

**Area of Focus #5**     **TAS Will Continue to Advocate for Vulnerable Taxpayers Whose Cases Are Assigned to Private Debt Collection Agencies (PCAs) and for a Reduction of Inactive PCA Inventory**

---

### TAXPAYER RIGHTS IMPACTED<sup>1</sup>

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Pay No More Than the Correct Amount of Tax*
- *The Right to Challenge the IRS's Position and Be Heard*
- *The Right to Appeal an IRS Decision in an Independent Forum*
- *The Right to Finality*
- *The Right to Privacy*
- *The Right to Confidentiality*
- *The Right to Retain Representation*
- *The Right to a Fair and Just Tax System*

### DISCUSSION

The National Taxpayer Advocate in past reports has raised several concerns about how the IRS is administering the current Private Debt Collection (PDC) program.<sup>2</sup> These include:

- The impact on taxpayers who are likely experiencing economic hardship; and
- The growth in inactive inventory in the hands of private collection agencies (PCAs), with the risk of PCA inventory becoming a mere substitute for the IRS collection queue.<sup>3</sup>

The IRS can identify taxpayers who are likely experiencing economic hardship by comparing their incomes to other amounts, such as the federal poverty level or IRS allowable living expense (ALE)

---

1 See Taxpayer Bill of Rights (TBOR), [www.TaxpayerAdvocate.irs.gov/taxpayer-rights](http://www.TaxpayerAdvocate.irs.gov/taxpayer-rights). The rights contained in the TBOR are also codified in the Internal Revenue Code (IRC). See IRC § 7803(a)(3).

2 See, e.g., National Taxpayer Advocate 2018 Annual Report to Congress 286 (Most Serious Problem: *Private Debt Collection: The IRS's Expanding Private Debt Collection Program Continues to Burden Taxpayers Who Are Likely Experiencing Economic Hardship While Inactive Private Collection Agency Inventory Accumulates*); National Taxpayer Advocate 2017 Annual Report to Congress 277 (Most Serious Problem: *Private Debt Collection: The IRS's Private Debt Collection Program Is Not Generating Net Revenues, Appears to Have Been Implemented Inconsistently with the Law, and Burdens Taxpayers Experiencing Economic Hardship*); National Taxpayer Advocate 2016 Annual Report to Congress 172 (Most Serious Problem: *Private Debt Collection (PDC): The IRS Is Implementing a PDC Program in a Manner That Is Arguably Inconsistent With the Law and That Unnecessarily Burdens Taxpayers, Especially Those Experiencing Economic Hardship*).

3 The IRS collection queue is a holding area where unresolved cases go prior to being assigned to a revenue officer for in-person collection when resources become available. Internal Revenue Manual (IRM) 1.4.50.8.3, *Queue* (Sept. 12, 2014). Because revenue officer resources are limited, cases may sit in the collection queue for an extended period of time before assignment to a revenue officer.

standards.<sup>4</sup> Several different measures all lead to the same conclusion: more than half of taxpayers whose debts are assigned to PCAs are likely experiencing economic hardship:

- 62 percent have gross incomes at or below 250 percent of the federal poverty level;<sup>5</sup>
- 55 percent have adjusted gross incomes at or below 200 percent of the federal poverty level;<sup>6</sup> and
- 60 percent have gross incomes at or below their ALEs.<sup>7</sup>

Moreover, as the pace of IRS assignments of *new* inventory to PCAs has grown, the volume of *inactive* PCA inventory has increased even more rapidly:

- At the end of fiscal year (FY) 2018, the IRS had assigned 778,859 cases to PCAs. As of March 28, 2019, the IRS had assigned 1,620,771 cases, an increase of 108 percent;<sup>8</sup> and
- At the end of FY 2018, there were 405,609 unresolved or unproductive cases in PCA inventory.<sup>9</sup> As of March 28, 2019, there were 973,598 such cases in PCA inventory, an increase of 140 percent.<sup>10</sup>

Thus, unresolved case inventory has increased from 52 percent at the end of FY 2018 to 60 percent as of March 28, 2019, and PCAs are quickly becoming the equivalent of the IRS collection queue rather than a means of resolving the queue, which defeats the purpose of the PDC initiative. Unproductive and unresolved cases are moved from one holding area to another, except that the IRS will pay commissions to PCAs on payments taxpayers happen to make while the debt remains in PCA inventory.

The National Taxpayer Advocate is also concerned that:

- The IRS unnecessarily discloses to PCAs that, according to its records, a taxpayer did not file a required return;
- PCAs solicit unfiled returns from taxpayers without the statutory authority to do so; and
- The IRS plans to assign the debts of business taxpayers to PCAs, including payroll tax liabilities. These liabilities, when left uncollected, quickly escalate due to the accrual of penalties and interest.

4 The allowable living expense (ALE) standards determine how much money taxpayers need for basic living expenses such as housing and utilities, food, transportation, and health care, based on family size and where they live. If the ALE standards exceed the taxpayer's gross income, the taxpayer is unable to pay his or her necessary living expenses. See IRS, *Collection Financial Standards*, <https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>. See also IRM 5.14.1.4, *Installment Agreement Acceptance and Rejection Determinations* (Sept. 19, 2014).

5 Accounts Receivable Dollar Inventory (ARDI), Individual Returns Transaction File (IRTF), Information Returns Master File (IRMF), Compliance Data Warehouse (CDW) (Mar. 28, 2019). Examples of how this measure is used in tax administration include IRC § 7526(b)(1)(B)(i) (relating to eligibility for assistance from Low Income Taxpayer Clinics) and IRM 5.19.9.3.2.3, *Low Income Filter (LIF) Exclusion* (Oct. 20, 2016) (the IRS's "low income filter" for excluding taxpayers from the automated federal payment levy program).

6 ARDI, IRTF, IRMF, CDW (Mar. 28, 2019). The Taxpayer First Act of 2019, H.R. 1957, 116th Cong. § 1205 (2019), discussed below, uses this measure to identify taxpayers whose debts should be excluded from assignment to private collection agencies (PCAs).

7 ARDI, IRTF, IRMF, CDW (Mar. 28, 2019).

8 *Id.*

9 *Id.* As discussed below, we term as inactive, unproductive, or unresolved those cases in which: the taxpayer entered into an installment agreement (IA) but made no payment for more than 120 days thereafter; and cases in which the taxpayer has neither entered into an IA nor made any payment, and more than three months have elapsed since the case was assigned.

10 *Id.*

### The IRS Assigns the Debts of Vulnerable Taxpayers to Private Collection Agencies

As the IRS prepared to launch the current PDC initiative, the National Taxpayer Advocate voiced her concern that the program as implemented would create or exacerbate taxpayers' economic hardship.<sup>11</sup> As a proxy for economic hardship, the IRS sometimes uses the measure of gross income that is up to 250 percent of the federal poverty level.<sup>12</sup> When the IRS evaluates proposed installment agreements (IAs), it compares taxpayers' gross income with their ALEs. The National Taxpayer Advocate has recommended excluding taxpayers from the PDC program when their gross incomes are less than 250 percent of the federal poverty level *or* less than their ALEs.<sup>13</sup> As Figure 4.5.1 demonstrates, both measures reveal that the PDC program burdens a significant portion of taxpayers who are likely in economic hardship.<sup>14</sup>

**FIGURE 4.5.1, Relationship of Gross Income to the Federal Poverty Level and to Allowable Living Expenses of 1,620,771 Taxpayers Whose Debts Were Assigned to Private Collection Agencies**

Gross Income Compared to Poverty Level	Number of Taxpayers	Percent of Taxpayers	Number of Taxpayers with Gross Income At or Below ALE	Percent of Taxpayers with Gross Income At or Below ALE
Gross Income At or Below Federal Poverty Level	605,451	37 percent	605,451	100 percent
Gross Income Above Federal Poverty Level up to 250 Percent of Federal Poverty Level	401,340	25 percent	336,181	84 percent
<b>Subtotal</b>	<b>1,006,791</b>	<b>62 percent</b>	<b>941,632</b>	<b>94 percent</b>
Gross Income Above 250 Percent of Federal Poverty Level	613,980	38 percent	35,958	6 percent
<b>Total</b>	<b>1,620,771</b>	<b>100 percent</b>	<b>977,590</b>	<b>60 percent</b>

Moreover, the measures produce similar results:

- 62 percent of taxpayers would be excluded from the program, measured by gross income up to 250 percent of the federal poverty level; and
- 60 percent would be excluded, measured by gross income at or below ALEs.

On April 9, 2019, the U.S. House of Representatives passed the Taxpayer First Act of 2019, which excludes from assignment to PCAs the debts of taxpayers with adjusted gross incomes (rather than gross income) of up to 200 percent of the federal poverty level (rather than 250 percent of the federal poverty

11 See National Taxpayer Advocate 2016 Annual Report to Congress 172 (Most Serious Problem: *Private Debt Collection (PDC): The IRS Is Implementing a PDC Program in a Manner That Is Arguably Inconsistent With the Law and That Unnecessarily Burdens Taxpayers, Especially Those Experiencing Economic Hardship*).

12 See IRC § 7526 (to identify taxpayers who qualify for assistance from low income taxpayer clinics); IRM 5.19.9.3.2.3, *Low Income Filter (LIF) Exclusion* (Oct. 20, 2016) (to identify certain retirement income recipients who are likely to be in economic hardship in order to exclude them from the IRS's automatic levy program, the Federal Payment Levy Program).

13 See, e.g., National Taxpayer Advocate 2019 Purple Book (Legislative Recommendation: *Amend IRC § 6306(d) To Exclude the Debts of Taxpayers Whose Incomes Are Less Than Their Allowable Living Expenses from Assignment to Private Collection Agencies or, If That is Not Feasible, Exclude the Debts of Taxpayers Whose Incomes Are Less than 250 Percent of the Federal Poverty Level*) (Dec. 31, 2018).

14 All income amounts shown in figures are based on the most recently filed tax return from 2017 or later. For cases with no recently filed tax return, the income was based on third party reports of income.

level).<sup>15</sup> As Figure 4.5.2 demonstrates, this measure would exclude 55 percent of taxpayers from the PDC program (*i.e.*, seven percent fewer taxpayers than if the measure used to exclude taxpayers were gross income compared to 250 percent of the federal poverty level).<sup>16</sup>

**FIGURE 4.5.2, Relationship of Adjusted Gross Income to the Federal Poverty Level and Relationship of Gross Income to Allowable Living Expenses of 1,620,771 Taxpayers Whose Debts Were Assigned to Private Collection Agencies**

Income Compared to Poverty Level	Number of Taxpayers	Percent of Taxpayers	Number of Taxpayers With Gross Income At or Below ALE	Percent of Taxpayers With Gross Income At or Below ALE
Adjusted Gross Income At or Below Federal Poverty Level	614,821	38 percent	612,927	100 percent
Adjusted Gross Income Above Federal Poverty Level Up To 200 Percent of Federal Poverty Level	278,548	17 percent	275,789	99 percent
Adjusted Gross Income Above 200 Percent of Federal Poverty Level	727,402	45 percent	88,874	13 percent
<b>Total</b>	<b>1,620,771</b>	<b>100 percent</b>	<b>977,590</b>	<b>60 percent</b>

The Taxpayer First Act of 2019 also excludes from assignment to PCAs the debts of taxpayers “substantially all of whose income consists of disability insurance benefits” (SSDI).<sup>17</sup> There were 91,034 SSDI recipients whose debts were assigned to PCAs. For 65,056 taxpayers, SSDI payments comprise more than 90 percent of their incomes.<sup>18</sup>

Some taxpayers entered into IAs while their debts were assigned to PCAs. Figure 4.5.3 shows these taxpayers’ ability to pay depending on whether the measure is:

- Adjusted gross income as a multiple of the federal poverty level; or
- Gross income in relation to ALEs.

15 Taxpayer First Act of 2019, H.R. 1957, 116th Cong. § 1205 (2019). According to the H. Comm. on Ways and Means, “an exception from the private debt collection program is needed for certain low-income individual taxpayers to protect such taxpayers from entering into payment plans they cannot afford, which ultimately does not result in an increase in actual payments recovered.” H.R. REP. NO. 116-39, at 43 (2019).

16 As Figure 4.5.2 also shows, if the relationship of adjusted gross income to ALEs is the measure used to exclude taxpayers from the PDC program, the same proportion of taxpayers would be excluded from the program as if the relationship of gross income to ALEs were used (60 percent).

17 See Taxpayer First Act of 2019, H.R. 1957, 116th Cong. § 1205 (2019), excluding from assignment to PCAs the debts of taxpayers “substantially all of whose income consists of disability insurance benefits under section 223 of the Social Security Act or supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93–66).” The National Taxpayer Advocate has also recommended excluding these taxpayers’ debts from assignment to PCAs. See National Taxpayer Advocate 2018 Annual Report to Congress 286 (Most Serious Problem: *Private Debt Collection: The IRS’s Expanding Private Debt Collection Program Continues to Burden Taxpayers Who Are Likely Experiencing Economic Hardship While Inactive Private Collection Agency Inventory Accumulates*).

18 ARDI, IRTF, IRMF, CDW (Mar. 28, 2019).

**FIGURE 4.5.3, Comparison of Ability to Pay As Measured By the Relationship Between Adjusted Gross Income (AGI) and the Federal Poverty Level With Ability to Pay As Measured by the Relationship Between Gross Income and ALEs for 70,348 Taxpayers Who Entered Into Installment Agreements While Their Debts Were Assigned to PCAs**

	AGI Up To 100 Percent Federal Poverty Level		AGI Up To 200 Percent Federal Poverty Level		AGI Up To 250 Percent Federal Poverty Level	
	Cannot Pay	Can Pay	Cannot Pay	Can Pay	Cannot Pay	Can Pay
<b>ALE Classification, Cannot Pay</b>	51.6%	48.4%	89.4%	10.6%	97.6%	2.4%
<b>ALE Classification, Can Pay</b>	0.4%	99.6%	1.5%	98.5%	10.4%	89.6%

As Figure 4.5.3 shows, 98 percent of taxpayers whose adjusted gross incomes were at or below 250 percent of the federal poverty level *also* had ALEs in excess of their incomes. Thus, excluding from the PDC program taxpayers whose adjusted gross incomes are at or below 250 percent of the federal poverty level would almost always achieve the same result as excluding taxpayers whose ALEs exceed their gross incomes.<sup>19</sup>

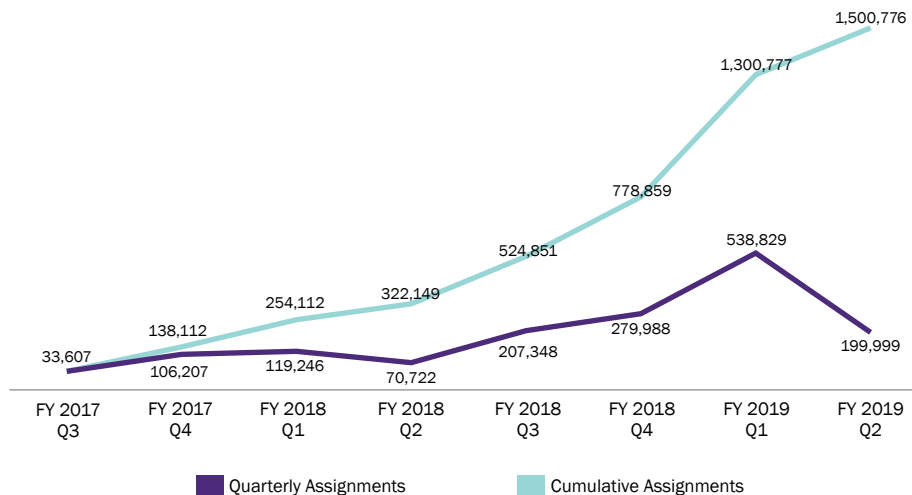
### The Pace of Assignments to PCAs is Increasing

As Figure 4.5.4 demonstrates, the number of cases the IRS assigned to PCAs increased in six out of the eight full quarters the program has been operating.

<sup>19</sup> For taxpayers whose debts were not assigned to PCAs, but to the IRS's Automated Collection System, the results are similar: over a six-year period (2013-2018), about 85 percent of taxpayers whose adjusted gross incomes were at or below 250 percent of the federal poverty level also had ALEs in excess of their incomes. See Nina E. Olson, NTA BLOG, *The IRS Is Not Doing Enough to Protect Taxpayers Facing Economic Hardship* (May 24, 2019), <https://taxpayeradvocate.irs.gov/news/nta-blog-the-irs-is-not-doing-enough-to-protect-taxpayers-facing-economic-hardship?category=Tax News>.

FIGURE 4.5.4<sup>20</sup>

## Cases Assigned to Private Collection Agencies



Assignments for the second quarter of FY 2019 were lower than the previous quarter due to the 35-day lapse in IRS appropriations that began on December 22, 2018.<sup>21</sup>

Due to the rapid increase in the rate at which the IRS assigns inventory to PCAs, the number of assigned cases at the end of FY 2018 (778,859) jumped to 1,620,771 cases by the end of the second quarter of FY 2019, an increase of 108 percent.<sup>22</sup>

### Inactive PCA Inventory Continues to Grow

In her 2018 Annual Report to Congress, the National Taxpayer Advocate raised concern about the length of time cases had remained in PCA inventory as of September 20, 2018 without being resolved.<sup>23</sup> Categories of inactive or unproductive PCA inventory include:

- Cases in which the taxpayer entered into an IA, but for 120 days thereafter did not make a payment; and
- Cases in which the taxpayer neither entered into an IA nor made payments within 90 days after the case was assigned to the PCA.

20 ARDI, IRTF, IRMF, CDW, reflecting activity on tax modules with an unreversed Transaction Code 971 with an Action Code 054 (Mar. 28, 2019). In addition to the data shown in Figure 4.5.4, we identified 119,995 cases that were selected for assignment in March for delivery to PCAs in the third quarter of FY 2019.

21 Some pre-programmed inventory was delivered to PCAs on Dec. 31, 2018, but the IRS did not assign any other inventory during the lapse in appropriations and PCAs did not engage in collection activity during that time. Email from PDC Program Manager (Jan. 30, 2019), on file with TAS.

22 There were 1,500,776 cases assigned by the end of the second quarter of FY 2019, as shown in Figure 4.5.4 and an additional 119,995 cases that were selected for assignment in March for delivery to PCAs in the third quarter of FY 2019. ARDI, IRTF, IRMF, CDW (Mar. 28, 2019).

23 National Taxpayer Advocate 2018 Annual Report to Congress 286 (Most Serious Problem: *Private Debt Collection: The IRS's Expanding Private Debt Collection Program Continues to Burden Taxpayers Who Are Likely Experiencing Economic Hardship While Inactive Private Collection Agency Inventory Accumulates*).

None of these cases are being resolved, thus defeating the purpose of outsourcing tax collection. Moreover, as discussed below, PCAs may receive commissions on amounts taxpayers do pay, independently of whether the payment was the result of recent PCA activity, as long as the case remains in PCA inventory.

Figure 4.5.5 shows the number of taxpayers whose unresolved debts remained in PCA inventory as of March 28, 2019, compared to the data at the end of FY 2018.<sup>24</sup>

**FIGURE 4.5.5, Number of Taxpayers Whose Debts Are In PCA Inventory and Are Not Being Resolved as of March 28, 2019, Compared to September 30, 2018**

	Number of Taxpayers	Average Number of Days Elapsed After Assignment	Median Number of Days Elapsed After Assignment
<b>IA and No Payment For More Than 120 Days</b> (Excluding Defaults, Recalled Cases, and Returned Cases)			
<b>As of Mar. 28, 2019</b>	4,094	256	199
<b>As of Sept. 30, 2018</b>	3,222	272	279
<b>Increase (Decrease)</b>	<b>872</b>	<b>(16)</b>	<b>(80)</b>
<b>No IA or Payment For More Than Three Months</b> After Assignment (Excluding Recalled Cases and Returned Cases)			
<b>As of Mar. 28, 2019</b>	969,504	258	213
<b>As of Sept. 30, 2018</b>	402,387	244	195
<b>Increase</b>	<b>567,117</b>	<b>14</b>	<b>18</b>
<b>Overall</b>			
<b>As of Mar. 28, 2019</b>	973,598	258	213
<b>As of Sept. 30, 2018</b>	405,609	244	195
<b>Increase</b>	<b>567,989</b>	<b>18</b>	<b>18</b>
<b>Percent Increase</b>	<b>140 percent</b>	<b>7 percent</b>	<b>9 percent</b>

As noted in Figure 4.5.5, from October 1, 2018 to March 28, 2019, the number of cases assigned to PCAs increased by 108 percent (from 778,859 cases to 1,620,771 cases). In the same period, as Figure 4.5.5 demonstrates, the number of cases in inactive or unproductive PCA inventory increased 140 percent. Thus, as the IRS assigns new inventory to PCAs, inactive PCA inventory also increases—at a faster rate. Moreover, the percent of assigned cases that were in inactive inventory increased during that same period, from 52 percent (405,609 out of 778,859 cases) to 60 percent (973,598 out of 1,620,771 cases).

When taxpayers make payments while their debts are assigned to PCAs, the IRS retains up to 25 percent of the payment, as authorized by Internal Revenue Code (IRC) § 6306(e)(1), to pay for the costs of services performed by PCAs, including commissions. The IRS retains an additional amount of up to 25 percent of those payments for itself, as authorized by IRC § 6306(e)(2), to pay for additional IRS compliance personnel. Thus, when taxpayers make payments while their debts are in PCA inventory, up

<sup>24</sup> ARDI, IRTF, IRMF, CDW (Mar. 28, 2019). Because a taxpayer may have had more than one module assigned, the average and median number of days are computed based on the oldest (highest age or earliest assigned) module in open inventory.



to 50 percent of payments they make are diverted from the public fisc, whether or not the payment was preceded by any recent collection activity by the PCA.

In contrast, when taxpayers whose debts are not assigned to PCAs make payments, the public fisc—U.S. taxpayers—receive the full benefit of those payments. Moreover, research studies show that the IRS could elicit payments from taxpayers whose accounts are in the IRS’s collection queue by simply sending them monthly collection letters.<sup>25</sup>

### The IRS May Unnecessarily Disclose That Taxpayers Have Unfiled Returns

In FY 2018, the IRS began assigning to PCAs cases in which the taxpayer did not file a return which, according to IRS records, was required to be filed (referred to as a delinquent return).<sup>26</sup> The electronic records the IRS uses to assign inventory to the PCAs indicate when there appears to be a delinquent return.<sup>27</sup>

IRC § 6103(n) and the regulations thereunder authorize the IRS to disclose return information to persons “to the extent necessary” in connection with “the providing of other services, for purposes of tax administration.”<sup>28</sup> Taxpayers are required to file delinquent returns as a condition to entering into an IA, but not, for example, as a condition to fully paying their account.<sup>29</sup> Thus, it is not clear that disclosing delinquent return information to PCAs—before it has been determined that the taxpayer intends to enter into an IA—is necessary for purposes of tax administration within the meaning of IRC § 6103(n). Likewise, the PCA may establish that the taxpayer does *not* intend to enter into an IA (for example, because he or she cannot afford to make payments), which would appear to make the prior disclosure of delinquent return information unnecessary.

Moreover, even if there are circumstances in which IRC § 6103 permits the IRS to disclose delinquent return information to PCAs, it is not clear that PCAs have the authority, under IRC § 6306, to solicit unfiled returns from taxpayers.<sup>30</sup>

25 National Taxpayer Advocate 2018 Annual Report to Congress vol. 2 159 (Research Study: *Further Analyses of “Federal Tax Liens and Letters: Effectiveness of the Notice of Federal Tax Liens and Alternative IRS Letters on Individual Tax Debt Resolution”*).

26 As the National Taxpayer Advocate has noted, IRS records indicating a return was required are not always accurate. See National Taxpayer Advocate 2014 Annual Report to Congress 197, 202 (Most Serious Problem: *Federal Payment Levy Program: Despite Some Planned Improvements, Taxpayers Experiencing Economic Hardship Continue to Be Harmed by the Federal Payment Levy Program*), reporting that 21 percent of the accounts the IRS identified as delinquent were not actually those of nonfilers (*i.e.*, a return had actually been filed) or there was little or no tax due.

27 Section 4.3.2, *Weekly Files*, PCA Policy and Procedures Guide (PPG) (Feb. 2019), noting “[t]he weekly files will be available every Monday and must be reviewed prior to making any contact with the taxpayer. For example, while monitoring a payment arrangement, the PCA can identify payment transactions and delinquent returns in the weekly files.”

28 IRC § 6103(n); Treas. Reg. § 301.6103-1(b)(1), providing that “[d]isclosure of returns or return information in connection with a written contract or agreement for the acquisition of property or services described in paragraph (a) of this section will be treated as necessary only if the performance of the contract or agreement cannot otherwise be reasonably, properly, or economically carried out without the disclosure.”

29 See, e.g., IRM 5.14.1.4.2 *Compliance and Installment Agreements* (July 16, 2018).

30 Under IRC § 6306(b)(1)(B), PCAs may request the taxpayer to fully pay the liability within 120 days, or, alternatively, may propose an IA. The only other PCA activities authorized by IRC § 6306(b)(1) are to locate and contact the taxpayer (IRC § 6306(b)(1)(A)), and “to obtain financial information specified by the Secretary with respect to such taxpayer” (IRC § 6306(b)(1)(C)).



### The IRS Will Assign Business Taxpayers' Debts to Private Collection Agencies in 2019

Because the IRS is more likely to assign larger business tax liabilities to a revenue officer for personal contact and immediate collection, the business debts available for assignment to PCAs are likely to have lower balances.<sup>31</sup> However, even low balances can quickly escalate, especially if the liability consists of payroll taxes, due to the accrual of interest and the imposition of penalties.<sup>32</sup> As discussed above, inactive PCA inventory (which currently consists only of individual taxpayers' liabilities) is increasing and remains unresolved for an average of 258 days. To the extent business tax cases are similarly unproductive or inactive, the purpose of the PDC program is defeated.<sup>33</sup>

## CONCLUSION

As the pace of assignments to PCAs continues to increase, more vulnerable taxpayers are at risk of having their debts assigned to PCAs. As more cases are assigned, inactive PCA inventory is likely to increase. In the meantime, the IRS will disclose to PCAs information about taxpayers' unfiled returns, and PCAs will solicit unfiled returns from taxpayers, but the legal authority for either of these practices is unclear.

## FOCUS FOR FISCAL YEAR 2020

In fiscal year 2020, TAS will:

- Request an opinion from IRS Chief Counsel about whether the IRS's practice of disclosing return information to PCAs, including its records showing the taxpayer has unfiled returns, is permissible, and the circumstances in which PCAs are authorized to solicit unfiled returns from taxpayers;
- Continue to advocate for excluding the debts of taxpayers who are likely in economic hardship from assignment to PCAs; and
- Advocate for recalling inactive individual and business tax liabilities from PCA inventory.

31 National Taxpayer Advocate 2016 Annual Report to Congress vol. 2 81 (Research Study: *Collecting Business Debts: Issues for the IRS and Taxpayers*).

32 Business taxpayers often file quarterly employment tax returns and are therefore more likely to be delinquent on more than one business return. Typically, at least half of the balance due by the third year after the IRS assigns an unresolved business account to Taxpayer Delinquent Account status (which occurs at the conclusion of a four-month notice period) is attributable to penalties and interest. National Taxpayer Advocate 2016 Annual Report to Congress vol. 2 91 (Research Study: *Collecting Business Debts: Issues for the IRS and Taxpayers*).

33 Recalling inactive business accounts from PCAs would be consistent with the National Taxpayer Advocate's recommendations with respect to recalling inactive individual taxpayer accounts in PCA inventory. National Taxpayer Advocate 2018 Annual Report to Congress 286, 294 (Most Serious Problem: *Private Debt Collection: The IRS's Expanding Private Debt Collection Program Continues to Burden Taxpayers Who Are Likely Experiencing Economic Hardship While Inactive Private Collection Agency Inventory Accumulates*).