

Strengthen Taxpayer Rights Before the Office of Appeals

#34 REQUIRE THAT AT LEAST ONE APPEALS OFFICER AND ONE SETTLEMENT OFFICER BE LOCATED AND PERMANENTLY AVAILABLE IN EACH STATE, THE DISTRICT OF COLUMBIA, AND PUERTO RICO

Present Law

Section 3465(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) provides: “The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.”

Reasons for Change

Twelve states and Puerto Rico currently have no Appeals or Settlement Officers with a post of duty within their borders.¹⁴¹ These states are Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont, and Wyoming. The IRS takes the position that its current staffing satisfies the statutory requirement by providing for “circuit riding” on at least a quarterly basis to states lacking a permanent Appeals field office.

As a legal matter, the National Taxpayer Advocate believes “circuit riding” does not satisfy the statutory requirement, because Appeals Officers engaged in “circuit riding” among multiple states are not “regularly available” in any one state. As a practical matter, “circuit riding” does not provide taxpayers who request in-person hearings with timely service and does not ensure that Appeals Officers are familiar with local conditions. Taxpayers and their representatives regularly complain about the difficulty of obtaining convenient and timely in-person access to Appeals and Settlement Officers. During fiscal year 2018, for example, non-docketed cases involving in-person conferences remained in Appeals’ inventory for more than twice as long (394 days) as Appeals cases overall (194 days).¹⁴²

In addition, Appeals’ ability to effectively pursue administrative case resolutions often depends on the Appeals Officer’s familiarity with prevailing economic circumstances and other local factors impacting taxpayers in a given geographic region. Appeals Officers who live elsewhere and visit a state for an occasional hearing often do not have this familiarity.

Recommendation

- Amend Internal Revenue Code § 7803(e) to require that at least one Appeals Officer and one Settlement Officer be located and permanently available in each state, the District of Columbia, and Puerto Rico.¹⁴³

141 Generally, Appeals Officers are assigned to cases associated with the IRS Examination function, whereas Settlement Officers are assigned to Collection cases.

142 Appeals response to TAS fact check request (Nov. 21, 2018).

143 For legislative language generally consistent with this recommendation, see Taxpayer Bill of Rights Enhancement Act, S. 1793, 115th Cong. § 502 (2017).