarly, the decay in taxpayer service can also be summed up by a few FY 2014 statistics:

- 35.6 percent of phone calls went unanswered by customer service representatives;
- 50 percent of pieces of correspondence were not handled timely;
- Virtually zero tax returns were prepared by IRS walk-in sites;
- Only about 6 percent of the outreach and education budget of the Wage and Investment Division, which is responsible for helping approximately 126 million individuals understand and comply with their tax obligations, is devoted to activities that involve face-to-face contact with taxpayers. Thus, localized outreach and education have nearly disappeared.
- In 13 states, no outreach and education employees were focused on the 65 million small business and self-employed taxpayers served by the Small Business/Self-Employed Division.<sup>8</sup>

When the IRS does not answer the calls its taxpayers are making to it, and when it does not timely read and respond to the letters its taxpayers are sending it, the tax system goes into a downward spiral. Taxpayers do not get answers to their questions, so they must either pay for advice they would otherwise obtain for free, or they proceed without any advice at all, leading to future compliance problems (and

3 The first five most serious problems are: *TAXPAYER SERVICE: Taxpayer Service Has Reached Unacceptably Low Levels and Is Getting Worse, Creating Compliance Barriers and Significant Inconvenience for Millions of Taxpayers*; *TAXPAYER SERVICE: Due to the Delayed Completion of the Service Priorities Initiative, the IRS Currently Lacks a Clear Rationale for Taxpayer Service Budgetary Allocation Decisions*; *IRS LOCAL PRESENCE: The Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability to Improve Voluntary Compliance and Effectively Address Noncompliance*; *APPEALS: The IRS Lacks a Permanent Appeals Presence in 12 States and Puerto Rico, Thereby Making It Difficult for Some Taxpayers to Obtain Timely and Equitable Face-to-Face Hearings with an Appeals Officer or Settlement Officer in Each State*; and *VITA/TCE FUNDING: Volunteer Tax Assistance Programs Are Too Restrictive and the Design Grant Structure Is Not Adequately Based on Specific Needs of Served Taxpayer Populations*.

4 IRS Publication 6292, *Fiscal Year Return Projections for the United States 2014-2021*, at 4 (Fall 2014).

5 IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (final week of FY 2014).

6 IRS, Joint Operations Center, *Adjustments Inventory Reports: July-September Fiscal Year Comparison (FY 2014)*.

7 IRS Wage & Investment Division, *Business Performance Review 7* (4th Quarter – FY 2014, Nov. 6, 2014).

8 IRS, Individual Returns Transaction File, IRS Compliance Data Warehouse (TY 2013 returns filed through Oct. 2014); IRS HRR, Report of SBSE Job Series 0526, Stakeholder Liaison Field Employees as of November 1, 2014 (Nov. 19, 2014) (13 states include Alaska, Delaware, Hawaii, Kentucky, Mississippi, Montana, North Dakota, Nebraska, New Hampshire, South Dakota, Vermont, West Virginia, Wyoming); National Taxpayer Advocate 2012 Annual Report to Congress 319 (Most Serious Problem: *The IRS is Substantially Reducing Both the Amount and Scope of Its Direct Education and Outreach to Taxpayers and Does Not Measure the Effectiveness of Its Remaining Outreach Activities, Thereby Risking Increased Noncompliance*).



more burden for the taxpayer and more work for the IRS). Taxpayers are unable to provide the IRS with information that would resolve a problem with a return or an audit issue. And taxpayers are unable to talk with an IRS employee about how they can pay their past tax debts using collection alternatives available under the tax laws.

Most people understand that the Taxpayer Services budget category includes the IRS phone system and the correspondence system. But few people understand that what is covered by IRS phone and paper activity touches just about every taxpayer in some aspect of his, her, or its interaction with the tax system. To wit:

- Taxpayer Services annually involves the acceptance and processing of all returns for individuals, businesses (including payroll tax), and information reporting (including W-2s, 1099s, and new forms required under the Affordable Care Act).
- Taxpayer Services includes issuing refunds, depositing tax payments and other remittances, resolving errors or issues identified in the processing of returns, including refund fraud and identity theft, and processing amended returns.
- Taxpayer Services includes handling taxpayer calls and processing taxpayer responses to IRS notices about math error adjustments, penalty abatements, automated substitutes for returns, and automated underreporter adjustments, as well as statutory notices of deficiency.
- Taxpayer Services includes answering phone calls from taxpayers requesting installment agreements and other payment arrangements, including those seeking currently not collectible (CNC) status because of economic hardship.

---

**For every phone call or piece of correspondence that goes unanswered, there is a great likelihood problems will arise that will require more IRS resources and impose more burden on taxpayers to later resolve. The correspondence inventory backlogs will spill over into the next filing season, further reducing the IRS's ability to deliver a satisfactory filing season in years to come.**

---

For FY 2015, the IRS originally projected it would achieve a 54 percent level of service (LOS) on the phones, meaning that almost half of the taxpayers wanting to speak with a live assistor would not get through.<sup>9</sup> It also projected that about half its correspondence would be over-aged (meaning that, on average, about half of the correspondence would not be processed within 45 days of receipt). However, with the receipt of the final FY 2015 appropriation, the state of affairs for taxpayers is much worse.

