

**MSP
#17****IRS'S AUTOMATED COLLECTION SYSTEM (ACS): ACS Lacks a Taxpayer-Centered Approach, Resulting in a Challenging Taxpayer Experience and Generating Less Than Optimal Collection Outcomes for the IRS****RESPONSIBLE OFFICIAL**

Mary Beth Murphy, Commissioner, Small Business/Self-Employed Division

TAXPAYER RIGHTS IMPACTED¹

- *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 Finality*
- *The Right to Privacy*
- *The Right to Confidentiality*
- *The Right to Retain Representation*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

The Automated Collection System (ACS) is a major IRS computerized collection inventory system used to send notices demanding payment, and to issue notices of federal tax liens (NFTLs) and levies. ACS employees also answer taxpayer telephone calls to resolve balance due accounts and delinquencies. ACS relies on mailed notices to generate taxpayer contact. In fiscal year (FY) 2018, this approach resulted in ACS only collecting about seven percent (\$3.4 billion) of the \$47 billion placed in its inventory.²

Just as important as the dollars collected is the process followed by the IRS collection function, including ACS. The dollars collected are the byproduct of the compliance work that ACS employees *should* be doing—namely, understanding the cause of the current tax debt, curing the current tax debt by looking at appropriate collection alternatives, and ensuring that these collection alternatives enable the taxpayer to be compliant going forward.

However, ACS is drifting from this philosophy by suppressing the systemic issuance of ACS taxpayer notices and by considering redesigned notices that place a heavy emphasis on self-service channels and, in some circumstances, enforcement action as well. This undermines four cardinal taxpayer rights: *the*

1 See Taxpayer Bill of Rights (TBOR), 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 IRS, Small Business/Self-Employed (SB/SE), Collection Activity Report (CAR) NO-5000-2, Taxpayer Delinquent Account (TDA) Cumulative Report, Part 1 - TDA's, Automated Collection System (ACS)/CS, Receipts (line 11.19), Credits (Line 13.0) (Sept. 2018). The amount collected in fiscal year (FY) 2018 is from TDAs received in FY 2018 as well as from the dollars remaining in ACS inventory at the end of FY 2017.

right to be informed, the right to privacy (IRS action be no more intrusive than necessary); *the right to a fair and just tax system* (considering the specific facts and circumstances); and *the right to challenge the IRS's position and be heard* (which means to talk with and listen to taxpayers).

As a result, the National Taxpayer Advocate continues to have a number of concerns regarding ACS operations, including:

- Despite a recent study that shows monthly notices are productive in generating contact with the taxpayer, ACS has suppressed the issuance of taxpayer notices to prevent a poor level of service (LOS) on its phone lines and is considering redesigned notices that push taxpayers towards self-service channels.
- ACS routinely enters taxpayers into streamlined installment agreements (IAs) which do not require any financial analysis, thereby missing opportunities to have discussions with taxpayers about their financial situations and assist them in finding the best collection alternatives for their particular facts and circumstances. This is evident by the 22 percent overall default rate for streamlined IAs in FY 2018,³ and the 42 percent default rate for streamlined IAs of taxpayers whose income was at or below 250 percent of the federal poverty level (FPL) for the same time period.⁴
- ACS employees still do not properly observe the holding in *Vinatieri v. Commissioner*,⁵ even though it is nearly ten years old.
- When taxpayers raise economic hardship, these discussions may be unfruitful because taxpayers do not have one single point of contact in ACS, and taxpayers may be speaking to ACS employees who are not familiar with the geographic region in which they reside.
- ACS may not be identifying the most productive cases to work but, instead, may be addressing cases that are better suited for field collection.

3 IRS CAR, *Installment Agreement (IA) Default Report*, FY 2018.

4 TAS Research used the following source to analyze ACS and installment agreement accounts for FY 2018: IRS CAR, *Installment Agreement (IA) Default Report*, FY 2018.

5 *Vinatieri v. Comm'r*, 133 T.C. 392 (2009).

