

Area of
Focus #9

International Local Taxpayer Advocates Would Provide Valuable Assistance to Taxpayers and Protect Their Rights

TAXPAYER RIGHTS IMPACTED¹

- *The right to be informed*
- *The right to quality service*
- *The right to a fair and just tax system*

The IRS has significantly decreased its overseas taxpayer service presence in recent years, reducing the number of tax attaché posts in foreign cities from 15 to four, while increasing the number of locations and employees devoted to criminal investigations.² Despite the growth in the international taxpayer population, the IRS plans to eliminate all IRS tax attaché posts abroad by the end of calendar year 2015, citing the multi-year decrease in funding.³

The closing of these offices is part of a broader shift away from providing basic in-person taxpayer service and relieving procedural burdens facing international taxpayers.⁴ Given the overwhelming complexity of international tax rules and reporting requirements and the potentially devastating penalties for even inadvertent noncompliance, the IRS's focus on enforcement with inadequate service may lead some voluntarily compliant taxpayers to give up and become noncompliant, and may ultimately increase the international tax gap.⁵

Taxpayers abroad, many of whom may have tried to follow the rules and comply with the tax laws, have little recourse when they face problems. The Internal Revenue Code (IRC) provides for the establishment of the Office of the Taxpayer Advocate, which assists taxpayers in resolving problems with the IRS, identifies areas in which taxpayers have problems in their dealings with the IRS, and proposes administrative and legislative changes to mitigate these problems.⁶ When taxpayers abroad face barriers to receiving assistance from TAS, their *right to a fair and just tax system* is impaired. Currently, there are no Local Taxpayer Advocates (LTAs) outside the United States and its territories. The IRC requires the National Taxpayer Advocate to “monitor the coverage and geographic allocation of local offices of taxpayer

1 Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights>.

2 National Taxpayer Advocate 2011 Annual Report to Congress 156, fn. 39. See also National Taxpayer Advocate 2009 Annual Report to Congress 134-54. Since the 1980s, the IRS has steadily reduced its civil tax presence overseas to save on security, construction, and maintenance costs. The IRS maintains ten Special Agent attachés in Bogota, Columbia; Mexico City, Mexico; London, England; Frankfurt, Germany; Ottawa, Canada; Hong Kong, China; Bridgetown, Barbados; Beijing, China; Panama City, Panama; and Sydney, Australia. IRS intranet, Criminal Investigations, International Operations, available at <http://ci.web.irs.gov/sections/operations/international.htm>.

3 On November 30, 2014, the IRS closed its Beijing office. Memorandum from Acting Deputy Commissioner, International (LB&I) to LB&I, Commissioner; SB/SE, Commissioner; W&I, Commissioner; Director, IBC; Director, IIC; Director, PGLD; Director Taxpayer Advocate Services; Office of the Chief Technology Officer; Chief Criminal Investigations; Chief Financial Officer (Oct. 16, 2014). The IRS will close tax attaché offices in Frankfurt, Germany; London, UK; and Paris, France, on June 26, 2015, Sept. 19, 2015, and Dec. 26, 2015, respectively. Memorandum from Acting Deputy Commissioner, International (LB&I), *Post Closures of Frankfurt, London and Paris* (Feb. 18, 2015).

4 Since 2009 the IRS has also suspended overseas assistance tours at U.S. embassies because these tours were not cost-effective and “minimal in relation to the number of taxpayers living abroad.” During the last overseas assistance tour from February 28 to March 31, 2008, IRS employees provided face-to-face assistance to 2,603 individuals at 21 U.S. embassies, spending approximately four days at each location. In 2007, W&I assisted 2,090 individuals at 25 locations. W&I responses to TAS research request (Oct. 14 and 19, 2009).

5 See Area of Focus: *IRS Implementation of FATCA is Burdensome and Fails to Protect the Rights of Affected Taxpayers*, *supra*.

6 IRC § 7803(c).

advocates.”⁷ While the IRC specifically requires the National Taxpayer Advocate to appoint LTAs and make at least one available for each state,⁸ it does not include a similar requirement for LTAs outside the country; however, there is no prohibition to establishing such offices. Establishing LTAs abroad would provide international taxpayers with better access to TAS, increase communication, and encourage future compliance. It would also assist TAS in identifying emerging and ongoing systemic issues. As such, TAS will continue to advocate not only for the reopening of the IRS tax attaché offices abroad, but also for an LTA to be co-located at each of these sites.⁹

TAS Serves a Wide Variety of International Taxpayers with Various Issues

In fiscal year (FY) 2014, TAS received approximately 2,330 cases from taxpayers with international addresses¹⁰ from approximately 90 different countries.

