

National Taxpayer Advocate's Introductory Remarks

On March 30, 2020, I had the honor and privilege of being sworn in as the third National Taxpayer Advocate. Starting in the midst of a pandemic and witnessing IRS offices closing one by one was not the way I envisioned my role when I accepted the position. I, like many others, have been working remotely, and my communications with the Commissioner, other IRS leaders, and TAS employees have been conducted by phone and email. This has presented obvious challenges, but there also has been a silver lining in this experience: As I have participated in conference calls with members of my leadership team, TAS employees, and the IRS's COVID-19 response team, I have been extraordinarily impressed by their commitment and focus on the health and safety of all employees during this pandemic while still doing as much as possible to assist taxpayers. Despite our limitations, I am proud to say the spirit of TAS employees is strong. We are making the best of the situation and continuing to work our cases as best we can. IRS personnel were in similar situations and sheltering at home, including virtually all IRS telephone assistors and many IRS campus employees. Because of these IRS staffing challenges, many TAS cases could not be resolved and will remain outstanding until campus employees can safely return to their IRS facilities. I appreciate the patience and understanding I have experienced as we all work through these unprecedented circumstances.

I want to acknowledge the tremendous job the IRS has done under these constraints. On March 25, 2020, the IRS provided taxpayers with broad relief from compliance actions under its "People First Initiative." This relief, which currently extends through July 15, 2020, provides peace of mind to many taxpayers during this national crisis by postponing certain payments related to installment agreements and offers in compromise and by limiting certain enforcement actions. In addition, the IRS has postponed over 300 filing, payment, and other time-sensitive deadlines¹ while undertaking to quickly disburse the Economic Impact Payments (EIPs) authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020. It is clear from my conference calls and the guidance the IRS is releasing that the IRS is putting taxpayers first and making meaningful efforts to provide relief to the extent possible. On behalf of taxpayers, I applaud the IRS's efforts.

I also want to acknowledge the tremendous contributions of my predecessors — Val Oveson, who led TAS from 1998-2000, and Nina Olson, who led TAS from 2001-2019. Over the past 20 years, TAS has successfully assisted over 4.5 million taxpayers by helping them resolve their tax problems and protecting their rights,² and it has made hundreds of administrative recommendations adopted by the IRS and some 45 legislative recommendations enacted by Congress. TAS is a great organization because of its leadership and the remarkable employees who dedicate their professional careers to compassionately advocating for taxpayers every day.

As I have been settling into my job, I am mindful of the importance of balancing my internal role and my external role. IRC § 7803(c) provides both that the National Taxpayer Advocate "shall report directly to the Commissioner" (the internal role), and that the National Taxpayer Advocate

1 Department of the Treasury, News Release, *Treasury and IRS Extend Over 300 Tax Filing, Payment and Administrative Deadlines* (April 9, 2020), <https://home.treasury.gov/news/press-releases/sm970>.

2 Taxpayer Advocate Management Information System (TAMIS).

shall submit two annual reports to the House Ways and Means and Senate Finance committees each year “without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget” (the external role).

This dual-reporting responsibility provides both opportunities and challenges. The biggest opportunity is that the National Taxpayer Advocate is effectively given “two bites at the apple” to bring about systemic change on behalf of taxpayers. I can try to resolve problems internally, and if a problem doesn’t get fixed, I can bring it to the attention of Congress and the public. The related challenge is creating a relationship of trust with IRS leaders. If IRS leaders believe comments they make or documents they share during internal discussions will be publicly disclosed, they may be reluctant to trust the National Taxpayer Advocate and to work collaboratively with TAS. This is a nuanced and ongoing tension, as I am sure my predecessors know well, but as I start the position, my approach will be to work issues internally as best I can and to raise concerns publicly only after the IRS and TAS have reached an impasse. Based on my early discussions with Commissioner Rettig and other leaders, I am optimistic we can find solutions to many taxpayer problems by working together as much as possible.

During my 35 years of tax advocacy, I have come to understand and appreciate the wisdom of Commissioner Mortimer Caplin’s principles for effective tax administration, which he set forth 56 years ago in Revenue Procedure 64-22.³ It is an eloquent articulation of the IRS’s role to perform its work in a fair and impartial manner, with neither a government nor a taxpayer point of view and with the responsibility to apply and administer the law in a reasonable, practical manner with great courtesy and consideration. While proper tax administration is key to ensuring a tax system that is fair and impartial to taxpayers, it is the job of the National Taxpayer Advocate and TAS to advocate for taxpayers to ensure their rights are protected. The Taxpayer Bill of Rights and the Taxpayer First Act (TFA) underscore the guiding principle that taxpayer rights are the cornerstone for an effective tax administration. I am proud to advocate for taxpayers’ rights and to work toward improving the taxpayer experience to ensure a fair and just tax administration.

The Internal Revenue Code requires the National Taxpayer Advocate to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance.⁴ The first report, due by June 30 of each year, must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year (the Objectives Report).

As we identify our objectives for the coming year, there are two overriding issues on which we plan to focus. The impact of COVID-19 on taxpayers is of greatest immediate concern because the impact has been enormous to date and its effects are continuing. Implementation of the TFA is the second issue we plan to focus on because it has the potential to bring about changes to agency operations that improve the taxpayer experience for decades to come. Before the outbreak of COVID-19, the TFA was the agency’s top strategic focus. Although its efforts have been delayed by the impact of COVID-19, they remain no less important for taxpayers and the IRS over the long run.

³ Rev. Proc. 64-22, 1964-1 C.B. 689.

⁴ IRC § 7803(c)(2)(B).

COVID-19 Challenges. Each year, more Americans interact with the IRS than with any other federal agency. The IRS's performance has huge ramifications for the United States, tax administration, and taxpayers. The IRS collects more than \$3.5 trillion in taxes and distributes hundreds of billions of dollars in benefits each year.⁵ The spread of COVID-19 brought much of the country to a grinding halt, and that was largely true of the IRS's operations — and right in the middle of the filing season no less. Despite the IRS's best efforts, there have been notable adverse taxpayer impacts, including:

- Taxpayers who filed a 2019 paper return and are entitled to refunds may be in for a long wait. The IRS had to suspend the processing of paper tax returns, and as of May 16, it estimated it had a backlog of 4.7 million paper returns.⁶ Although the IRS is reopening some of its core operations, it is not clear when it can open and log all the returns sitting in mail facilities.
- Some taxpayers whose returns were mistakenly flagged by IRS processing filters are experiencing lengthy delays in receiving their refunds. All tax returns claiming refunds are passed through filters designed to detect identity theft and other types of refund fraud. As TAS has documented, some of these filters produce “false positive rates” of more than 50 percent (meaning that more than half the taxpayers whose returns are stopped by certain filters are entitled to the refunds they claimed). Affected taxpayers are often asked to mail in documentation to substantiate their claims, but the IRS has not opened or processed many of their responses, delaying their refunds. Refund delays can have a significant financial impact on low-income taxpayers, as refunds often constitute a significant percentage of their annual household incomes. Notably, some of the refund delays have been generated by claims for the Earned Income Tax Credit or Additional Child Tax Credit.
- Individuals who did not receive some or all of their EIPs may have to wait until next year to receive them. To date, the IRS has taken the position that most taxpayers who did not receive their full payments will have to wait until they file their 2020 income tax returns to claim the amounts as credits against their 2020 tax liabilities, even though there is no legal constraint on the IRS's ability to issue additional EIP amounts as advance refunds during 2020. Congress enacted the CARES Act both to provide emergency financial relief to taxpayers on an individual level and to boost spending on the national level. We will continue to urge the IRS to provide full EIPs to eligible taxpayers throughout 2020 as rapidly as possible. Making taxpayers wait until next year to receive their EIPs harms the taxpayers and is inconsistent with congressional intent.
- Taxpayers who have needed help from the IRS have had difficulty obtaining it. The IRS shut down its Accounts Management telephone lines so taxpayers could not reach a live assistant by telephone. The IRS shut down its Taxpayer Assistance Centers, making it impossible for taxpayers to obtain in-person assistance. The IRS also shut down its mail operations, so it was unable to log or process taxpayer responses to compliance notices. The only resources readily available was IRS.gov and automated phone lines. The IRS has begun reopening its operations, but it will take some time before they are restored to full capacity.

5 Government Accountability Office, GAO-20-159, *Financial Audit: IRS's FY 2019 and FY 2018 Financial Statements* 100 (Nov. 2019), <https://www.gao.gov/assets/710/702597.pdf>.

6 IRS Operations Update Report (May 27, 2020).

There are two additional concerns to note. First, as IRS campuses are reopening and employees have returned to work, they have begun processing the backlog of work including notices and correspondence.

During the shutdown, the IRS generated over 20 million notices that could not be mailed due to closure of notice production centers between April 8 and May 31. The IRS is mailing these notices now. However, some collection notices bear old dates and include response deadlines that often have passed. For example, a notice queued up in April may bear an April date and provide a response deadline in May. The taxpayers' accounts will similarly reflect the wrong dates. For business reasons, the IRS is not reissuing the generated notices; rather, it is enclosing an "insert" in its mailings, which consists of an additional page at the end of the notice providing updated due dates information. Thus, it is critical that taxpayers and representatives read through all pages included in a taxpayer's notice and pay special attention to the due dates on the insert, but some taxpayers will not read the insert or understand its significance. Taxpayers who receive these notices may be confused and distressed believing they missed response deadlines.

Second, I would be remiss if I did not address the impact COVID-19 has been having on TAS's ability to assist taxpayers. TAS effectively serves as a "safety net" when taxpayers are experiencing economic hardship or when an IRS process is not working as it should. Our Case Advocates are telework-ready and have been able to do their jobs. However, the closure of IRS telephone lines and the inability to pick up taxpayers' letters have made it difficult for taxpayers to reach TAS. In addition, TAS Case Advocates are just that — *advocates*. They generally present the taxpayer's documentation to the IRS with a recommendation, but only employees in one of the IRS operating divisions have the authority to decide whether to grant relief. The IRS has remained sufficiently staffed to handle some issues, but it could not assist with other issues (*e.g.*, a taxpayer wants to refinance his or her mortgage, but the IRS has placed a lien on the property, and the taxpayer has filed an amended return that would eliminate the tax liability, but the amended return has been sitting unopened in an IRS facility).

In addition, some taxpayers have sought assistance from TAS to obtain their EIPs. As described above, the IRS has not established procedures to resolve EIP cases this year, advising taxpayers that they should claim unreceived payments on their 2020 income tax returns filed next year. Unless the IRS develops procedures to resolve missing payments or underpayments, TAS cannot assist taxpayers with EIP problems.

The effects of COVID-19 will continue to be felt for the foreseeable future. Social distancing requirements remain in place to differing degrees around the country. Although the IRS, like most businesses, moved rapidly to adapt its operations to the realities of telework, some components of its operations cannot be transitioned. We will continue to identify areas where taxpayers' needs are not being met and will continue to advocate for alternative approaches to meet those needs.

Taxpayer First Act. In 2019, Congress enacted TFA, the most far-reaching revisions to tax administration since the IRS Restructuring and Reform Act of 1998. The TFA included some 23 provisions recommended by the National Taxpayer Advocate. A centerpiece of the TFA is a requirement that the IRS develop four strategic plans: (i) a comprehensive taxpayer service strategy; (ii) a plan to redesign the IRS's organizational structure; (iii) a comprehensive employee training

strategy that includes training on taxpayer rights and the role of TAS; and (iv) a multi-year plan to meet IRS information technology needs. But for COVID-19, implementation of the TFA would have been the IRS's top strategic focus. Because of COVID-19, the IRS is delayed in developing these plans, but it expects to deliver its comprehensive taxpayer service strategy to Congress by the end of the year.

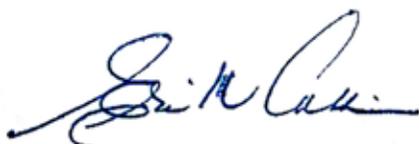
In this report, we detail some steps the IRS has taken to gather input from taxpayers, practitioners, and TAS, and we identify over two dozen TFA provisions that the IRS has already implemented. We also express concern that the IRS has not properly implemented a provision directing it to establish a single point of contact for identity theft victims and that it may not properly implement a provision directing it to exclude taxpayers with adjusted gross incomes at or below 200 percent of the Federal Poverty Level from assignment to private debt collection agencies after December 31, 2020.

I have been impressed by many ideas the IRS is considering, and I look forward to working with the leadership as it refines its taxpayer service strategy in the coming months.

I am very excited to serve as the National Taxpayer Advocate and to use the knowledge I have gained during my tax career to improve the taxpayer experience. Despite the current challenges, I see two unusually promising avenues for change. First, as the IRS has modified longstanding business practices to meet social distancing requirements, it has taken taxpayer-favorable steps it had resisted, such as authorizing e-signatures on documents. I plan to make a list of those practices and urge the IRS to continue many of them even when normal operations resume. Second, the IRS's focus on developing a comprehensive taxpayer service plan provides additional opportunities to, as the name of the Act suggests, put "taxpayers first."

As the IRS reopens operations and we return to normalcy, I look forward to continuing and building upon TAS's ongoing efforts to make tax administration work better for taxpayers.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erin M. Collins". The signature is fluid and cursive, with a long horizontal stroke at the end.

Erin M. Collins
National Taxpayer Advocate
29 June 2020