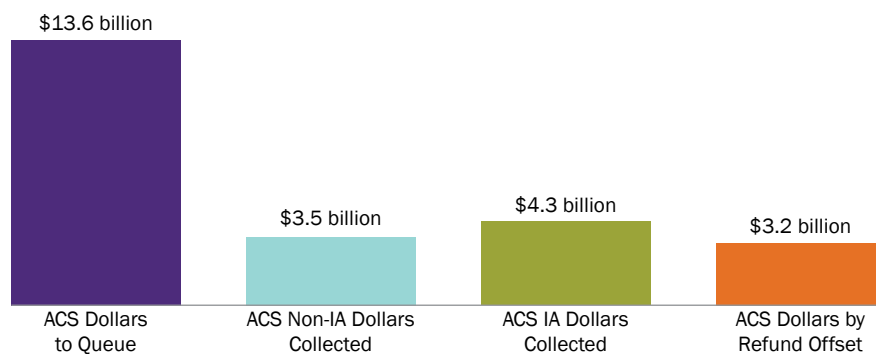
ANALYSIS

Background

At the end of FY 2018, ACS had about \$47 billion placed in its inventory and it collected about \$3.4 billion of that amount during the same time period, or about seven percent.⁶ About \$4.3 billion was collected through IAs.⁷ In FY 2018, ACS transferred \$13.6 billion, or 29 percent of inventory placed with ACS in FY 2018, in unresolved cases to the Queue.⁸ Figure 1.17.1 shows dollars collected through full payment, IA, refund offset, and dollars transferred to the Queue for FY 2018.

FIGURE 1.17.1⁹

Automated Collection System (ACS) Dollars Collected by Source and Dollars Transferred to the Queue for FY 2018



As Figure 1.17.1 shows, ACS transfers about twice as many dollars to the Queue as it collects, and collects about half as many dollars through refund offsets as it does through IAs or other payments.

One possible response to ACS's performance may be to increase the use of its collection authority, namely, the issuance of liens and levies. However, Figure 1.17.2 shows there is little correlation between total revenue collected by the IRS and an increase in notices of federal tax liens and levies issued.

6 CAR 5000-2 (Oct. 1, 2018).

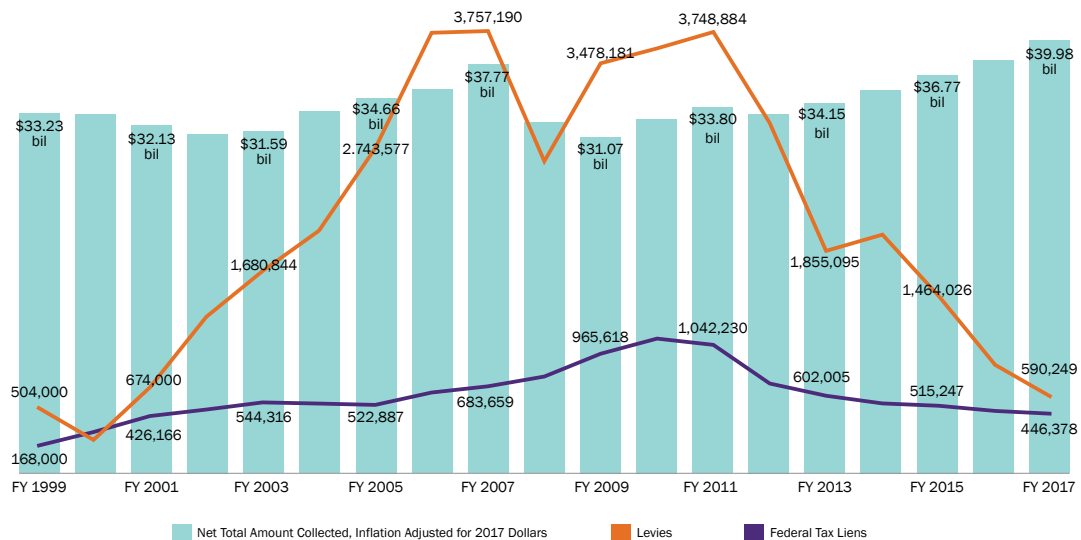
7 CAR 5000-6 (Oct. 1, 2018). IRS response to TAS fact check (Dec. 13, 2018). This amount is limited to accounts in taxpayer delinquent account (TDA) status and that are placed in ACS inventory.

8 CAR 5000-2 (Oct. 1, 2018). The Queue is an electronic holding area for accounts that will not be worked immediately. See Internal Revenue Manual (IRM) 1.4.50.8.3 (Sept. 12, 2014).

9 CAR 5000-2 (Sep. 30, 2018); CAR 5000-6 (Sep. 30, 2018).

FIGURE 1.17.2¹⁰

ACS Liens and Levies and IRS Dollars Collected From Fiscal Years 1999-2017



What Figure 1.17.2 demonstrates is that taxpayers tend to pay their tax debts, irrespective of the level of enforced collection actions. Thus, rather than focusing solely on increasing enforcement actions, ACS should focus on how to best reach taxpayers, how to get taxpayers into the most appropriate collection alternatives, and what are the best cases to focus these efforts on. However, as the discussion below shows, ACS appears to be moving in the opposite direction.

