

INTRODUCTION: Legislative Recommendations

Section 7803(c)(2)(B)(ii)(VIII) of the Internal Revenue Code (IRC) requires the National Taxpayer Advocate to include in her Annual Report to Congress, among other things, legislative recommendations to resolve problems encountered by taxpayers.

The figure immediately following this Introduction summarizes congressional action on recommendations the National Taxpayer Advocate proposed in her 2001 through 2014 Annual Reports.¹ The National Taxpayer Advocate places a high priority on working with the tax-writing committees and other interested parties to try to resolve problems encountered by taxpayers. In addition to submitting legislative proposals in each Annual Report, the National Taxpayer Advocate meets regularly with members of Congress and their staffs and testifies at hearings on the problems faced by taxpayers to ensure that Congress has an opportunity to receive and consider a taxpayer perspective. The following discussion highlights legislative activity during the 114th Congress relating to the National Taxpayer Advocate's proposals.

Consolidated Appropriations Act, 2016 and Taxpayer Bill of Rights

Shortly before this report went to print, Congress enacted the Consolidated Appropriations Act, 2016.² Most significantly, section 401 of this law codified the provisions of the Taxpayer Bill of Rights (TBOR), which had been adopted administratively by the IRS last year based on the National Taxpayer Advocate's recommendation.³ The National Taxpayer Advocate advocated for this codification in several of her prior Annual Reports to Congress,⁴ and members of both the House and Senate introduced various TBOR bills earlier in the year. Specifically, section 401 of the Consolidated Appropriations Act, 2016 amends IRC § 7803(a) to add a new paragraph that states: "In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title" and includes the ten TBOR rights. The National Taxpayer Advocate is pleased with this codification of TBOR and will work with the IRS to ensure that this statutory mandate is fulfilled.

Also of note, Congress appropriated \$290,000,000 above the IRS's FY 2016 funding level to be used solely to achieve "measurable improvements in the customer service representative level of service rate, to improve the identification and prevention of refund fraud and identity theft, and to enhance cybersecurity to safeguard taxpayer data."⁵ Congress attached certain conditions to this funding, including that these funds will not be made available until the Commissioner submits a spending plan

- 1 An electronic version of the figure is available on the TAS website at www.TaxpayerAdvocate.irs.gov/2015-Annual-Report. The figure lists all legislative recommendations the National Taxpayer Advocate has made since 2001 and identifies each section of the Internal Revenue Code affected by the recommendations.
- 2 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 (2015).
- 3 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401 (2015). See also TBOR, available at www.TaxpayerAdvocate.irs.gov/taxpayer-rights.
- 4 See National Taxpayer Advocate 2014 Annual Report to Congress 275 (Legislative Recommendation: *Codify the Taxpayer Bill of Rights and Enact Legislation that Provides Specific Taxpayer Protections*); National Taxpayer Advocate 2013 Annual Report to Congress 5 (Most Serious Problem: *Taxpayer Rights: The IRS Should Adopt a Taxpayer Bill of Rights as a Framework for Effective Tax Administration*); National Taxpayer Advocate's Report to Acting Commissioner Daniel Werfel, *Toward a More Perfect Tax System: A Taxpayer Bill of Rights as a Framework for Effective Tax Administration* (Nov. 4, 2013), available at www.TaxpayerAdvocate.irs.gov/2013AnnualReport; National Taxpayer Advocate 2011 Annual Report to Congress 493-518 (Legislative Recommendation: *Enact the Recommendations of the National Taxpayer Advocate to Protect Taxpayer Rights*); National Taxpayer Advocate 2007 Annual Report to Congress 478-89 (Key Legislative Recommendation: *Taxpayer Bill of Rights and De Minimis "Apology" Payments*).
- 5 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division E, § 113 (2015).

to the Committees on Appropriations of the House of Representatives and the Senate.⁶ The National Taxpayer Advocate welcomes this increase in IRS funding and is hopeful that it will alleviate taxpayer burden in the allocated areas.⁷