Over half of TAS’s overseas cases in FY 2014 came from a handful of countries, with the pattern continuing in FY 2015.¹¹ The data suggest TAS has key opportunities for placing LTAs in countries where large groups of U.S. taxpayers frequently face difficulty in dealing with the IRS. Figure 9.1.1 on the following page illustrates this point.

7 IRC § 7803(c)(2)(C)(i).

8 IRC § 7803(c)(2)(D)(i)(I).

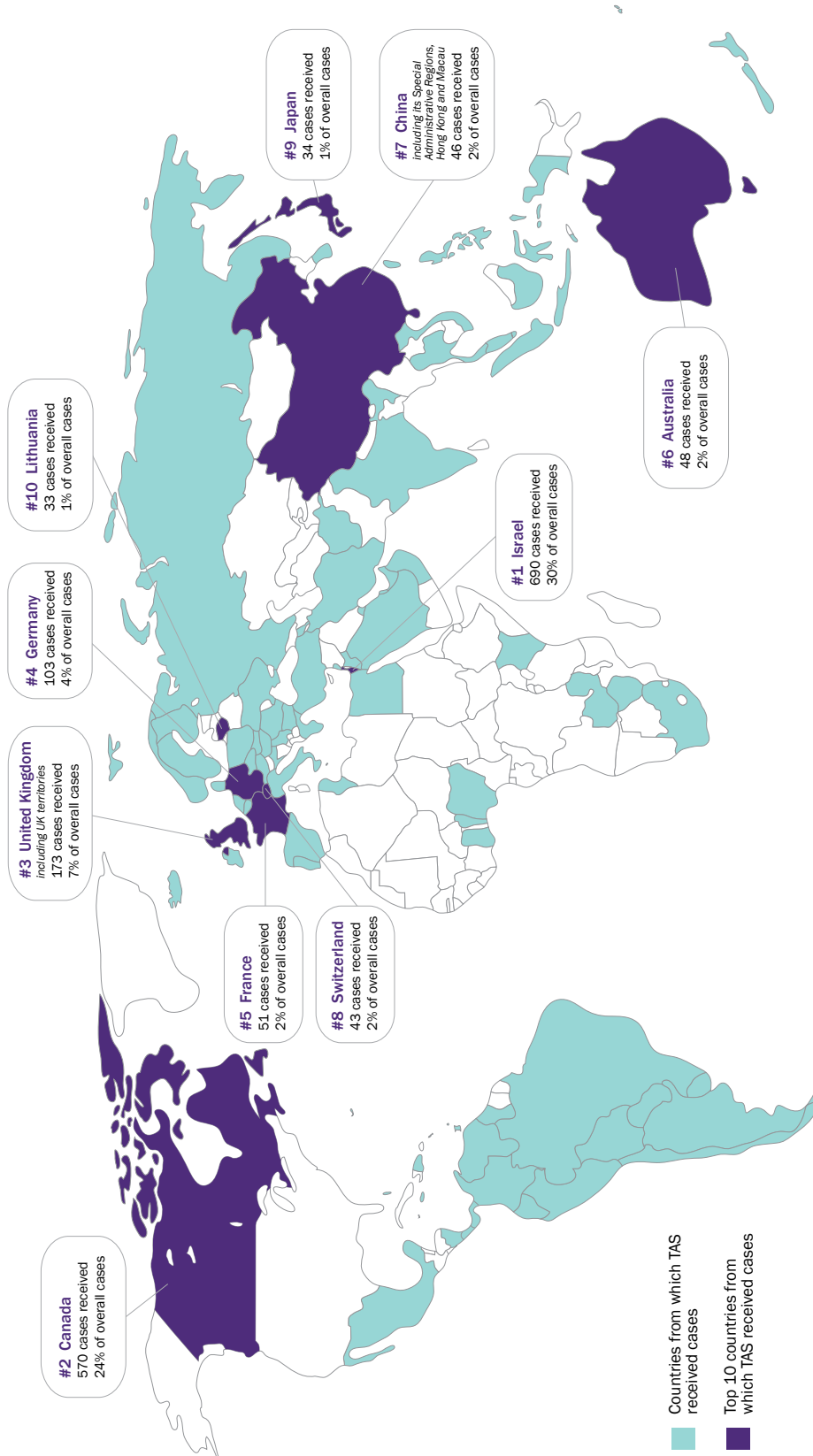
9 See *Internal Revenue Service FY 2016 Budget Request, Hearing Before the S. Subcomm. on Financial Services and General Government of the S. Comm. on Appropriations*, 114th Cong. (2015) (testimony of Nina E. Olson, National Taxpayer Advocate).