Specifically, the IRS projects that, depending on when the IRS releases its seasonal workers, the level of service on the phones could be as low as 43 percent (on average, which means that on any given day the LOS could be truly abysmal) and it may be unable to handle up to 1.9 million fewer pieces of correspondence as compared with FY 2014.<sup>10</sup> Thus, potentially millions of taxpayers will not be able to reach the IRS when they need to, and their written communications will go unanswered or unaddressed. Taxpayers will not get their math error notices corrected or penalties abated, leading to incorrect assessments and expensive downstream dispute resolution activities, including audit reconsideration, appeals, and litigation. Taxpayers will be unable to talk with IRS employees about making payment arrangements, resulting in automated and unnecessary liens and levies and leading to expensive downstream activities like levy releases and lien releases and withdrawals. For every phone call or piece of correspondence that goes unanswered, there

<sup>9</sup> Wage & Investment Business Performance Review Fourth Quarter (Nov. 6.), 2014) at 4.

<sup>10</sup> IRS Senior Executive Team discussion (Dec. 23, 2014) (information on file with the National Taxpayer Advocate).

is a great likelihood problems will arise that will require more IRS resources and impose more burden on taxpayers to later resolve. The correspondence inventory backlogs will spill over into the next filing season, further reducing the IRS's ability to deliver a satisfactory filing season in years to come.

Why would anyone want to go this route? The answer, I think, is that no one really wants to go this way, but everyone is in collective denial about what inadequate funding for the IRS means to taxpayers.

This denial must stop. We have to face up to the fact that we have an incredibly complex tax system that, by virtue of its complexity, creates burden, confusion, and unfairness. It is a challenge for any tax agency to properly administer a system such as the one we have. But it is *impossible* for an underfunded tax agency to do so. The victims of this underfunding are not the IRS and its employees—the victims are U.S. taxpayers.

### **Congress must act to ensure existing taxpayer rights protections are properly implemented and new protections are put in place.**

On June 10, 2014, the IRS formally adopted the Taxpayer Bill of Rights (TBOR) that I have long recommended and advocated for.<sup>11</sup> I have followed the TBOR as the North Star for this Report. In the Report's major sections—the Most Serious Problems Encountered by Taxpayers, Legislative Recommendations, and Most Litigated Issues—in almost every case, we have linked each of the issues discussed to one or more of the foundational rights taxpayers have under our TBOR. We do so in order to demonstrate that the TBOR can and should guide our every action in tax administration.

Between 1988 and 1998, Congress passed three landmark pieces of legislation establishing taxpayer rights protections and providing remedies for violations of those protections.<sup>12</sup> As we identify in *each* of the 23 Most Serious Problems of taxpayers discussed in this report, these protections have not been implemented as envisioned. There are many reasons for the IRS's failure to adequately implement the provisions. In some cases, legal interpretation has diluted the original legislative goal.<sup>13</sup> In other instances, the tax system itself has changed so much that provisions enacted nearly three decades ago no longer fit today's administrative processes.<sup>14</sup> Sometimes, implementation has been delayed or cannot be achieved because of the design of the IRS's existing technology systems.<sup>15</sup> In all instances, we make recommendations for how the IRS can improve its administration of these provisions so they provide substantive protection to U.S. taxpayers.

11 Internal Revenue Service, News Release IR-2014-72, *IRS Adopts "Taxpayer Bill of Rights;" 10 Provisions to be Highlighted on IRS.gov*, in *Publication 1* (June 10, 2014), at <http://www.irs.gov/uac/Newsroom/IRS-Adopts-Taxpayer-Bill-of-Rights;-10-Provisions-to-be-Highlighted-on-IRSGov,-in-Publication-1>.

12 See Technical and Miscellaneous Revenue Act, Pub. L. No. 100-647, § 6226, 102 Stat. 3342, 3730 (1988) (containing the "Omnibus Taxpayer Bill of Rights," also known as TBOR 1); Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452 (1996) (also known as TBOR 2); Internal Revenue Service Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (Title III is known as "Taxpayer Bill of Rights 3" or TBOR 3).

13 See, e.g., the following most serious problems discussed *infra*: *AUDIT NOTICES: The IRS's Failure to Include Employee Contact Information on Audit Notices Impedes Case Resolution and Erodes Employee Accountability*; *CORRESPONDENCE EXAMINATION: The IRS has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*; *STATUTORY NOTICES OF DEFICIENCY: Statutory Notices of Deficiency Do Not Include Local Taxpayer Advocate Office Contact Information on the Face of the Notices*; and *MANAGERIAL APPROVAL FOR LIENS: The IRS's Administrative Approval Process for Notices of Federal Tax Lien Circumvents Key Taxpayer Protections in RRA 98*.

14 See, e.g., Most Serious Problem: *ACCESS TO THE IRS: Taxpayers are Unable to Navigate the IRS and Reach the Right Person to Resolve Their Tax Issues*, *infra*.

15 See, e.g., Most Serious Problem: *VIRTUAL SERVICE DELIVERY: Despite a Congressional Directive, the IRS Has Not Maximized the Appropriate Use of Videoconferencing and Similar Technologies to Enhance Taxpayer Services*, *infra*.

---

The erosion of taxpayer trust is an even more serious matter than the erosion of taxpayer service, because with the provision of adequate funding, declines in taxpayer service can be reversed. Not so with declines in trust—once lost, trust takes a very long time to be regained. For a taxpayer whose trust has been shaken, each IRS failure to meet basic expectations (e.g., answer the phone ...) confirms the belief that the IRS is not to be trusted.