Despite a Recent Study That Shows Monthly Notices Are Productive, ACS Has Suppressed the Issuance of Taxpayer Notices to Prevent a Poor Level of Service on Its Phone Lines and Is Considering Redesigned Notices That Push Taxpayers Towards Self-Service Channels

Despite a recent study that shows monthly notices are productive in generating contact with the taxpayer, ACS has suppressed the issuance of taxpayer notices to prevent a poor LOS on its phone lines and is considering redesigned notices that push taxpayers towards self-service channels.

An IRS study regarding NFTLs found that regular monthly notices to taxpayers regarding their liabilities were generally more effective than any other reminder notices included in the study as an effective collection mechanism.¹¹ Specifically, a monthly notice brought in more money than any

10 IRS Data Book, Table 16, *Delinquent Collection Activities FYs 1999-2017*. Note that the dollars collected in this figure are IRS-wide dollars collected, and not just dollars collected by ACS. This does not include FY 2018 dollars because the FY 2018 IRS data book with this data is not yet published.

11 See 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"*, *infra*. This study compares the monthly notice to other reminder notices sent but does not compare the monthly notice to the Notice of Federal Tax Lien. See also Consumer Financial Protection Bureau, *Quarterly Consumer Credit Trends, Public Records* (Feb. 2018). Recently, the three major credit reporting agencies—Equifax, TransUnion, and Experian—announced they would no longer report tax liens on a taxpayer's credit report.

other reminder notice included in the study. Sending a monthly notice that shows tax due plus accrued penalties and interest would be more reflective of a private company's collection practices and more in line with tax collection approaches in other countries.¹² However, rather than adding additional notices, ACS has recently suppressed the systemic issuance of the LT16, *Request for Taxpayer to Contact ACS*. This suppression was done to decrease the number of taxpayers calling ACS, to prevent a projected LOS of 31 percent for FY 2018¹³ (although better than projected, the LOS on ACS phone lines was still a dismal 63 percent during filing season (FS) 2018).¹⁴ Nevertheless, improvements to LOS should not be achieved by taking steps that discourage taxpayers from contacting the IRS.

Two recent IRS studies considered whether redesigned notices would be more effective than notices either currently or previously used by ACS.¹⁵ These studies, however, were largely focused on how notices can push taxpayers to use self-service channels such as the Online Payment Agreement (OPA) or Voice Balance Due (VBD).¹⁶ In fact, the redesigned notices emphasized the availability of self-service channels while reducing the visual prominence of the telephone contact number. Not surprisingly, these notices resulted in a reduction in the number of taxpayers calling that number when compared to the LT16, which was the Control notice. However, taxpayers who received the redesigned notices were more likely to call an IRS number that they found through other means, such as using a phone book or the Internet. Specifically, even though the Control group notice resulted in the greatest number of total inbound calls, the redesigned notices all resulted in a greater number of inbound calls using phone numbers found through other means, when compared with the Control notice.¹⁷

Similar to the LT16 study, a study conducted on the CP14 Notice, *Balance Due of \$5 or More, No Math Error*, placed a high emphasis on pushing taxpayers towards self-service channels and limiting the cost to the IRS by reducing the number of inbound calls the notices generate. However, the study correctly acknowledges that different types of notices may be appropriate for different types of taxpayers. The study further points out that when taxpayer responses to notices are markedly different depending on the size of their balance or the age of their debt, the IRS could use this information to treat different taxpayer groups with specific notices. Tailoring notices to unique taxpayer characteristics could increase

12 *Introduction to Behavioral Economics for CDM Applications and Best Practices for Bill Design*, BEWorks (2016), beworks.com/assets/pdfs/BEworks_Energy_Sector_Report.pdf; OECD, Tax Administration, *Insights from Innovations In Tax Debt Management* 158 (2017), http://dx.doi.org/10.1787/tax_admin-2017-en; FORBES, *A Better Way to Collect Bills From Customers Without Alienating Them* (Mar. 31, 2017), <https://www.forbes.com/sites/elizabethharris/2017/03/31/a-better-way-to-collect-bills-from-customers-without-alienating-them/#21aca8162c2f>.