Other Consolidated Appropriations Act, 2016 Provisions

Besides TBOR, the Consolidated Appropriations Act, 2016 also enacted several of the National Taxpayer Advocate's previous recommendations to Congress, including:⁸

- **Dual Address Change Notices and Special Consideration for Offers in Compromise for Victims of Payroll Tax Preparer Fraud.**⁹ For the third consecutive year, Congress enacted legislation that incorporates two of the National Taxpayer Advocate's past recommendations. Section 106 of the Consolidated Appropriations Act, 2016 requires the IRS to:
 1. Issue dual address change notices related to an employer making employment tax payments (with one notice sent to both the employer's former and new address); and
 2. Give special consideration to an offer in compromise (OIC) request from a victim of fraud or bankruptcy by a third-party payroll tax preparer.¹⁰ This provision codifies National Taxpayer Advocate recommendations from 2012.
- **Modification of filing dates of returns and statements relating to employee wage information and nonemployee compensation to improve compliance.**¹¹ The provision requires Forms W-2 and W-3 and returns or statements that report non-employee compensation (*e.g.*, Form 1099-MISC) to be filed on or before January 31 of the year following the calendar year to which the returns relate. The provision also provides additional time for the IRS to review refund claims based on the earned income tax credit and the refundable portion of the child tax credit in order to reduce fraud and improper payments. The provision is effective for returns and statements relating

6 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division E, § 113 (2015).

7 The Consolidated Appropriations Act, 2016 legislation also increased funding for Volunteer Income Tax Assistance (VITA), allocating not less than \$15,000,000 for VITA matching grants. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division E (2015). This is a \$3,000,000 increase over last year's VITA funding, where Congress allocated not less than \$12,000,000 for VITA matching grants. See Consolidated And Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, Division E, 128 STAT. 2130, 2336 (2014). In her 2014 Annual Report to Congress, the National Taxpayer Advocate recommended that the IRS increase VITA funding to maximize the overall resources (federal and matching funds) available for free tax preparation assistance. See National Taxpayer Advocate 2014 Annual Report to Congress 66 (Most Serious Problem: *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*).

8 Relevant portions of the summaries of these new provisions are drawn from House Committee on Ways and Means, Section-By-Section Summary of the Proposed "Protecting Americans From Tax Hikes Act of 2015," available at http://waysandmeans.house.gov/?attachment_id=39841003.

9 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division E, § 106 (2015).

10 See National Taxpayer Advocate 2012 Annual Report to Congress 426-44 (Most Serious Problem: *Early Intervention, Offers in Compromise, and Proactive Outreach Can Help Victims of Failed Payroll Service Providers and Increase Employment Tax Compliance*).

11 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 201 (2015).

to calendar years after the date of enactment (*e.g.*, returns filed in 2017). This provision codifies a National Taxpayer Advocate recommendation from 2013 and prior Annual Reports.¹²

- **Safe harbor for *de minimis* errors on information returns and payee statements.**¹³ The provision establishes a safe harbor from penalties for the failure to file correct information returns and for failure to furnish correct payee statements by providing that if the error is \$100 or less (\$25 or less in the case of errors involving tax withholding), the issuer of the information return is not required to file a corrected return and no penalty is imposed. A recipient of such a return (*e.g.*, an employee who receives a Form W-2) can elect to have a corrected return issued to him and filed with the IRS. The provision is effective for returns and statements required to be filed after December 31, 2016. This provision codifies a National Taxpayer Advocate recommendation from 2013.¹⁴
- **Requirements for the issuance of ITINs.**¹⁵ The provision provides that the IRS may issue individual taxpayer identification numbers (ITINs) if the applicant provides the documentation required by the IRS either (a) in person to an IRS employee or to a community-based certified acceptance agent (as authorized by the IRS) or (b) by mail. This provision codifies a National Taxpayer Advocate administrative recommendation from 2008.¹⁶ The provision also provides that an ITIN will expire if an individual fails to file a tax return for three consecutive years. This provision codifies a National Taxpayer Advocate administrative recommendation from 2010.¹⁷
- **Treatment of credits for purposes of certain penalties.**¹⁸ Among other things, the provision, which generally applies to returns filed after December 31, 2015, provides reasonable cause relief from the 20 percent penalty under IRC § 6676 for erroneous claims for refunds or credits. This provision codifies National Taxpayer Advocate recommendations from last year and 2011.¹⁹