---

But the work toward creating a vital system of taxpayer rights with enforceable remedies for violations of those rights is not yet done. Over the last year, my office has identified areas where taxpayer rights protections are weak or nonexistent under current law, and other areas where the IRS has resisted Congress's direction in past legislation.

Thus, my number one Legislative Recommendation is that Congress enact landmark taxpayer rights legislation this year, which would include codification of the Taxpayer Bill of Rights and adoption of the taxpayer rights legislative recommendations my office and others have made since 1998. For everyone's convenience, we summarize those legislative proposals, aligned with the rights they protect.<sup>16</sup>

Passage of a taxpayer rights bill will accomplish several things that are desperately needed in today's environment. First, it will create a vehicle for a meaningful discussion about taxpayer rights, the role they play in promoting voluntary compliance, and what mechanisms exist to instill the protection of taxpayer rights into every nook and cranny of tax administration. Second, by codification of the TBOR and enforceable remedies for violations of rights enunciated in the TBOR, the United States will become the model for the world in the protection of taxpayer rights. Third, and most importantly, this combination of rights and remedies will begin to restore the U.S. taxpayers' trust in the tax system.

### The emerging shape of U.S. tax administration is not encouraging for future tax compliance or taxpayers' trust in the fairness of tax administration.

For the last five years or so, the Office of the Taxpayer Advocate has undertaken some of the most important studies conducted to date about the factors influencing taxpayers' compliance behavior.<sup>17</sup> In a study of sole proprietors, who IRS research data show are responsible for the largest portion of the tax gap, we found that trust in the government, in the IRS, and in the fairness of the tax system is the greatest corollary to tax compliance behavior. Specifically, the factors that appear to have the greatest influence on whether a taxpayer is compliant or noncompliant are the norms of the taxpayer's community and the provision of taxpayer service.

As noted above, the IRS is not providing adequate taxpayer service these days. Per our studies, this does not bode well for the future compliance behavior of taxpayers. But the erosion of taxpayer trust is an even more serious matter than the erosion of taxpayer service, because with the provision of adequate funding, declines in taxpayer service can be reversed. Not so with declines in trust. Once lost, trust takes a very long time to be regained. For a taxpayer whose trust has been shaken, each IRS failure to meet basic expectations (e.g., answer the phone, listen carefully, consider the specific facts and circumstances, provide alternatives, take the extra step to help) confirms the belief that the IRS is not to be trusted.

<sup>16</sup> See Legislative Recommendation: *TAXPAYER RIGHTS: Codify the Taxpayer Bill of Rights and Enact Legislation that Provides Specific Taxpayer Protections*, *infra*.

<sup>17</sup> See National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2, 60-61 (*Small Business Compliance: Further Analysis of Influential Factors*); National Taxpayer Advocate 2012 Annual Report to Congress, vol. 2, 1-70 (*Factors Influencing Voluntary Compliance by Small Businesses: Preliminary Survey Results*). See also National Taxpayer Advocate 2007 Annual Report to Congress vol. 2, 138-50 (Marjorie E. Kornhauser, *Normative and Cognitive Aspects of Tax Compliance: Literature Review and Recommendations for the IRS Regarding Individual Taxpayers*).

The IRS will never be a beloved federal agency, because it is the face of the government’s power to tax and collect. But it should be a *respected* agency. When there are accusations of bias or heavy-handed actions by the tax agency, these reinforce the already deep concerns the U.S. taxpayer bears toward taxes, such concerns going back to the nation’s founding. But casting the entire agency and all its employees as an out-of-control agency in response to the actions of a few, no matter how deplorable those actions may be, is harmful to taxpayers and to tax compliance.<sup>18</sup> We need to recognize that the IRS and its employees play a vital role in the economic welfare of this country. And we need to find a way to support the agency even as we hold it accountable for what is often a thankless task.

---

The IRS will never be a beloved federal agency, because it is the face of the government’s power to tax and collect. But it should be a *respected* government agency.... We need to recognize that the IRS and its employees play a vital role in the economic welfare of this country. And we need to find a way to support the agency even as we hold it accountable for what is often a thankless task.

---

### **Congress must simultaneously make an investment in the IRS and hold it accountable for how it applies that investment.**

I have spent my entire professional life protecting the rights of taxpayers, individually and collectively, and advocating for systemic changes in the tax system. I firmly believe that the best way to improve the IRS is to have active, consistent oversight of and support for the agency by both the Administration and Congress.

On the Administration’s part, this means (1) proposing budgets that recognize and fund the important role taxpayer service plays in promoting voluntary compliance; (2) establishing administrative remedies to protect taxpayer rights; (3) establishing performance measures that promote taxpayer rights; and (4) holding IRS officials accountable for violations of taxpayer rights. In order to measure the IRS’s performance in fulfilling the promise of the Taxpayer Bill of Rights, we present, as an appendix to this Preface, an assessment of taxpayer rights performance measures that lists specific data under each of the ten rights. In future reports, we will develop this assessment and fill in any data gaps.