13 IRS response to TAS fact check (Dec. 13, 2018).

14 ACS CFO Financial Management, *Office of Cost Accounting, Cost-Based Performance Measures FY 2012-2017*, 2. This level of service was due in part to the eight million telephone calls that ACS assumed from Accounts Management in 2016.

15 However, the Urgent notice still resulted in fewer calls than the Control notice. IRS, *ACS Optimization/Research, Applied Analytics, and Statistics (RAAS) ACS LT16 Notice Redesign Test Pilot Report 23-24* (Sept. 27, 2017).

16 IRS, *ACS/RAAS ACS LT16 Notice Redesign Test Pilot Report 20* (Sept. 27, 2017). Online Payment Agreement (OPA) is a portal on the IRS.gov website where taxpayers can login and establish an IA. Voice Balance Due (VBD) is an interactive telephone system that allows taxpayers to use a touchtone keypad to take action. Both OPA and VBD are self-service channels that taxpayers can use independently without the assistance of an IRS employee.

17 IRS, *ACS Optimization/RAAS ACS LT16 Notice Redesign Test Pilot Report 22-23* (Sept. 27, 2017). For example, taxpayers who received the Control notice made 980 calls to the phone number printed on the notice (Kansas City ACS site) and 934 calls to other IRS telephone numbers—yielding a total of 1,914 phone calls, the most of any notice. While all of the redesigned notices resulted in fewer total phone calls, with reductions of 12 percent to 33 percent relative to the Control Group, they all resulted in more telephone calls to numbers not printed on the notice compared to the Control Group.

compliance and dollars collected.¹⁸ Going forward, IRS should further explore what types of notices generate the best result for particular taxpayers.¹⁹

Both of the redesign studies discussed above omitted two significant characteristics that should be included in IRS collection notices. First, notices should include the name and phone number of an individual ACS employee. Taxpayers are more likely to respond to notices when they feel like the notice is coming from an actual person whom they can contact regarding their tax problem.²⁰

A second element that should be present is a focus on taxpayer rights. Notices should be designed within a taxpayer rights framework and identify the taxpayer rights relevant to the particular notice. For example, a monthly reminder notice about a taxpayer's outstanding liability could start out by saying, "Under the Taxpayer Bill of Rights, you have the *right to quality service* and *the right to be informed*. In an effort to observe these rights, we want to keep you informed of the amount you currently owe the IRS. You also have the *right to a fair and just tax system*, where all the facts and circumstances of your situation are considered, so if you are unable to pay the amount due because of a financial hardship, please contact us at" Designing notices within a taxpayer rights framework will educate taxpayers as to what rights are relevant to their current situation and will ensure taxpayers are informed about what rights they can exercise during this particular IRS interaction.

ACS Routinely Enters Taxpayers Into Streamlined Installment Agreements Which Do Not Require Any Financial Analysis, Thereby Missing Opportunities to Have Discussions With Taxpayers About Their Financial Situations and Assist Them in Finding the Best Collection Alternatives for Their Particular Facts and Circumstances

Beginning in 2012, the IRS expanded the availability of streamlined IAs,²¹ which do not require financial analysis. More specifically, these IAs are based purely on mathematical equations. For instance, the liability is divided by as many as 84 months (seven years), which establishes the taxpayer's monthly payment.²² Over the last six years, 4,285,773 IAs has been arranged for cases assigned to ACS and about 84 percent of those IAs were streamlined.²³ In FY 2018, 40 percent of ACS taxpayers who entered into streamlined IAs had income that fell below the allowable living expenses (ALE) threshold, meaning they agreed to pay on their tax liability while likely jeopardizing their ability to pay their basic

18 IRS, *Small Business/Self-Employed SB/SE Collection & RAAS CP14 Notice Redesign Test Pilot Report 15-20* (April 12, 2018).

19 *Id.* at 29 (April 12, 2018). Future research should attempt to isolate the impact of specific behavioral elements by designing notices that test a smaller number of discrete changes.

20 See American Bar Association, *Nudging and Educating Taxpayers to Comply: Reevaluating Traditional Approaches to Taxpayer Compliance 20, 22, 29-40* (May 2018), https://www.americanbar.org/content/dam/aba/events/taxation/meetingmaterials/18may_materials/18may-ift-nudgingandeducationg-villalobos-slides.authcheckdam.pdf.

21 IRS, IR-2012-31, *IRS Offers New Penalty Relief and Expanded Installment Agreements to Taxpayers under Expanded Fresh Start Initiative* (Mar. 7, 2012). See also National Taxpayer Advocate 2012 Annual Report to Congress 358-357 (*Introduction to Collection Issues: The IRS "Fresh Start" Initiative Has Produced Significant Improvements in Some Collection Policies; However, Significantly More Emphasis on Service Delivery Is Necessary to Realize the Full Benefits of These Important Changes*).