12 See National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, § 5, at 69, 89, 91, 96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*). Recommendation 2.2 of this study was to eliminate the March 31st deadline for e-filed information reports. All information reports, whether e-filed or filed on paper, would be due at the end of February; National Taxpayer Advocate 2012 Annual Report to Congress 180-91 (Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights Is Critical as the IRS Develops a Real-Time Tax System*); National Taxpayer Advocate 2011 Annual Report to Congress 284-95 (Most Serious Problem: *Accelerated Third-Party Information Reporting and Pre-Populated Returns Would Reduce Taxpayer Burden and Benefit Tax Administration But Taxpayer Protections Must Be Addressed*); National Taxpayer Advocate 2009 Annual Report to Congress 338-45 (Legislative Recommendation: *Direct the Treasury Department to Develop a Plan to Reverse the ‘Pay Refunds First, Verify Eligibility Later’ Approach to Tax Return Processing*).

13 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 202 (2015).

14 See National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, § 5, at 69, 89, 91, 96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*). Recommendation 2.3 in this study was to minimize corrections by creating a \$50 *de minimis* threshold for corrections.

15 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 203 (2015).

16 See National Taxpayer Advocate 2008 Annual Report to Congress 126-140 (Most Serious Problem: *IRS Handling of ITIN Applications Significantly Delays Taxpayer Returns and Refunds*). This discussion provided several administrative recommendations to the IRS to streamline the ITIN application process, including a recommendation to promote and expand the Certified Acceptance Agent program.

17 See National Taxpayer Advocate 2010 Annual Report to Congress 319-338 (Most Serious Problem: *Status Update: Despite Program Improvements, the IRS Policy of Processing Most ITIN Applications with Paper Returns During Peak Filing Season Continues to Strain IRS Resources and Unduly Burden Taxpayers*). Among the administrative recommendations to the IRS in this discussion was a recommendation that the IRS develop a process to verify that previously issued ITINs have been used for tax administration purposes and revoke unused ITINs on a regular basis after notifying ITIN holders.

18 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 209 (2015).

19 See National Taxpayer Advocate 2014 Annual Report to Congress 351 (Legislative Recommendation: *Erroneous Refund Penalty: Amend Section 6676 to Permit “Reasonable Cause” Relief*); National Taxpayer Advocate 2011 Annual Report to Congress 544 (Legislative Recommendation: *Amend the Erroneous Refund Penalty to Permit Relief in Case of Reasonable Cause for Claim to Refundable Credits*).

- **Declaratory judgments for IRC § 501(c)(4) and other exempt organizations.**²⁰ The provision permits 501(c)(4) organizations and other exempt organizations to seek review in Federal court of any revocation of exempt status by the IRS. The provision applies to pleadings filed after the date of enactment. This provision codifies a National Taxpayer Advocate recommendation from last year.²¹
- **Suspension of running of period for filing petition of spousal relief and collection cases.**²² The provision suspends the statute of limitations in cases involving spousal relief or collections when a bankruptcy petition has been filed and a taxpayer is prohibited from filing a petition for review by the Tax Court. Under the provision, the suspension is for the period during which the taxpayer is prohibited from filing such a petition, plus 60 days. The provision applies to Tax Court petitions filed after the date of enactment. This provision codifies National Taxpayer Advocate recommendations from 2004 and 2006.²³

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015

On July 31, 2015, Congress enacted the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.²⁴ The Act will, beginning in 2016, change the return filing due date for partnerships and certain trusts from the 15th day of the fourth month following the close of the tax year to the 15th day of the third month following the close of the tax year.²⁵ This change codifies a National Taxpayer Advocate recommendation from 2003.²⁶ In addition, beginning in 2016, this legislation moves up the due date, from June 30 to April 15, for taxpayers with a financial interest in or signature authority over certain foreign financial accounts to file FinCEN Form 114, *Report of Foreign Bank and Financial Accounts (FBAR)*.²⁷ The new legislation also provides for a maximum six month extension (*i.e.*, until October 15) to file this form.²⁸ This change codifies a National Taxpayer Advocate recommendation from last year.²⁹

20 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 406 (2015).