As discussed earlier, Congress can both support the IRS and hold it accountable by funding the IRS adequately to conduct the task of administering the complex system Congress has enacted. It can, and should, enact taxpayer rights legislation, including TBOR codification. But on an ongoing basis, Congress should exercise its oversight authority by holding regular hearings on IRS activity—not just on the issue *du jour* but on all the routine work the IRS does. Focusing on current tax administration challenges, these hearings could address the following questions:

- With respect to taxpayer service, what data did the IRS rely on to decide to limit the scope of tax-law questions on the phones or in person, or eliminate tax return preparation in the Taxpayer Assistance Centers?<sup>19</sup>

18 In this Report, I make substantive legislative proposals to address one source of taxpayers’ distrust of the IRS, e.g., its handling of political campaign activities by IRC § 501(c)(4) social welfare organizations. See Legislative Recommendation: *Section 501(c)(4) Political Campaign Activity: Enact an Optional “Safe Harbor” Election That Would Allow IRC § 501(c)(4) Organizations to Ensure They Do Not Engage in Excessive Political Campaign Activity*, and Legislative Recommendation: *EO Judicial and Administrative Review: Allow IRC § 501(c)(4), (c)(5), or (c)(6) Organizations to Seek a Declaratory Judgment to Resolve Disputes About Exempt Status and Require the IRS to Provide Administrative Review of Automatic Revocations of Exempt Status*, *infra*.

19 See Most Serious Problem: *TAXPAYER SERVICE: Due to the Delayed Completion of the Service Priorities Initiative, the IRS Currently Lacks a Clear Rationale for Taxpayer Service Budgetary Allocation Decisions*, *infra*.

- Is the IRS effectively utilizing its existing resources to collect past-due tax liabilities, or does it, as I believe, need to completely revise its approach to collection?<sup>20</sup>
- Does the IRS's approach to penalty administration promote voluntary compliance, or is it confirming taxpayers' belief that the system is stacked against them and thus increasing noncompliant behavior?<sup>21</sup>
- Do IRS employees have the appropriate education and skills to deal with such diverse populations as those subject to the offshore account reporting regimes and those eligible for the Earned Income Tax Credit (EITC)?<sup>22</sup>
- Is the future vision of the IRS going to leave low income taxpayers—who constitute over 40 percent of the U.S. population—behind, as the IRS moves away from person-to-person communication and toward online information?<sup>23</sup>
- What is the impact on taxpayer attitudes and voluntary compliance if the only time a taxpayer has direct contact with an IRS employee is when that employee is taking an enforcement action (*i.e.*, conducting an audit or imposing a penalty, lien, or levy)?<sup>24</sup>

These are profound issues for the future of our tax system, which annually touches more people in the U.S. than any other federal government agency. Bipartisan, dispassionate congressional hearings on these issues, with testimony not just from IRS personnel, GAO, and TIGTA, but also from academics and other experts, tax professional groups, and low income taxpayer clinics, would help create a framework for what the IRS needs and how it should operate in order to gain the trust of U.S. taxpayers in the twenty-first century. Along the way, taxpayers can begin to be educated about the daily work of the IRS and the reasons for its actions.

- 
- 20 See Most Serious Problem: *OFFERS IN COMPROMISE: The IRS Does Not Comply with the Law Regarding Victims of Payroll Service Provider Failure*, *infra*, and Most Serious Problem: *COLLECTION DUE PROCESS: The IRS Needs Specific Procedures for Performing the Collection Due Process Balancing Test to Enhance Taxpayer Protections*, *infra*.
- 21 See Most Serious Problem: *PENALTY STUDIES: The IRS Does Not Ensure Penalties Promote Voluntary Compliance, as Recommended by Congress and Others*, *infra*; Most Serious Problem: *OFFSHORE VOLUNTARY DISCLOSURE (OVD): The OVD Programs Initially Undermined the Law and Still Violate Taxpayer Rights*, *infra*; *FOREIGN ACCOUNT REPORTING: Legislative Recommendations to Reduce the Burden of Filing a Report of Foreign Bank and Financial Accounts (FBAR) and Improve the Civil Penalty Structure*, *infra*; and Legislative Recommendation: *ERRONEOUS REFUND PENALTY: Amend Section 6676 to Permit "Reasonable Cause" Relief*, *infra*.
- 22 See Most Serious Problem: *Workload Selection: The IRS Does Not Sufficiently Incorporate the Findings of Applied and Behavioral Research into Audit Selection Processes as Part of an Overall Compliance Strategy*, *infra*.
- 23 See U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, *Age and Sex of All People, Family Members and Unrelated Individuals Iterated by Income-to-Poverty Ratio and Race, Below 250% of Poverty*, (2013 and 2007 poverty data, available at <http://www.census.gov/hhes/www/poverty/data/incpovhlth/2013/index.html>). From tax year 2013 returns and based on the HHS 2013 poverty levels, the percent of taxpayers at or below 250 percent of poverty level is about 45 percent. Individual Returns Transaction File on IRS Compliance Data Warehouse. IRC § 7526 adopts 250 percent of federal poverty guidelines published by the Department of Health and Human Services as the general income eligibility level for Low Income Taxpayer Clinic assistance. Other IRS programs, including waivers of user fees for Offers in Compromise and exclusion from the Federal Payment Levy Program, adopt this definition. See Most Serious Problem: *VITA/TCE FUNDING: Volunteer Tax Assistance Programs Are Too Restrictive and the Design of the Grant Structure is Not Adequately Based on Specific Needs of Served Taxpayer Populations*, *infra*; Legislative Recommendation: *RETURN PREPARATION: Require the IRS to Provide Return Preparation to Taxpayers in Taxpayer Assistance Centers and Via Virtual Service Delivery*, *infra*; and Volume 2 Research Study: *Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help from the Clinics*, *infra*.
- 24 See Most Serious Problem: *IRS LOCAL PRESENCE: The Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability to Improve Voluntary Compliance and Effectively Address Noncompliance*, *infra*; Most Serious Problem: *APPEALS: The IRS Lacks a Permanent Appeals Presence in 12 States and Puerto Rico, Thereby Making It Difficult for Some Taxpayers to Obtain Timely and Equitable Face-to-Face Hearings with an Appeals Officer or Settlement Officer in Each State*, *infra*; and Volume 2 Research Study: *Estimating the Impact of Audits on the Subsequent Reporting Compliance of Small Business Taxpayers: Preliminary Results*, *infra*.