22 IRS, *Streamlined Processing of Installment Agreements*, <https://www.irs.gov/businesses/small-businesses-self-employed/streamlined-processing-of-installment-agreements> (last visited Nov 15, 2018).

23 There are instances where installment agreements may be arranged by other collection units than ACS.

Improvements to the level of service should not be achieved by taking steps that discourage taxpayers from contacting the IRS.

living expenses.²⁴ Thirty-two percent of these also had income at or below 250 percent of the FPL for FY 2018.²⁵

Unsurprisingly, while the overall default rate for streamlined IAs in FY 2018 was 19 percent,²⁶ the default rate for streamlined IAs of taxpayers whose income did not exceed their ALEs, was 39 percent.²⁷

Despite having various pieces of information indicating that a taxpayer is low income, and having a low income indicator that is placed on accounts with gross income at or below 250 percent of the FPL,²⁸ the IRS generally does not initiate a discussion about economic hardship with the taxpayer.²⁹ The IRS should create a template that ACS employees can use which would fill in the Information Return Program (IRP) income, and utilize the family size from the last tax return, and then compare the information to the ALE standard. If there is no recent return on file, the ACS employee could complete the template by asking the taxpayer for their income and family size, then based on this information, could determine how to proceed. If the taxpayer is in fact experiencing economic hardship as determined by completing the template, the ACS employee should open up a discussion regarding

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- 24 See IRS, *Collection Financial Standards*, <https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards> (last visited Dec. 19, 2018). The allowable living expenses (ALEs) are guidelines that “establish the minimum a taxpayer and family needs to live.” The IRS may allow additional amounts for basic living expenses if the taxpayer substantiates the need to deviate from the standards. IRM 5.15.1.8 (6), *Allowable Expense Overview* (Aug. 29, 2018). Allowable expenses include transportation expenses, which may consist of ownership expenses (loan or lease payments) and operating expenses (maintenance, repairs, insurance, fuel, registrations, licenses, inspections, parking, and tolls). Unless otherwise indicated, in calculating taxpayers’ ALEs, we allowed operating expenses (two allowances in the case of joint filers and one allowance for all other taxpayers), and all taxpayers were allowed one vehicle ownership expense.
- 25 CAR, *IA Default Report, FY 2018*. See also 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 PCA [Private Collection Agency] Inventory Accumulates*, *supra*. Forty-four percent of taxpayers who made payments while their debts were assigned to PCAs had incomes below 250 percent of the federal poverty level. One possible explanation as to why this figure is higher than the 29 percent ACS figure is that ACS is making the decision to not work cases where the taxpayer has low income but rather places them in the Queue where they will later be shelved and sent to the PCAs.
- 26 CAR, *IA Default Report, FY 2018*.
- 27 IRS CAR, *IA Default Report, FY 2018* for the default rate information for streamlined IAs, and TAS Research analysis of the ACS and IA accounts, FY 2018, for results on percentage of streamlined IAs whose income did not exceed their ALEs who defaulted.
- 28 According to IRM 5.14.1.2, *Installment Agreements and Taxpayer Rights* (July 16, 2018), taxpayers entering into IAs are eligible for a reduced or waived user fee if they meet a certain income level. Eligibility is based on the Low-Income Indicator (LII) and Reduced User Fee Indicator (RUF). The LII is placed on the IRS’s internal Masterfile system, and is determined by reviewing the taxpayer’s income and exemptions on the taxpayer’s most recent tax return and comparing them with the poverty level charts created by the Department of Health and Human Services (HHS). If the taxpayer is low income according to HHS standards, a LII will be placed on Masterfile showing that they are eligible for a reduced user fee. A LII can also be placed on the taxpayer’s account if a review of Form 13844, *Application for Reduced User Fee*, reports such a designation. See also IRS response to TAS information request (Sept. 14, 2018). An income-based LII is placed on accounts that are at or below 250 percent of the federal poverty level depending on household size and state of residence.
- 29 IRM 5.19.13.2, *Securing Financial Information* (June 23, 2017). ACS employees will only take financial information if the taxpayer raises one of the following issues: Payment amount requested is insufficient based on current Streamlined Installment Agreement (SIA) criteria and the balance is over a certain amount; Follow paragraph (17) below if the amount is over a certain amount; Aggregate Assessed Balance (AAB) (Command Code (CC) SUMRY) is over \$25,000 (and taxpayer does not meet SIA Over \$25,000 criteria); Partial Payment Installment Agreement (PPIA) is being considered, or Cannot Pay Any Amount Currently Not Collectible (CNC).

offers in compromise or Currently Not Collectible (CNC)/hardship status. If the ACS employee and the taxpayer cannot agree on a resolution, the ACS employee should refer the taxpayer to TAS.