10 Taxpayers with addresses from U.S. territories outside the continental United States are included in this number. Data obtained from the Taxpayer Advocate Management Information System (TAMIS) (Mar. 2015).

11 FY 2015 data runs through February 28, 2015.

FIGURE 9.1.1¹²

FY 2014 TAS International Case Receipts, by Country



12. Countries were determined by the address the taxpayer used in filing out TAS paperwork.

TAS cases from taxpayers abroad included a variety of issues, but the most frequent issues are similar to those experienced by taxpayers in the United States.¹³ The top five issues in FY 2014 from taxpayers with international addresses were:

1. Accounts Management Taxpayer Assurance Program – Pre-Refund Wage Verification Holds;¹⁴
2. Open Audit;
3. Form W-7/Individual Taxpayer Identification Number/Adoption Taxpayer Identification Number;¹⁵
4. Refund inquiries not included as a separate issue code; and
5. Processing of an original individual or business return.

While these issues are not unique to international taxpayers, their residence overseas may play a significant role in these cases. For example, a taxpayer undergoing an audit could have difficulty proving a deduction if the IRS examiner refused to accept international documentation due to a lack of familiarity with it. Thus, some of these cases may include a uniquely international angle even when they share the same issue category as domestic cases.

Lack of LTAs Abroad May Deter Taxpayers from Contacting TAS

Of the cases received in FY 2014 from taxpayers abroad, roughly 40 percent resulted from the taxpayer or the taxpayer's representative filing Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*, or other correspondence. Approximately 27 percent of the cases stemmed from the IRS identifying a case as meeting TAS criteria and referring it to TAS. It is unclear how many more taxpayers might have contacted TAS if they could have done so through an LTA abroad, who would be able to conduct outreach and inform international taxpayers about the availability of TAS assistance. Taxpayers may have been discouraged from contacting TAS due to barriers such as time zone differences, lack of access to toll-free phone lines, and time delays in mailed correspondence. Even a limited TAS presence abroad might aid communication because some phone services offer free calls from one country to another in Europe. Because taxpayers living abroad face such significant barriers in accessing the IRS and TAS and communicating with them in a timely and efficient way, they are not receiving the quality of service they need. Thus, taxpayers' *right to quality service* is being weakened.

TAS Needs a Physical Presence Abroad to Keep Abreast of Systemic Issues Facing International Taxpayers and Provide Relief to These Taxpayers

All taxpayers who are suffering or about to suffer a significant hardship, including those abroad, should be able to get assistance from TAS on individual cases or on systemic issues facing multiple taxpayers. Without international LTA offices, TAS is limited in its ability to identify trends affecting groups of international taxpayers and understand their unique needs and concerns. Although almost half of TAS's

¹³ Data obtained from TAMIS (Mar. 2015).

¹⁴ The Accounts Management Taxpayer Assurance Program was replaced with the Integrity and Verification Operation, which is responsible for pre-refund fraud detection, revenue protection, and associated account resolution activities. See IRM 25.25.1.1, *Overview* (Oct. 1, 2014).

¹⁵ Form W-7, *Application for IRS Individual Taxpayer Identification Number* (Aug. 2013) is the application for an Individual Taxpayer Identification Number (ITIN), which is required for a person with a tax return filing requirement who is not eligible for a Social Security number. Adoption Taxpayer Identification Numbers (ATINs) are temporary identification numbers assigned by the IRS to children who have been placed by an authorized placement agency in the household of a prospective adoptive parent for legal adoption. These are required to claim certain tax benefits for the child who does not have a Social Security number. See IRM 3.13.40.1, *Adoption Taxpayer Identification Number (ATIN) - Overview* (Jan. 1, 2015).

cases from abroad in FY 2014 were opened because the taxpayer experienced a delay of more than 30 days in resolving an account problem, approximately one-third were due to a systemic or procedural failure.¹⁶ This suggests the need for LTA offices to be located strategically outside the United States to gain knowledge and awareness of the problems that groups of taxpayers are facing in different geographic areas and to be able to assist them.