Finally, Congress must do its part to ensure that taxpayers have the *right to a fair and just tax system* by enacting fundamental tax reform—a reform that brings sanity and clarity for all taxpayers. That would be good for our country, for our taxpayers, and for the IRS.

The increasing workload the IRS faces, the erosion of public trust occasioned by the IRS's highly publicized use of terms like “tea party” in screening organizations applying for tax-exempt status and related management issues, and the sharp reduction in funding have created a “perfect storm” of trouble for effective tax administration. Taxpayers who need help are not getting it, and tax compliance is likely to suffer over the longer term if these problems are not quickly and decisively addressed.

Now more than ever, Congressional involvement is needed to repair the damage and place tax administration on a better path forward. In the short term, I urge Congress to take the following steps:

- Enact a true Taxpayer Bill of Rights along the lines I describe in this report in order to protect taxpayers and help restore their trust in the fairness of the system;
- Conduct meaningful oversight hearings into the nuts and bolts of tax administration that haven't captured public attention in the same way as certain other issues but shape the experiences of millions of taxpayers in critical ways every day; and
- Along with proper oversight, provide the IRS with the additional funding it needs to answer taxpayer phone calls and otherwise do its job well.

Over the long term, I urge Congress to enact comprehensive tax reform, with simplification as a key goal.

I look forward to working with Congress on these important issues in the coming year, and I remain hopeful that we can provide U.S. taxpayers with the quality tax system they both need and deserve.

Respectfully submitted,



Nina E. Olson  
National Taxpayer Advocate  
31 December 2014

## TAXPAYER RIGHTS ASSESSMENT: IRS Performance Measures and Data Relating to Taxpayer Rights

In the 2013 Annual Report to Congress, the National Taxpayer Advocate proposed a “report card” of measures that would “...provide a good indication whether the IRS is treating U.S. taxpayers well and furthering voluntary compliance.”<sup>1</sup>

On June 10, 2014, the IRS adopted a Taxpayer Bill of Rights (TBOR), a list of ten rights that the National Taxpayer Advocate recommended to help taxpayers and IRS employees alike gain a better understanding of the dozens of discrete taxpayer rights spread throughout the multi-million word Internal Revenue Code.<sup>2</sup> While this was a significant achievement for increasing taxpayers’ awareness of their rights, and an important first step in integrating taxpayer rights into all aspects of tax administration, more can be done. The *Taxpayer Rights Assessment* contains selected performance measures and data organized by the ten taxpayer rights and is another important step toward integrating taxpayer rights into tax administration.

This *Taxpayer Rights Assessment* is a work in progress. The following measures provide insights into IRS performance; but they are by no means comprehensive. In some instances, data is not readily available. In other instances, we may not yet have sufficient measures in place to evaluate adherence to specific taxpayer rights. And, despite what the numbers may show, we must pay particular attention to the needs of taxpayers who lack access to quality service even if overall performance metrics are improving. This *Taxpayer Rights Assessment* will grow and evolve over time as data becomes available and new concerns emerge.

- 1. THE RIGHT TO BE INFORMED** – Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

Measure/Indicator	FY 2014
Individual Correspondence Volume (adjustments) <sup>a</sup>	5,700,132
Average Days in Inventory <sup>b</sup>	57.6 days
Inventory Overage <sup>c</sup>	63.6%
Business Correspondence Volume (adjustments) <sup>d</sup>	3,471,571
Average Days in Inventory <sup>e</sup>	39 days
Inventory Overage <sup>f</sup>	17.5%
Total Correspondence (all types)	TBD
Quality of IRS Forms & Publications	TBD
IRS.gov Web Page Ease of Use	TBD
IRS Outreach	TBD

a IRS, Joint Operations Center, Adjustments Inventory Reports: July-September Fiscal Year Comparison (FY 2008 through FY 2014).

b IRS, Joint Operations Center, Weekly Enterprise Adjustments Inventory Report, FY 2014, week ending Sept. 27, 2014.

c *Id.*

d IRS, Joint Operations Center, Adjustments Inventory Reports: July-September Fiscal Year Comparison (FY 2008 through FY 2014).

e IRS, Joint Operations Center, Weekly Enterprise Adjustments Inventory Report, FY 2014, week ending Sept. 27, 2014

f *Id.*

- See National Taxpayer Advocate 2013 Annual Report to Congress, Preface, xvii-xviii (*Taxpayer Service Is Not an Isolated Function but Must Be Incorporated throughout All IRS Activities, Including Enforcement*).
- IRS Press Release IR-2014-72, June 10, 2014 (*IRS Adopts “Taxpayer Bill of Rights;” 10 Provisions to be highlighted on IRS.gov, in Publication 1*).

**2. THE RIGHT TO QUALITY SERVICE** – Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

Measure/Indicator	FY 2014
Number of Returns Filed (projected, all types) <sup>a</sup>	243,077,800
Total Individual Income Tax Returns <sup>b</sup>	147,812,000
E-file Receipts (Received by 11/21/14) <sup>c</sup>	125,821,000
E-file: Tax Professional <sup>d</sup>	62%
E-file: Self Prepared <sup>e</sup>	38%
<b>Returns Prepared by:</b>	
VITA/TCE/AARP <sup>f</sup>	3,322,582
Free File Consortium <sup>g</sup>	2,406,465
Fillable Forms <sup>h</sup>	478,501
IRS Taxpayer Assistance Centers (TACs) <sup>i</sup>	376
Number of Taxpayer Assistance (“Walk-In”) Centers <sup>j</sup>	382
Number of TAC Contacts <sup>k</sup>	5,477,279
Total Calls to IRS (Enterprise) <sup>l</sup>	100,667,411
Number of Attempted Calls to IRS Accounts Management (AM – formerly Customer Service) Lines <sup>m</sup>	86,171,857
Toll Free: Percentage of calls answered <sup>n</sup> (LOS)	64.4%
Toll Free: Average Speed of Answer <sup>o</sup>	19.6 minutes
NTA Toll Free: Percentage of calls answered (LOS)	68.9%
NTA Toll Free: Average Speed of Answer <sup>p</sup>	7.0 minutes
Practitioner Priority: Percentage of calls answered (LOS)	70.4%
Practitioner Priority: Average Speed of Answer <sup>q</sup>	27.4 minutes
Tax Exempt/Government Entities Percentage of calls answered <sup>r</sup> (LOS)	67.6%
Tax Exempt/Government Entities: Average Speed of Answer <sup>s</sup>	18.7 minutes
Awareness of Service (or utilization)	TBD
IRS Issue Resolution – Percentage of taxpayers who had their issue resolved as a result of the service they received	TBD
Taxpayer Issue Resolution – Percentage of taxpayers who reported their issue was resolved after receiving service	TBD

a IRS Pub. 6292, *Fiscal Year Return Projections for the United States 2014-2021*, at 4 (Fall 2014).  
b *Id.*  
c IRS, Filing Season Statistics, IRS Newsroom <http://www.irs.gov/uac/Newsroom/Nov-21-2014> (last viewed Nov. 26, 2014).  
d *Id.*  
e *Id.*  
f *Id.* Free, in-person return preparation is offered to low income and older taxpayers by non-IRS organizations through the Volunteer Income Tax Assistance (VITA), Tax Counseling for the Elderly (TCE), and AARP Tax-Aide programs.  
g IRS Compliance Data Warehouse (CDW), Electronic Tax Administration Marketing Database (ETA MDB), frequency table.  
h *Id.*  
i IRS, E-File Reports, Field Assistance Report, Current Year Accepted, Jan – Sept. 30, 2014.  
j Information received from Senior Advisor, Wage and Investment (Dec. 23, 2104). Three hundred eighty-nine Taxpayer Assistance Centers were open during the filing season and 382 were open at the end of the fiscal year.  
k Wage & Investment Division, Business Performance Review, 4th Quarter, FY2014. Dashboard, p.7.  
l IRS, Joint Operations Center, Snapshot Reports: Enterprise Snapshot, week ending Sept. 30, 2014 (report generated Oct. 16, 2014).  
m *Id.* Number of calls to Accounts Management (formerly Customer Services) - Sum of 30 lines (0217, 1040, 4933, 1954, 0115, 8374, 0922, 0582, 5227, 1778, 9887, 9982, 2942, 4184, 7388, 0452, 0352, 7451, 9946, 5215, 3536, 2050, 4017, 2060, 4778, 4259, 8482, 8775, 5500 and 4490). The IRS determines its level of service based on calls to Accounts Management, not total calls.  
n *Id.* Calls answered include reaching live assistant or selecting options to hear automated information messages.  
o *Id.*  
p *Id.*  
q *Id.*  
r *Id.*  
s *Id.*



- 3. THE RIGHT TO PAY NO MORE THAN THE CORRECT AMOUNT OF TAX** – Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

Measure/Indicator	FY 2014
Toll-Free Tax Law Accuracy <sup>a</sup>	95.0%
Toll-Free Accounts Accuracy <sup>b</sup>	96.2%
Scope of Tax Law Questions Answered	TBD
<b>Correspondence Examinations</b>	
No change rate <sup>c</sup>	17.3%
Agreed rate <sup>d</sup>	17.2%
Non-response rate <sup>e</sup>	44.4%
Percentage of cases appealed	TBD
<b>Field Examinations</b>	
No change rate <sup>f</sup>	15.5%
Agreed rate <sup>g</sup>	46.6%
Non-response rate <sup>h</sup>	0.3%
Percentage of cases appealed	TBD
<b>Office Examinations</b>	
No change rate <sup>i</sup>	13.7%
Agreed rate <sup>j</sup>	45.0%
Non-response rate <sup>k</sup>	19.0%
Percentage of cases appealed	TBD
Math Error Adjustments	TBD
Math Error Abatements	TBD
Number of Statutory Notices of Deficiency Issued	TBD
Number of Statutory Notices of Deficiency Appealed	TBD
Number of Collection Appeals Program Conferences	TBD
Number of Collection Appeals Program Conferences Reversing IRS position	TBD
Number of Collection Due Process Conferences	TBD
Number of Collection Due Process Conferences Reversing IRS position	TBD
Percentage of taxpayers subject to IRS burden (e.g., received a notice from math error, AUR, ASFR, audit, collection, or had a refund delayed) who were (or may have been) compliant (i.e., those whose math error, AUR, or ASFR resulted in no net increase in tax, those with delayed refunds that were ultimately paid, those who appeared to have delinquencies but where nothing was ultimately collected)	TBD

a IRS Wage & Investment Division, Business Performance Review, 4th Quarter, FY2014 (Nov. 6, 2014) at 4.

b *Id.*

c IRS, Audit Information Management System, Closed Case Database. Includes disposal codes 1 and 2.

d *Id.* Includes disposal codes 3, 4, and 9.

e *Id.* Includes disposal code 13 or disposal code 10 in combination with technique codes 6 or 7.

f *Id.* Includes disposal codes 1 and 2.

g *Id.* Includes disposal codes 3, 4, and 9.

h *Id.* Includes disposal code 13 or disposal code 10 in combination with technique codes 6 or 7.

i *Id.* Includes disposal codes 1 and 2.

j *Id.* Includes disposal codes 3, 4, and 9.

k *Id.* Includes disposal code 13 or disposal code 10 in combination with technique codes 6 or 7.

- 4. THE RIGHT TO CHALLENGE THE IRS'S POSITION AND BE HEARD** – Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

Measure/Indicator	FY 2014
Individual Correspondence Volume (adjustments) <sup>a</sup>	5,700,132
Average Days in Inventory <sup>b</sup>	57.6 days
Inventory Overage <sup>c</sup>	63.6%
Business Correspondence Volume <sup>d</sup>	3,471,571
Average Days in Inventory <sup>e</sup>	39 days
Inventory Overage <sup>f</sup>	17.5%
Percentage of Math Error Adjustments Abated	TBD
Percentage of Statutory Notices of Deficiency Appealed to Tax Court	TBD
Number of Collection Appeal Program Conferences Requested by Taxpayers <sup>g</sup>	TBD
Percentage of CAP Conferences that Reversed the IRS Position	TBD
Number of Collection Due Process Hearings Requested by Taxpayers <sup>h</sup>	TBD
Percentage of Collection Due Process Hearings that Reversed the IRS Position	TBD

a IRS, Joint Operations Center, Adjustments Inventory Reports: July-September Fiscal Year Comparison (FY 2008 through FY 2014).

b IRS, Weekly Enterprise Adjustments Inventory Report, FY 2014, week ending Sept. 27, 2014.

c *Id.*

d IRS, Joint Operations Center, Adjustments Inventory Reports: July-September Fiscal Year Comparison (FY 2008 through FY 2014).

e IRS, Weekly Enterprise Adjustments Inventory Report, FY 2014, week ending Sept. 27, 2014.

f *Id.*

g Taxpayers may request a Collection Appeals Process (CAP) review as the result of IRS actions such as filing a Notice of Federal Tax Lien, an IRS levy or seizure of property, and termination, rejection, or modification of an installment agreement. See, IRS Pub. 1660, *Collection Appeal Rights*.

h Taxpayers may request a Collection Due Process (CDP) review when the IRS plans to take actions such as filing a federal tax lien or levy. See, IRS Pub. 1660, *Collection Appeal Rights*.

- 5. THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM** – Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

Measure/Indicator	FY 2014
Number of Cases Appealed <sup>a</sup>	113,608
Appeals Staffing (On-rolls) <sup>b</sup>	1,704
Number of States without an Appeals or Settlement Officer <sup>c</sup>	12
Customer Satisfaction of service in Appeals	TBD
Average Days in Appeals to Resolution	TBD
Percentage of cases appealed	TBD
Percentage of Statutory Notices of Deficiency Appealed to Tax Court	TBD

a IRS Appeals Business Performance Review, 4th Quarter FY2014 (Nov. 10, 2014), at 9.

b *Id.*

c IRS, Human Resources Reporting Center, available at <https://persinfo.web.irs.gov/> (last visited June 27, 2014). This map does not include Puerto Rico, which also has no Appeals presence.