21 See National Taxpayer Advocate 2014 Annual Report to Congress 371 (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*). The provision goes beyond the National Taxpayer Advocate's recommendation as it does not limit declaratory judgment rights under IRC § 7428 to organizations exempt under IRC §§ 501(c)(4), (c)(5), and (c)(6).

22 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 424 (2015).

23 See National Taxpayer Advocate 2006 Annual Report to Congress 536-7 (Additional Legislative Recommendation: *Suspend the Period for Filing a Tax Court Petition During Bankruptcy*); National Taxpayer Advocate 2004 Annual Report to Congress 490-1 (Additional Legislative Recommendation: *Effect of Automatic Stay Imposed in Bankruptcy Cases upon Innocent Spouse and CDP Petitions in Tax Court*).

24 See Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. No. 114-41, 129 Stat. 443 (2015).

25 See Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. No. 114-41, § 2006, 129 Stat. 443, 457 (2015).

26 See National Taxpayer Advocate 2003 Annual Report to Congress 302 (Key Legislative Recommendation: *Filing Due Date of Partnership and Certain Trusts*).

27 See Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. No. 114-41, § 2006, 129 Stat. 443, 458-59 (2015).

28 *Id.* at 459

29 See National Taxpayer Advocate 2014 Annual Report to Congress 331 (Legislative Recommendation: *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*). As the title indicates, this legislative recommendation contained several proposals, one of which was to change the FBAR filing due date to coincide with the due date applicable to a taxpayer's federal income tax return and Form 8938, *Statement of Specified Foreign Financial Assets* (including extensions).

The following sections discuss bills introduced during the 114th Congress that reflect legislative recommendations made by the National Taxpayer Advocate in her prior Annual Reports to Congress.

Taxpayer Rights Act of 2015

On November 30, 2015, Senator Cardin and Representative Becerra introduced companion bills entitled the Taxpayer Rights Act of 2015 (TRA 2015).³⁰ The legislation would codify the TBOR and require the Commissioner of Internal Revenue to develop annual training for all Internal Revenue Service officers and employees regarding taxpayer rights, the Office of the Taxpayer Advocate's case criteria and mission, and Taxpayer Assistance Order procedures.³¹ As noted above, Congress codified the TBOR in the Consolidated Appropriations Act, 2016.³²

TRA 2015 contains many of the National Taxpayer Advocate's prior proposals. The legislation would establish a Community Volunteer Income Tax Assistance Matching Grant Program (VITA grant program).³³ The VITA grant program would be administered in a manner that is substantially similar to the Community Volunteer Income Tax Assistance matching grants demonstration program established under Title I of Division D of the Consolidated Appropriations Act, 2008. The VITA grant program would establish tax preparation sites for low income taxpayers and operate in a manner similar to the Low Income Taxpayer Clinics (LITC) program.³⁴ In addition, the legislation would authorize the Secretary to promote the benefits of and encourage the use of qualified LITCs through the use of mass communications, referrals, and other means and allow IRS employees to refer taxpayers to the LITCs.³⁵

The National Taxpayer Advocate has recommended that the IRS create an effective oversight and penalty regime for return preparers;³⁶ TRA 2015 would require the IRS to regulate any preparers not already regulated, create a penalty for unauthorized preparation of returns, and expand and increase current preparer penalties.³⁷ The legislation also includes registration and disclosure requirements and new penalties for persons facilitating refund delivery products.³⁸

The National Taxpayer Advocate has advocated for numerous changes to the IRS's filing and reporting of federal tax liens.³⁹ Under TRA 2015, the IRS would have to weigh the benefit to the government and the harm to the taxpayer before filing a lien and would have to provide the taxpayer with an opportunity to

30 Taxpayer Rights Act of 2015, S. 2333, 114th Cong. (2015); Taxpayer Rights Act of 2015, H.R. 4128, 114th Cong. (2015).

31 S. 2333, § 308, 114th Cong. (2015); H.R. 4128, § 308, 114th Cong. (2015).

32 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401 (2015).