Although domestic TAS offices would work most cases received by LTAs abroad, the LTAs abroad would play a key role in integrating case advocacy and systemic advocacy. A hypothetical example involves a scenario where a large number of residents from one country visit an LTA to seek help with problems involving national identification documents used for an ITIN application. If an LTA were embedded in that country or region, he or she would be in a better position to understand the local issues and advocate for changes to IRS procedures. Another example, which was reported on TAS's Systemic Advocacy Management System (SAMS),¹⁷ involves European taxpayers who frequently use open-source software. These taxpayers cannot electronically file Foreign Bank and Financial Accounts (FBAR) forms because the format is not compatible with their software. An LTA based in Europe who understands the characteristics of the population, such as the use of different software, would be in a better position to identify issues like this upfront and advocate proactively.

Taxpayers abroad, many of whom may have tried to follow the rules and comply with the tax laws, have little recourse when they face problems.

TAS LTAs Abroad Could Provide Valuable, Targeted Outreach and Communication

In addition to taking in cases, interfacing with taxpayers, and supporting systemic advocacy, LTAs play a vital role in outreach and communication. No matter where they live, taxpayers should be able to find out what they need to do to comply with the tax laws. LTAs educate taxpayers by providing targeted outreach to their communities. As in previous years, in FY 2015, LTAs were tasked with identifying at least one unique or significant issue in their communities, while still understanding and addressing the other community issues, and incorporating it into their outreach.¹⁸

LTAs also work with local organizations to provide grassroots outreach and communication. The LTA in Philadelphia, Pennsylvania developed a productive partnership with the city's Mexican consulate and a Low Income Taxpayer Clinic that aids farmworkers. During monthly outreach events at the consulate, which provides services to all Mexican citizens in Pennsylvania and New Jersey, the partners offer information about TAS services, identity theft, return preparer fraud, tax credits, ITINs, and other issues. While this partnership was effective in helping a small group of international taxpayers located specifically in two U.S. states, it was limited to taxpayers in that geographic area. If there were LTAs abroad, they could engage in similar partnerships to specifically address the needs of a particular taxpaying population in the country or region where the LTA would be located. TAS would have the opportunity to create similar partnerships abroad with U.S. embassies and other offices that provide services to U.S. taxpayers.

¹⁶ Data obtained from TAMIS (Mar. 2015).

¹⁷ SAMS is a web-based database of issues and information used by IRS employees and the public to report systemic issues and problems to TAS. For more information, see <http://www.irs.gov/sams>.

¹⁸ See TAS FY 2015 Program Letter, Appendix 4.

International LTAs Would Provide Valuable Services with Minimal Staffing

For FYs 2016 and 2017, TAS submitted budget requests to place an international LTA and Intake Advocate, who would provide administrative support, in each of the four international tax attaché offices. While only requiring eight additional staff, these four offices could have a great impact on international taxpayers, with opportunities to:

- Obtain information to correctly file taxes, both in the United States and with foreign taxing agencies;
- Claim appropriate exemptions and deductions;
- Receive answers to taxpayer questions that arise from tax treaties among multiple governments;
- Provide assistance to taxpayers dealing with foreign governments, laws, tax treaties, and income taxes;
- Advocate for taxpayers dealing with the tax laws of foreign governments; and
- Allow for collaboration with other IRS employees as well as the embassy and consulate staff and representatives from foreign taxing agencies.

Under TAS's proposal, international LTAs would collaborate with other IRS employees as well as the embassy and consulate staff and representatives from foreign taxing agencies. The Advocates would provide a voice for taxpayers through advocacy outreach to officials in those agencies where taxpayers currently have no representation.

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- Identify a list of the most significant issues facing international taxpayers based on case advocacy and systemic advocacy data, and create targeted outreach materials for these issues;
- Identify ten U.S. embassies abroad in locations where a large number of U.S. taxpayers face problems with the IRS and conduct outreach with these offices by correspondence, sharing international outreach materials and the TAS Tax Toolkit;
- Create a team to research and draft a written report identifying financial, logistical, security-related, and other issues related to establishing LTAs abroad;
- Review case advocacy data and SAMS submissions to identify specific locations abroad where TAS could place LTAs to maximize their effectiveness;
- Continue to monitor systemic issues and identify additional training needs for Case Advocates on international issues; and
- Continue to advocate for reopening the IRS tax attaché offices abroad with the addition of an LTA at each site.