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National Taxpayer Advocate Reviews Filing Season and Identifies Priority Areas and Challenges in Mid-Year Report to Congress

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WASHINGTON — National Taxpayer Advocate Nina E. Olson today released her statutorily [mandated mid-year report](#) to Congress that contains extended excerpts from her ongoing Public Forums on Taxpayer Needs and Preferences, presents a review of the 2016 filing season, and identifies the priority issues the Taxpayer Advocate Service (TAS) will address during the upcoming fiscal year.

National Taxpayer Advocate Public Forums on Taxpayer Needs and Preferences

For the last two years, the IRS has been developing a “Future State” plan that envisions how the agency will operate in five years and beyond. A central component of the plan is the development of online taxpayer accounts. In the [National Taxpayer Advocate’s 2015 Annual Report to Congress](#), Olson praised aspects of the plan but expressed concern that (i) the IRS’s intent in developing online accounts is largely to save money in light of recent budget cuts by reducing telephone and face-to-face assistance and (ii) many taxpayers will not conduct business with the IRS through online accounts because they lack Internet access or skills, cannot complete the authentication process required to set up an account, do not trust the security of the IRS system, or would prefer to speak with an IRS employee. As a result, she expressed concern that critical taxpayer needs may go unmet under the Future State plan.

To provide a vehicle for direct public comment, Olson announced plans to hold Public Forums around the country, some in conjunction with Members of Congress who serve on committees actively engaged in IRS oversight.

To date, Olson has held eight Public Forums and has several more planned. Two have been held in Washington, DC. Others have been held in Glen Ellyn, Ill., with Rep. Peter Roskam; Bronx, N.Y., with Rep. José Serrano; Hendersonville, N.C., with Rep. Mark Meadows; Red Oak, Iowa, with Sen. Charles Grassley; Baltimore, Md., with Sen. Ben Cardin; and Harrisburg, Pa., co-organized with Sen. Bob Casey.

Among the panelists at the Public Forums in Washington, DC, were representatives of four Federal advisory committees to the IRS and four major national organizations of tax practitioners. Two panels featured experts who reported on research studies that assessed public use of online services as well as the effects of the “digital divide.” Olson writes: “I continue to be concerned that the IRS’s design for the Future State ignores or dismisses the significant body of data that shows large portions of the taxpaying public is either unable or unwilling to engage with government online services for anything other than the most routine tasks, if those.” The report also points out that only about 30 percent of taxpayers seeking to

register for the IRS's "Get Transcript" application over the last month were able to do so because of enhanced authentication measures, which suggests many taxpayers may not even be able to establish online accounts in the current environment.

"At each of the [field] Public Forums, we heard from a panel of witnesses representative of the community we were visiting," Olson wrote. Most panels included a representative from a Volunteer Income Tax Assistance (VITA) site and a Low Income Taxpayer Clinic (LITC); an attorney, Certified Public Accountant, or Enrolled Agent active in representing individuals and small businesses; and witnesses who focused on challenges faced by particular taxpayer groups, including English as a Second Language (ESL) and immigrant taxpayers, elderly taxpayers, farmers, U.S. taxpayers living abroad, disabled taxpayers, victims of identity theft, and small businesses victimized by payroll service provider fraud.

Today's report contains extended excerpts from the transcripts of the Public Forums, organized around key concerns that Olson identified in her earlier report or that panelists consistently raised. Information on the Public Forums, including complete transcripts, is available at <http://taxpayeradvocate.irs.gov/news/national-taxpayer-advocate-public-forums>.

Olson announced that TAS will conduct a nationwide survey of a statistically representative sample of U.S. taxpayers about their needs, preferences, and experience with IRS taxpayer service and will hold focus groups on the IRS Future State at the IRS Tax Forums this summer.

Because the IRS Future State plan aims to establish how the IRS will interact with taxpayers in the coming years, TAS views it as its most important area of focus. TAS's overriding goal will be to work with the IRS to ensure the plan provides for high quality taxpayer service and the protection of taxpayer rights. Based on the results of the National Taxpayer Advocate Public Forums, the nationwide survey, and the Tax Forum focus groups, Olson plans to "set forth our vision of the IRS Future State in the 2016 National Taxpayer Advocate's Annual Report to Congress. This plan, I can say with confidence, will be based on taxpayers' needs and preferences, as they and their representatives have expressed them to us."

Overview of the Filing Season

The report says the IRS delivered a generally successful filing season in 2016. Of particular note, the IRS substantially improved taxpayer service on its toll-free telephone lines as compared with 2015. In every year since FY 2008, the IRS has received more than 100 million telephone calls. During the 2015 filing season, IRS telephone service reached a low; the IRS answered only 37 percent of taxpayer calls routed to customer service representatives overall, and the wait time for taxpayers who got through averaged 23 minutes. During the 2016 filing season, the IRS answered 73 percent of its calls, and the wait time dropped to 11 minutes. Thus, the IRS nearly doubled the percentage of calls it answered and reduced wait times by more than half.