Further, if the completion of the template shows that the taxpayer's income is at or below 250 percent of the FPL, the ACS employee should refer the taxpayer to a Low Income Taxpayer Clinic (LITC).³⁰ Currently, the Internal Revenue Manual (IRM) instructs employees to advise taxpayers that they might be eligible for LITC assistance in completing a financial statement.³¹ This guidance should be expanded to advise customer service representatives (CSRs) to inform all low income taxpayers of the existence of LITCs in their state (or nearby if there is not one in their state).³²

ACS Employees Still Do Not Properly Observe the Holding in *Vinatieri v. Commissioner*, Even Though It Is Nearly Ten Years Old

Not only does ACS fail to start conversations about taxpayers' financial situations, or specifically refer them to an LITC, but TAS has learned that, in some instances, ACS does not even properly observe the spirit of the Tax Court holding in *Vinatieri v. Commissioner*, which held that when the IRS sustains even a *proposed* levy on a taxpayer it knows is in economic hardship, it abuses its discretion.³³ For example, TAS was recently made aware of a situation where the ACS CSR refused to place a welfare recipient into CNC hardship status because the taxpayer had an unfiled return from a previous year.³⁴ The *Vinatieri* case, in which the Tax Court held that it was an abuse of discretion for the IRS to proceed with a levy against a taxpayer who has unfiled returns if the taxpayer has demonstrated economic hardship, is now nearly ten years old. Thus, there is no reasonable explanation for why any ACS employee should be unwilling to place a taxpayer in CNC hardship because of unfiled returns. The IRS has had nearly a decade to develop adequate, regular training that clearly educates its employees on this vital Tax Court holding.

When Taxpayers Raise Economic Hardship, These Discussions May Be Unfruitful Because Taxpayers Do Not Have One Single Point of Contact in ACS, and Taxpayers May Be Speaking to ACS Employees Who Are Not Familiar With the Geographic Region in Which They Reside

Taxpayers are not assigned one ACS employee to their case, and will likely speak to a different person each time they call in. This can waste taxpayers' valuable time and needlessly tie up IRS phone lines. Furthermore, miscommunication can cause even more problems down the road, yet again forcing both the IRS and the taxpayer to commit more time to resolving this particular issue. In 1998, Congress directed that the IRS develop a procedure "to the extent practicable and if advantageous to the taxpayer"

30 See Most Serious Problem: *Economic Hardship: The IRS Does Not Proactively Use Internal Data to Identify Taxpayers at Risk of Economic Hardship Throughout the Collection Process*, *supra*.

31 IRM 5.19.17.1.7(4), *Campus Procedures for Currently Not Collectible and Offers in Compromise* (Sept. 18, 2018).

32 These bills grant IRS employees the authority to refer taxpayers' information regarding low income taxpayer clinics. H.R. 5438, 115th Cong. § 1 (2017-2018); S. 3278, 115th Cong. § 503 (2017-2018).

33 *Vinatieri v. Comm'r*, 133 T.C. 392 (2009). IRC § 6343(a)(1)(D) requires the IRS to release a levy when it would create an economic hardship due to the financial condition of the taxpayer. Treas. Reg. § 301.6343-1(b)(4) specifies that an economic hardship exists if a taxpayer cannot pay his or her basic living expenses. See also Most Serious Problem: *Economic Hardship: The IRS Does Not Proactively Use Internal Data to Identify Taxpayers at Risk of Economic Hardship Throughout the Collection Process*, *supra*.

34 On June 7, 2018, the Low Income Taxpayer Clinic Listserv had a post regarding ACS employees being unaware of the holding in *Vinatieri*.

to assign one IRS employee to handle a taxpayer's matter until it is closed.³⁵ One concern surrounding the adoption of a single-point-of-contact approach for ACS may be that is not feasible because the employee may be unavailable. However, if the IRS provided effective “first contact resolution”, which would include using the auto-populated economic hardship template discussed above, the number of repeat callers needing to speak to the same ACS employee would be reduced. