

PREFACE: Introductory Remarks by the Acting National Taxpayer Advocate

I respectfully submit for your consideration the National Taxpayer Advocate’s 2019 Annual Report to Congress. This is the first Annual Report since 2000 that has not been submitted by Nina Olson. Nina retired on July 31, 2019, after leading the Taxpayer Advocate Service for over 18 years. During her time as the National Taxpayer Advocate, Nina fought tirelessly for taxpayer rights and created an organization of advocates who will carry on her legacy. The Taxpayer Advocate Service and all taxpayers are forever grateful for her advocacy.

Changes to the Annual Report to Congress

The 2019 Annual Report looks decidedly different from previous reports in several ways. Section 7803(c)(2)(B)(ii) of the Internal Revenue Code, as amended by the Taxpayer First Act (TFA), requires the National Taxpayer Advocate to submit this report each year and to include in it, among other things, a description of the ten most serious problems encountered by taxpayers as well as administrative and legislative recommendations to mitigate those problems. Previously, the report was required to contain a description of at least 20 of the most serious problems facing taxpayers. By reducing the number of Most Serious Problems to the top ten, we have been able to focus on what we consider to be the critical issues currently impacting taxpayers, the IRS, and tax administration. In Appendix 3, you will find a scorecard detailing how TAS assessed the Most Serious Problems in this year’s report.¹

TAS also took the opportunity to reevaluate the Annual Report as a whole and make a few other changes. The Most Serious Problems are shorter, which gives these sections a sharper focus on how the identified problem impacts taxpayers and the IRS. All parts of the report except our legislative recommendations are now consolidated into one volume. For ease of reference and use, we present all of our active legislative recommendations, from this year and prior years, in the “Purple Book.” The report also contains a description of the ten tax issues most frequently litigated in the federal courts over the past year, as required by statute, as well as several research studies.

Consistent with the Taxpayer First Act, TAS worked with the IRS to verify the data contained in this report.² The only notable exception to this verification process is the research studies found later in this report.

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- 1 See Appendix 3, *Identifying the Most Serious Problems*, *infra*. The table in Appendix 3 presents factors considered by the National Taxpayer Advocate in determining the areas of tax administration that merited inclusion in this year’s report. Each Most Serious Problem topic is categorized with a Low, Medium, or High degree of relevance to each factor.
 - 2 IRC § 7803(c)(2)(B)(ii)(XII) requires that the National Taxpayer Advocate, “with respect to any statistical information included in [this] report, include a statement of whether such statistical information was reviewed or provided by the Secretary under section 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology.” The data cited in the National Taxpayer Advocate’s annual reports generally come from one of three sources: (i) publicly available data such as the IRS Data Book, Government Accountability Office (GAO) reports, and Treasury Inspector General for Tax Administration (TIGTA) reports; (ii) IRS databases to which TAS has access; and (iii) IRS data that is provided by the Operating Divisions pursuant to TAS information requests. Once data has been compiled, TAS’s Office of Research and Analysis double checks it. Then TAS sends the IRS all data included in the “most serious problems” section of the report and most data included in other sections of the report for final verification prior to publication (except where noted). On the rare occasion where TAS and the IRS have a disagreement about data, we generally discuss it, and if a disagreement persists, we note it in the report.

A Period of Change Within the IRS

The Taxpayer First Act marks changes not just for the Taxpayer Advocate Service, but for the IRS as well. By passing the Taxpayer First Act, Congress has sent the IRS a clear message that it needs to rethink the way it operates — the services it provides, its organizational structure, the way it trains employees, and the technology it uses.³

The IRS’s mission is to “[p]rovide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.”⁴ Currently the IRS is struggling on both fronts. Its current inability to meet taxpayers’ customer service needs results in an inability to enforce the law fairly for all taxpayers.

The President’s Management Agenda emphasizes the importance of high-quality customer service and cites the American Customer Satisfaction Index (ACSI) and the Forrester U.S. Federal Customer Experience Index™ as key benchmarks.⁵ Those indices find the IRS is among the lowest performing federal agencies when it comes to the customer experience. The ACSI report for 2018 ranks the Treasury Department tied for 10th out of 12 Federal Departments and says that “most [IRS] programs score ... well below both the economy-wide national ACSI average and the federal government average.”⁶ The 2019 Forrester report ranked the IRS 13th out of 15 federal agencies and characterized the IRS’s score as “very poor.”⁷

As I will discuss below, funding constraints are a significant part of the problem. The IRS receives approximately 100 million telephone calls every year,⁸ and to provide “top quality service,” as its mission statement commits it to do,⁹ it requires adequate funding to hire enough employees to answer those calls. But the problems in IRS customer service go beyond just the budget.

While we support the IRS’s efforts to expand online accounts and communicate with taxpayers digitally, initiatives like those will not by themselves make the IRS into a customer-focused agency. To truly transform the organization, the IRS must start with a culture shift. If the culture of the organization is one where employees look to minimize interactions with taxpayers in an effort to move work, or where taxpayers who owe money are automatically viewed negatively, then expanding digital services will not improve customer service. The IRS needs to take a holistic view of how it operates and understand what is and is not working. Working collaboratively with TAS to understand what we are seeing in our cases is one of the best ways for the IRS to understand the pain points taxpayers experience and which processes are most likely to break down. Couple this information with a focus on training IRS employees on empathy and taxpayer interaction, as well as focusing on tracking customer service measures such as first contact resolution and fairness, and the IRS can begin the cultural change needed to fundamentally improve its approach to serving its customers.

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- 3 See Taxpayer First Act, Pub. L. No. 116-25, §§ 1101 (directing the IRS to develop a comprehensive customer service strategy), 1302 (directing the IRS to modernize its organizational structure), 2402 (directing the IRS to submit to Congress a comprehensive training strategy), and 2101 (creating the statutory position of “chief information officer” and directing that individual to develop a multi-year IT strategic plan).
 - 4 See IRS, *The Agency, Its Mission and Statutory Authority* (Aug. 9, 2019), <https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority> (last visited Dec. 12, 2019).
 - 5 Office of Management and Budget, *President’s Management Agenda 7, 28* (2018), https://www.performance.gov/PMA/Presidents_Management_Agenda.pdf.
 - 6 American Customer Satisfaction Index, *ACSI Federal Government Report 2018*, at 3-4 (2019).
 - 7 Forrester Research, Inc., *The US Federal Customer Experience Index, 2019*, at 15-16 (June 11, 2019).
 - 8 IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (final week of each fiscal year for FY 2012 through FY 2019).
 - 9 IRS Mission Statement (Aug. 2019), <https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority>.

However, the IRS's shortcomings in its customer service also impact the agency's ability to fairly administer the tax law. At the same time that the IRS is faced with reevaluating its customer service strategy, the Commissioner has placed a renewed focus on enforcement.¹⁰ TAS has been supportive of some of these efforts, particularly increased Revenue Officer hiring to help ensure the agency has a physical presence throughout the country.¹¹ But this enforcement focus must be coupled with an improvement in taxpayer service *within* enforcement. If the IRS is going to go out into communities to talk to taxpayers who owe back taxes, then those same taxpayers need to be able to get answers to their questions when they call the IRS or have an indicator placed on their account to designate when they might be at risk of economic hardship before they set up a payment plan.¹² To do otherwise will cause harm to those who can least afford it.

To start, the IRS should prioritize improving telephone service on its compliance lines. While the IRS needs to improve telephone service across the board, it is particularly critical that it answer calls from taxpayers after it has garnished wages, levied on bank accounts, or filed notices of federal tax lien against a taxpayer's house. These enforcement actions prompt many taxpayers to call the IRS to resolve their delinquent liabilities, and some of these taxpayers face economic hardship, such as pending eviction, as a result of IRS compliance actions.

By law, the IRS is required to release levies that are causing economic hardships.¹³ But taxpayers often cannot reach the IRS to make it aware of their hardships. In fiscal year (FY) 2019, the IRS received about 15 million calls on its consolidated Automated Collection System lines.¹⁴ IRS employees answered only 31 percent, and taxpayers who managed to get through waited on hold an average 38 minutes.¹⁵ The IRS has an obligation to be accessible to these taxpayers, and it should not ramp up enforcement actions beyond the point where it has enough telephone assistants to handle the taxpayer calls those actions generate.

The level of service is even worse for taxpayers calling the balance due line to make payment arrangements or set up installment agreements. Live assistants last fiscal year answered only 26 percent of those calls and wait times averaged about 45 minutes. These are live taxpayers on the line, trying to talk to the IRS about the money they owe.¹⁶ Yet the IRS does not answer 74 percent of these calls. To treat taxpayers with respect, taxpayer services like this must be prioritized. TAS will continue to evaluate the IRS's progress in future reports.

10 See, e.g., Joshua Rosenberg, *Rettig Wants IRS Audits To 'Touch Every Neighborhood'*, LAW 360 (Oct. 29, 2019) (quoting the Commissioner as saying the IRS should "touch every neighborhood" in choosing which taxpayers to audit and that, directly or indirectly, "[w]e want to touch everyone.").

11 See National Taxpayer Advocate 2018 Annual Report to Congress 240 (Most Serious Problem: *Field Collection: The IRS Has Not Appropriately Staffed and Trained Its Field Collection Function to Minimize Taxpayer Burden and Ensure Taxpayer Rights Are Protected*) (recognizing the importance of the individualized case work and geographic presence of revenue officers (ROs)).

12 See National Taxpayer Advocate 2020 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 51-52 (*Direct the IRS to Study the Feasibility of Using an Automated Formula to Identify Taxpayers at Risk of Economic Hardship*).

13 IRC § 6343 (a)(1)(D).

14 IRS, Joint Operations Center, Snapshot Reports: Enterprise Snapshot (week ending Sept. 30, 2019). IRS data for the consolidated ACS lines includes calls to the Installment Agreement/Balance Due telephone line. The Installment Agreement/Balance Due line assists taxpayers who have unpaid taxes but whose cases generally have not yet been assigned to ACS.

15 *Id.*

16 IRS, Joint Operations Center, Snapshot Reports: Product Line Detail (week ending Sept. 30, 2019).

While every organization must find ways to operate within its resources, it should be noted that the IRS's ability to do its job has been constrained by a significant reduction in resources over the past decade. Since FY 2010, the IRS budget has been reduced by about 20 percent after adjusting for inflation, and the IRS workforce has shrunk by about 22 percent.¹⁷ These cuts make little business sense.

The IRS functions as the “accounts receivable” department of the federal government, and it is remarkably efficient. In FY 2018, the IRS collected nearly \$3.5 trillion on a budget of about \$11.43 billion, producing an overall return on investment (ROI) of more than 300:1.¹⁸ However the IRS cannot continue to be as effective as it has been with a declining budget. As we discuss in our legislative recommendation regarding IRS funding, the current rules for setting IRS funding levels should be reconsidered. A private sector business would continue to provide more funding for its accounts receivable department as long as the funding produced a positive return on investment. Yet the federal budget process generally treats the IRS purely as a cost center, with no explicit recognition that a dollar appropriated to the IRS generally returns substantially more than one dollar in return. We encourage Congress and the Office of Management and Budget to take a hard look at improving the procedures for setting IRS funding levels.

Report Contents and Taxpayer First Act Implementation

This year's Annual Report starts with a look at the Taxpayer First Act. The first group of Most Serious Problems focuses on the IRS's efforts to revise its customer service strategy and some of the key issues it needs to address if it is truly going to transform the way it serves taxpayers and practitioners. We also look at how the IRS's ability to improve customer service is tied to its IT modernization efforts and how adequate IRS funding ultimately impacts both of these areas. The remaining Most Serious Problems look at more focused problems facing taxpayers and practitioners in the areas of customer service and enforcement. Specifically, how the IRS is interacting with certain groups — such as return preparers, users of Free File, and multilingual taxpayers — and what the IRS needs to do to improve those interactions. We also examine how certain IRS initiatives — such as the presence of IRS compliance personnel in Appeals conferences, the Offer in Compromise program, and Combination letters — are impacting taxpayer rights, and we make recommendations for increasing their effectiveness.

To implement key provisions of the Taxpayer First Act, the IRS has established a dedicated office to oversee and coordinate the agency's TFA implementation efforts. The office is being led by the Commissioner's Chief of Staff and includes executives from the Wage & Investment Division, the Small Business/Self-Employed Division, and the Chief Information Officer's Information Technology function. IRS leadership declined to include a representative from TAS. I find this deeply concerning. Congress created the Office of the Taxpayer Advocate to serve as the statutory voice of the taxpayer within the IRS. No one has a better view into the problems that taxpayers and practitioners face day to day when working with the IRS than TAS. Over the last 20 years, TAS has worked more than 4.4 million cases resulting from problems with IRS systems or processes.¹⁹ That history with individual and business taxpayers' problems gives TAS unique insight, perspective, and information that could be a key resource for identifying areas in need of improvement as the IRS develops a comprehensive customer service strategy.

17 IRS response to TAS information request (Oct. 2, 2019).

18 IRS, 2018 Data Book, Table 1: Collections and Refunds, by Type of Tax (May 2019); Department of the Treasury, *FY 2020 Budget-in-Brief* 69 (2019), <https://home.treasury.gov/system/files/266/FY2020BIB.pdf>.

19 Taxpayer Advocate Management System (TAMIS) data pulled by TAS (Oct. 1, 2001 to Oct. 1, 2019).

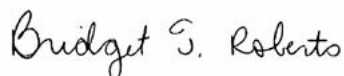
As the IRS decides how to implement the aptly named “Taxpayer First Act,” I believe TAS should have a seat at the table to the same extent as key IRS operating divisions, particularly for purposes of implementing the Act’s requirements that the IRS develop a comprehensive customer service strategy, modernize its organizational structure, create online taxpayer accounts, and develop a comprehensive employee training strategy that includes taxpayer rights. Having been excluded from the core implementation group, TAS will participate on executive teams and lower-level working groups and will offer our recommendations to the extent we have an opportunity to do so.

Closing Thoughts

March 2020 marks the 20th anniversary of the Taxpayer Advocate Service.²⁰ Now more than ever, the role of TAS is vital to effective tax administration. In the face of numerous challenges, many of which are detailed in this report, TAS will continue to be here to assist taxpayers who experience economic hardships due to their tax problems and taxpayers who fall through the cracks of the IRS bureaucracy. TAS will continue to advocate for systemic changes within the IRS where IRS procedures are imposing undue burdens on taxpayers. And TAS will continue to use its reports to Congress to identify significant issues and recommend administrative and legislative actions to resolve those issues.

While I am honored to serve as the Acting National Taxpayer Advocate and will continue to serve in this capacity for as long as necessary, the Office of the Taxpayer Advocate — and taxpayers — deserve a permanent appointee.²¹ As in other organizations, acting leaders are caretakers — charged with keeping the trains running on time but lacking the authority to make significant changes and often not taken as seriously as permanent officials. It has now been five months since Nina Olson retired. Given the current crossroads at which the IRS finds itself, it is critical that a permanent National Taxpayer Advocate be appointed as quickly as possible to help ensure the IRS protects taxpayer rights and meets its obligations to taxpayers.

Respectfully submitted,



Bridget T. Roberts
Acting National Taxpayer Advocate
December 31, 2019

20 TAS was established in its current form by the Internal Revenue Service Restructuring and Reform Act (RRA 98), Pub. L. No. 105-206, § 1102, 112 Stat. 685, 698-702 (1998) (codified at IRC §7803(c)). After extensive planning, TAS commenced operations in March 2000.

21 IRC § 7803(c)(1)(B)(ii) provides, in relevant part: “The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board.” The IRS issued a public statement on May 13 soliciting applications. See IRS Statement, *IRS seeking candidates interested in National Taxpayer Advocate position* (May 13, 2019), <https://www.irs.gov/newsroom/irs-statement-on-the-national-taxpayer-advocate-position>. In June and early July, the Commissioner and Assistant Secretary (Tax Policy) interviewed leading candidates for the position. No appointment has been made and no additional information has been provided since that time.