The report attributes this improvement both to additional funding provided by Congress and to effective use of that funding by the IRS. However, the report notes that IRS funding has been reduced by about 19 percent on an inflation-adjusted basis since FY 2010 and describes areas where the IRS has limited or eliminated important services.

Service at Taxpayer Assistance Centers (TACs). The IRS maintains approximately 375 TACs around the country that collectively serve more than five million taxpayers annually. Historically, the TACs were known as “walk-in sites,” but the IRS plans to eliminate virtually all walk-in service and require that taxpayers schedule advance appointments in all TAC locations by the end of the year. The report says this requirement will cause particular harm to (i) taxpayers who do not know the TACs have shifted to appointment-only scheduling and travel sometimes considerable distances to seek personal assistance and (ii) taxpayers who need assistance urgently and cannot wait to obtain an appointment. Under a pilot program testing appointment-only service, 20 percent of taxpayers had to wait between 13 and 41 days to obtain an appointment and five percent had to wait more than 41 days. The report says those wait times are too long for taxpayers with urgent needs. At several TACs, the IRS went so far as to refuse to accept tax payments or returns this filing season.

Limited Assistance with Tax-Law Questions. Both on its phone lines and in its TACs, the IRS continued recent restrictions on answering tax-law questions. During the filing season, the IRS answered only “basic” questions, deeming more complex questions “out of scope.” After the filing season, the IRS is not answering any tax-law questions at all, even though many taxpayers obtain legally authorized extensions of time to file. Last year, nearly 15 million returns were submitted after the filing season.

Taxpayer Burden Caused by Identity Theft Filters. The IRS screens all tax returns claiming refunds in an attempt to identify returns submitted by identity thieves. When the IRS identifies a return as suspicious, it generally sends the submitter a letter saying the submitter must verify his or her identity before it will release the claimed refund. The false positive rate of this program, known as the Taxpayer Protection Program (TPP), was 36.6 percent in 2015. TPP filters stopped nearly 2.1 million returns overall, so with the 36.6 false positive rate, the IRS stopped more than 760,000 returns filed by legitimate taxpayers. The National Taxpayer Advocate has expressed concern about the impact of this high false-positive rate on legitimate taxpayers. Many taxpayers, particularly the low income, depend on timely receipt of their refunds, so the impact of refund delays can range from mere inconvenience to extreme financial hardship. Accordingly, the National Taxpayer Advocate has recommended that the IRS refine its TPP filters to reduce the false-positive rate.

To date, it does not appear that improvements have been made. During just the first five months of 2016, TPP filters stopped about 1.8 million returns, and the IRS was projecting a similar false positive rate of 36 percent. Taxpayers seeking to verify their identities by calling the IRS encountered extreme difficulty getting through, causing many to wait extended periods of time to receive their refunds. During the 2016 filing season, the IRS received more than 4.4 million calls on its TPP telephone line. It answered just 22.7 percent – meaning that nearly four out of every five calls was not answered, by far the worst performance on any high-volume telephone line.

The report says: “TAS understands and supports the need for a variety of revenue protection strategies. But the IRS must recognize the need for approaches that minimize the burden on legitimate taxpayers. We recommend the IRS devote more resources to re-calibrating its filters during the filing season and establish a maximum target false-positive rate. By so doing, it could simultaneously block more fraudulent returns and reduce the number of legitimate returns it flags, thereby reducing inconvenience to taxpayers and its own unnecessary re-work.”

Limited Service Options for U.S. Taxpayers Living Abroad. The number of U.S. citizens living abroad was estimated at about nine million in mid-2016, and many non-citizens have a U.S. tax filing obligation, as evidenced by the nearly 642,000 Form 1040-series returns filed by nonresident aliens for tax year 2014. Yet taxpayer service options for these taxpayers are limited and continue to be reduced. Taxpayers located overseas generally cannot call U.S. toll-free telephone lines. Almost two years ago, the IRS closed the last four tax attaché posts abroad, eliminating face-to-face service as an option. For the 2016 filing season, the IRS eliminated its Electronic Tax Law Assistance program through which taxpayers could submit tax-law questions to the IRS and receive a response via email.

The report says: “The National Taxpayer Advocate is concerned the IRS is providing fewer options for international taxpayers even as the population of U.S. citizens abroad grows, and these taxpayers are facing greater challenges in voluntarily meeting their tax obligations, partly as a result of the Foreign Account Tax Compliance Act (FATCA), Foreign Bank and Financial Accounts (FBAR) reporting rules, and the Affordable Care Act (ACA).”

Priority Issues for FY 2017

In addition to the IRS Future State plan (discussed above), the report identifies and discusses 14 other priority issues the Office of the Taxpayer Advocate plans to focus on during the upcoming fiscal year. Among them are the following:

- **FATCA Burden**. While implementing FATCA and similar international withholding provisions, the IRS withheld refunds from tens of thousands of U.S. taxpayers who were entitled to them. Much of the problem was attributable to the way the IRS attempted to match the Form 1042-S, *Foreign Person’s U.S. Source Income Subject to Withholding*, filed by the withholding agent against the Form 1042-S filed by the taxpayer with his or her income tax return. In one case, the IRS disallowed the refund claims of tens of thousands of foreign students at U.S. universities and colleges, most of whom were fully entitled to those refunds. In the coming year, TAS will advocate for the IRS to improve the accuracy of its data-matching procedures to reduce the number of freezes placed on legitimate international refund claims.
- **Private Debt Collection Implementation**. In late 2015, Congress passed legislation that generally requires the IRS to assign delinquent tax accounts it is not actively seeking to collect to private debt collection agencies. TAS will be actively involved in the implementation of the program to ensure the program rules follow the law without infringing on taxpayer rights; to seek a definition of the statutory term “potentially collectible inventory” that excludes the accounts of taxpayers who are experiencing economic hardship; and to urge the IRS to require the PCAs to disclose the portions of their operational plans, calling scripts, and training materials that affect taxpayers so the National Taxpayer Advocate, Congress and the public can evaluate whether their collection tactics are reasonable.
- **IRS Levies on Retirement Accounts**. Congress has enacted numerous laws that promote retirement savings. These laws further the public policy of ensuring individuals have sufficient assets on which to live after they retire. The IRS is permitted to levy on retirement assets but does not do so as a matter of policy unless it determines a taxpayer has acted flagrantly in seeking to evade the collection of the tax. At present, the IRS does not have a clear definition of the word “flagrant,” but

rather lists examples of flagrant conduct. TAS is working with the IRS to develop a definition of “flagrant” conduct that allows levies to be made in extreme cases but continues to shield retirement assets in cases where a taxpayer is simply unable to pay.

- **Online Taxpayer Accounts**. The National Taxpayer Advocate has long advocated that the IRS develop online taxpayer accounts as a valuable addition to the IRS’s taxpayer service offerings. As discussed in the context of the Future State development, however, the Advocate believes taxpayers should still have the option to work with IRS personnel by phone or in person. In addition, the IRS envisions granting account access to tax return preparers, most of whom are not currently licensed. During the coming year, TAS plans to work with the IRS to ensure it maintains adequate security protocols to protect taxpayer information, restricts taxpayer account access to credentialed preparers, and continues to provide telephone and face-to-face service to taxpayers who need or prefer to speak with an IRS employee.
- **EITC Compliance**. The Earned Income Tax Credit (EITC), one of the government’s largest means-tested, anti-poverty programs has a high improper payments rate. At the same time, eligible taxpayers often have difficulty proving their eligibility due to the complexity of the law, the difficulty in providing traditional documentation, and the IRS’s reluctance to accept alternative documentation sources. In her 2016 Annual Report to Congress, the National Taxpayer Advocate plans to expand on prior recommendations to reform the eligibility requirements and administration of the EITC in order to reduce improper payments while maintaining a high participation rate among eligible individuals. TAS also plans to work with the IRS to develop flexible guidance for acceptance of alternative documentation sources.
- **Identity Theft Victim Assistance Procedures**. The problem of stolen identity refund fraud requires that the IRS improve both its detection of fraudulent returns and its procedures to assist taxpayers who have been victimized by identity theft. The IRS has made significant strides in both areas, but as discussed above, the false positive rate in the Taxpayer Protection Program (TPP) remains high. During the 2016 filing season, TPP filters stopped about 1.8 million returns, and taxpayers who called the TPP telephone line to verify their identities were told it would take about nine weeks for the IRS to release their refunds. During the coming year, TAS will work with the IRS to improve victim assistance, including by shortening the time to resolve cases and issue refunds. In addition, TAS will continue to urge the IRS to assign a single employee to work with identity-theft victims whose cases involve multiple issues or span multiple tax years.

Later this month, TAS will release a second volume of the report that contains the IRS’s responses to the administrative recommendations the National Taxpayer Advocate made in her 2015 Annual Report to Congress, along with additional TAS analysis of, and comments on, the IRS responses.

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The National Taxpayer Advocate is required by statute to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance. The statute

requires these reports to be submitted directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget. The first report must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year. The second report must discuss at least 20 of the most serious problems encountered by taxpayers, identify the ten tax issues most frequently litigated in the courts, and make administrative and legislative recommendations to resolve taxpayer problems.

ABOUT THE TAXPAYER ADVOCATE SERVICE

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778. For more information, go to TaxpayerAdvocate.irs.gov or irs.gov/advocate. You can get updates on tax topics at facebook.com/YourVoiceAtIRS, [Twitter.com/YourVoiceatIRS](https://twitter.com/YourVoiceatIRS), and YouTube.com/TASNTA.

Related Items:

- Mid-Year Report: <http://www.taxpayeradvocate.irs.gov/2017ObjectivesReport>
- Tax Toolkit: www.TaxpayerAdvocate.irs.gov
- National Taxpayer Advocate Public Forums: <http://taxpayeradvocate.irs.gov/news/national-taxpayer-advocate-public-forums>
- [FY 2017 Objectives Report To Congress](#)