33 S. 2333, § 201, 114th Cong. (2015); H.R. 4128, § 201, 114th Cong. (2015).

34 See National Taxpayer Advocate 2014 Annual Report to Congress 55-66 (Most Serious Problem: *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*).

35 See National Taxpayer Advocate 2014 Annual Report to Congress 411-416 (Legislative Recommendation: *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*); National Taxpayer Advocate 2014 Annual Report to Congress, vol. 2, 1-26 (Research Study: *Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help from the Clinics*); National Taxpayer Advocate 2007 Annual Report to Congress 551-553 (Legislative Recommendation: *Referral to Low Income Taxpayer Clinics*).

36 See, e.g., National Taxpayer Advocate 2009 Annual Report to Congress 41-69 (Most Serious Problem: *The IRS Lacks a Servicewide Return Preparer Strategy*), National Taxpayer Advocate 2008 Annual Report to Congress 423-26 (Legislative Recommendation: *The Time Has Come to Regulate Federal Tax Return Preparers*).

37 S. 2333, §§ 202 and 203, 114th Cong. (2015); H.R. 4128, §§ 202 and 203, 114th Cong. (2015). The bill increases the preparer penalty for gross misconduct to 100 percent of the amount of the understatement of tax. *Id.*

38 S. 2333, §§ 202 and 203, 114th Cong. (2015); H.R. 4128, §§ 202 and 203, 114th Cong. (2015).

39 See, e.g., National Taxpayer Advocate 2009 Annual Report to Congress 357-64 (Legislative Recommendation: *Strengthen Taxpayer Protections in the Filing and Reporting of Federal Tax Liens*).

appeal the lien determination before the lien is filed.⁴⁰ Additionally, the bill would amend the Fair Credit Reporting Act to require removal of derogatory lien-filing information from credit reports under certain circumstances.⁴¹

TRA 2015 also includes the National Taxpayer Advocate's 2011 recommendation to clarify that the scope and standard of review for taxpayers seeking equitable relief from joint and several liability under IRC § 6015(f) is *de novo*.⁴² In addition, the legislation would require the IRS to have at least one Appeals officer and one settlement officer assigned to each State and made available to the residents of each such State.⁴³ Further, the legislation would allow the National Taxpayer Advocate to appeal to the Commissioner for final determination a decision by the IRS Deputy Commissioner to modify or rescind of a Taxpayer Assistance Order.⁴⁴ Finally, the legislation would codify the National Taxpayer Advocate's authority to issue a Taxpayer Advocate Directive to the IRS.⁴⁵

Taxpayer Bill of Rights Enhancement Act of 2015

On June 16, 2015, Senators Grassley and Thune introduced the Taxpayer Bill of Rights Enhancement Act of 2015, which would amend IRC § 7803 to require the Commissioner of Internal Revenue to ensure that IRS employees are familiar with and act in accordance with taxpayer rights.⁴⁶ As noted above, this provision was enacted in the Consolidated Appropriations Act, 2016.⁴⁷ The proposed legislation would also:

- Hold individuals harmless on improper levy on individual retirement plans.⁴⁸
- Provide authority to the National Taxpayer Advocate to comment on Treasury Regulations.⁴⁹

40 S. 2333, § 301, 114th Cong. (2015) and H.R. 4128, § 301, 114th Cong. (2015).

41 S. 2333, § 302, 114th Cong. (2015) and H.R. 4128, § 302, 114th Cong. (2015).

42 S. 2333, § 303, 114th Cong. (2015) and H.R. 4128, § 303, 114th Cong. (2015). See National Taxpayer Advocate 2011 Annual Report to Congress 531-36 (Legislative Recommendation: *Clarify that the Scope and Standard of Tax Court Determinations Under Internal Revenue Code Section 6015(f) Is De Novo*).