- 6. THE RIGHT TO FINALITY** – Taxpayers have the right to know the maximum amount of time they have to challenge the IRS’s position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

Measure/Indicator	FY 2014
Average Days to Complete Correspondence Examination (non-EITC) <sup>a</sup>	225 days
Average Days to Complete Correspondence Examination (EITC) <sup>b</sup>	243 days
Average Days to Reach Determination on Applications for Exempt Status <sup>c</sup>	237 days
Average Days for Exempt Organization Function to Respond to Correspondence <sup>d</sup>	66 days
Percentage of calls/letters/issues resolve in a single 2-way communication (single call, single meeting, or single exchange of correspondence)	TBD

a IRS, Wage & Investment Division, Business Performance Review, 4th Quarter, FY2014 (Nov. 6, 2014), at 8.

b *Id.*

c *Id.* at 16.

d *Id.*

- 7. THE RIGHT TO PRIVACY** – The right to privacy goes to the right to be free from unreasonable searches and seizures and that IRS actions would be no more intrusive than necessary. Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

Measure/Indicator	FY 2014
Number (or percentage) of Collection Due Process cases where IRS cited for Abuse of Discretion	TBD
Number of Offers in Compromise Submitted using ‘Effective Tax Administration’ as Basis <sup>a</sup>	1,468
Percentage of Offers in Compromise Accepted that used ‘Effective Tax Administration’ as Basis <sup>b</sup>	2.1%
Number of cases where taxpayer received repayment of attorney fees as result of final judgment.	TBD

a IRS response to TAS fact check (Nov. 26, 2014).

b *Id.*

- 8. THE RIGHT TO CONFIDENTIALITY** – Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

Measure/Indicator	FY 2014
Number of Unauthorized Access of Taxpayer Account (UNAX) Violations	TBD
Percentage of UNAX Violations Determined to be Inadvertent	TBD
Percentage of UNAX Violations Determined that Resulted in Discipline or Removal	TBD

- 9. THE RIGHT TO RETAIN REPRESENTATION** – Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

Measure/Indicator	FY 2014
Average Days for IRS to Process Power of Attorney Requests (Form 2848) <sup>a</sup>	3 Days
Percentage of Power of Attorney Requests Overage (as of Sept. 30, 2014) <sup>b</sup>	0%
Number of Low Income Taxpayer Clinics Funded <sup>c</sup>	131
Funds Appropriated for Low Income Taxpayer Clinics <sup>d</sup>	\$10 million
Number of States and other jurisdictions with a Low Income Taxpayer Clinic <sup>e</sup>	48
Number of Low Income Taxpayer Clinic Volunteer Hours <sup>f</sup>	60,229

a IRS, Joint Operations Center, Customer Account Services, Accounts Management Paper Inventory Reports FY 2014.

b *Id.*

c IRS Pub. 5066, *Low Income Taxpayer Clinics Program Report* (Dec. 2014).

d Consolidated Appropriations Act, Pub. L. No. 113-76, enacted Jan. 17, 2014.

e Forty-seven states and the District of Columbia have at least one Low Income Taxpayer Clinic. IRS Pub. 5066, *Low Income Tax Clinics Program Report* (Dec. 2014).

f IRS Pub. 5066, *Low Income Tax Clinics Program Report* (Dec. 2014).

- 10. THE RIGHT TO A FAIR AND JUST TAX SYSTEM** – Taxpayers have 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. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Measure/Indicator	FY 2014
Offer in Compromise: Number of Offers Submitted <sup>a</sup>	67,935
Offer in Compromise: Percentage of Offers Accepted <sup>b</sup>	41.9%
Installment Agreements: Number of Individual & Business IAs <sup>c</sup>	3,011,636
Streamlined Installment Agreements (ACS): Number of Individual & Business IAs <sup>d</sup>	2,857,043
Installment Agreements (CFF): Number of Individual & Business IAs <sup>e</sup>	52,619
Streamlined Installment Agreements (CFF): Number of Individual & Business IAs <sup>f</sup>	10,680
Number of OICs Accepted per Revenue Officer <sup>g</sup>	6.7
Number of IAs Accepted per Revenue Officer <sup>h</sup>	13.1
Percentage of Cases in the Queue (Taxpayers) <sup>i</sup>	15.6%
Percentage of Cases in the Queue (Modules) <sup>j</sup>	25.0%
Percentage of TDAs reported Currently Not Collectible – Surveyed <sup>k</sup>	18.2%
Age of Delinquencies in the Queue <sup>l</sup>	4.4 years
Percentage of Modules in Queue from TY 2010 and Prior <sup>m</sup>	80.2%
Percentage of cases where the taxpayer is fully compliant upon closure	TBD
Percentage of cases where the taxpayer is fully compliant after five years	42% <sup>n</sup>

a Collection Activity Report 5000-108 FY 2014 (Sep. 29, 2014).

b *Id.*

c Collection Activity Report 5000-6 FY 2014 (Sep. 29, 2014).

d *Id.*

e *Id.*

f *Id.*

g Collection Activity Report 5000-6 FY 2014 (Sep. 29, 2014); see also IRS Human Resources Reporting Center – number of revenue offices in SB/SE as of the end of FY 2014 (pay period 19).

h *Id.*

i Collection Activity Report 5000-2 FY 2014 (Sep. 29, 2014).

j Collection Activity Report 5000-6 FY 2014 (Sep. 29, 2014).

k Collection Activity Report 5000-2 FY 2014 (Sep. 29, 2014).

l Individual Master File Accounts Receivable Dollar Inventory as of the end of FY 2014 (cycle 201438).

m Collection Activity Report 5000-2 FY 2014 (Sep. 29, 2014).

n Calculation by TAS Research. Percentage of taxpayers with TDAs in 2009 who have no new delinquencies (TDAs or TDIs) five years later. IRS, Individual Master File.