43 S. 2333, § 309, 114th Cong. (2015); H.R. 4128, § 309, 114th Cong. (2015). See National Taxpayer Advocate 2014 Annual Report to Congress 311 (Legislative Recommendation: *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*); National Taxpayer Advocate 2009 Annual Report to Congress 346-50 (Legislative Recommendation: *Strengthen the Independence of the IRS Office of Appeals and Require at Least One Appeals Officer and Settlement Officer in Each State*).

44 S. 2333, § 401, 114th Cong. (2015) and H.R. 4128, § 401, 114th Cong. (2015).

45 S. 2333, § 402, 114th Cong. (2015) and H.R. 4128, § 402, 114th Cong. (2015). See National Taxpayer Advocate 2011 Annual Report to Congress 573-81 (Legislative Recommendation: *Codify the Authority of the National Taxpayer Advocate to File Amicus Briefs, Comment on Regulations, and Issue Taxpayer Advocate Directives*). Taxpayer Advocate Directives mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers or all taxpayers. IRM 13.1.4.2.2.5, *Delegation Order No. 250 — Authority to Issue Taxpayer Advocate Directives* (Oct. 31, 2004).

46 S. 1578, § 101, 114th Cong. (2015).

47 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401 (2015).

48 S. 1578, § 402, 114th Cong. (2015). See National Taxpayer Advocate 2001 Annual Report to Congress 202-214 (Legislative Recommendation: *Reinstatement of Retirement Account*).

49 S. 1578, § 404, 114th Cong. (2015). See National Taxpayer Advocate 2011 Annual Report to Congress 573-81 (Legislative Recommendation: *Codify the Authority of the National Taxpayer Advocate to File Amicus Briefs, Comment on Regulations, and Issue Taxpayer Advocate Directives*).

- Require the IRS to have at least one Appeals officer and one settlement officer located and permanently available in each State, the District of Columbia, and Puerto Rico.⁵⁰

Small Business Taxpayer Bill of Rights Act of 2015

On April 15, 2015, Senator Cornyn and Representative Thornberry introduced the Small Business Taxpayer Bill of Rights Act of 2015, which would enact a number of the National Taxpayer Advocate's previous recommendations.⁵¹ The legislation would prohibit *ex parte* communications between Appeals officers and other IRS employees.⁵² The bill also includes two recommendations relating to collection. First, it would extend the period in which a third party can bring a suit for return of levied funds or proceeds.⁵³ Second, it would waive the installment agreement fee for taxpayers whose adjusted gross income does not exceed 250 percent of the federal poverty level.⁵⁴

Finally, the legislation contains two of the National Taxpayer Advocate's recommendations regarding relief from joint and several liability. The bill would suspend the running of the period for filing a Tax Court petition seeking review of an innocent spouse claim or collection due process determination for the period of time the taxpayer is prohibited because of the automatic stay imposed under section 362 of the Bankruptcy Code from filing the petition, plus 60 additional days.⁵⁵ The legislation would also clarify that the scope and standard of review for taxpayers seeking equitable relief from joint and several liability under IRC § 6015(f) is *de novo*.⁵⁶

Taxpayer Bill of Rights Act of 2015

On February 25, 2015, Representative Roskam introduced the Taxpayer Bill of Rights Act of 2015, which would amend IRC § 7803 to require the Commissioner of Internal Revenue to ensure that IRS employees are familiar with and act in accordance with taxpayer rights.⁵⁷ As noted above, this provision was enacted

50 S. 1578, § 602, 114th Cong. (2015). See National Taxpayer Advocate 2014 Annual Report to Congress 311 (Legislative Recommendation: *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*); National Taxpayer Advocate 2009 Annual Report to Congress 346-50 (Legislative Recommendation: *Strengthen the Independence of the IRS Office of Appeals and Require at Least One Appeals Officer and Settlement Officer in Each State*).

51 Small Business Taxpayer Bill of Rights Act of 2015, S. 949, 114th Cong. (2015); H.R. 1828, 114th Cong. (2015).

52 S. 949, § 7, 114th Cong. (2015); H.R. 1828, § 7, 114th Cong. (2015). See National Taxpayer Advocate 2009 Annual Report to Congress 346-50 (Legislative Recommendation: *Strengthen the Independence of the IRS Office of Appeals and Require at Least One Appeals Officer and Settlement Officer in Each State*) (noting the IRS Restructuring and Reform Act of 1998 prohibits *ex parte* communication between Appeals employees and other IRS employees, but recent IRS practices allowing Appeals employees to share office space with other IRS employees foster a perception of a lack of independence).

53 S. 949, § 9, 114th Cong. (2015); H.R. 1828, § 9, 114th Cong. (2015). The bill extends the time for third parties to bring suit from nine months to three years. See National Taxpayer Advocate 2001 Annual Report to Congress 202-09 (Legislative Recommendation: *Return of Levy or Sale Proceeds*).

54 S. 949, § 10, 114th Cong. (2015); H.R. 1828, § 10, 114th Cong. (2015). See National Taxpayer Advocate 2006 Annual Report to Congress 141-56 (Most Serious Problem: *Collection Issues of Low Income Taxpayers*) (recommending the IRS implement an installment agreement (IA) user fee waiver for low income taxpayers and adopt a graduated scale for other IA user fees based on the amount of work required).

55 S. 949, § 11, 114th Cong. (2015); H.R. 1828, § 11, 114th Cong. (2015). See National Taxpayer Advocate 2006 Annual Report to Congress 536-7 (Additional Legislative Recommendation: *Suspend the Period for Filing a Tax Court Petition During Bankruptcy*); National Taxpayer Advocate 2004 Annual Report to Congress 490-92 (Legislative Recommendation: *Effect of Automatic Stay Imposed in Bankruptcy Cases upon Innocent Spouse and CDP Petitions in Tax Court*).

56 S. 949, § 14, 114th Cong. (2015); H.R. 1828, § 14, 114th Cong. (2015). See National Taxpayer Advocate 2006 Annual Report to Congress 536-7 (Additional Legislative Recommendation: *Suspend the Period for Filing a Tax Court Petition During Bankruptcy*); National Taxpayer Advocate 2011 Annual Report to Congress 531-36 (Legislative Recommendation: *Clarify that the Scope and Standard of Tax Court Determinations Under Internal Revenue Code Section 6015(f) is De Novo*).

57 Taxpayer Bill of Rights Act of 2015, H.R. 1058, 114th Cong. (2015).

in the Consolidated Appropriations Act, 2016.⁵⁸ On April 15, 2015, the bill was approved by the House of Representatives, but the Senate did not act on it.

Consolidate Education Incentives

The National Taxpayer Advocate has recommended consolidating and simplifying various Code provisions to make compliance less difficult.⁵⁹ In March 2015, Senator Schumer and Representative Doggett introduced companion bills that include the National Taxpayer Advocate's recommendation to consolidate the education tax credits known as the Hope Scholarship and the Lifetime Learning Credits.⁶⁰ The proposed legislation would amend the Code to replace the two credits with a new American Opportunity Tax Credit that: (1) allows an income tax credit of up to \$3,000 of the qualified tuition and related expenses of a student who is carrying at least one half of a normal course load; (2) increases the income threshold for reductions in the credit amount based on modified adjusted gross income; (3) allows a lifetime dollar limitation on such credit of \$15,000 for all taxable years; and (4) makes 40 percent of the credit refundable. Additionally, the bill allows an exclusion from gross income of any amount received as a federal Pell grant.

58 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401 (2015).

59 See, e.g., National Taxpayer Advocate 2008 Annual Report to Congress 370-72 (Legislative Recommendation: *Simplify and Streamline Education Tax Incentives*).

60 S. 699, 114th Cong. (2015); H.R. 1260, 114th Cong. (2015).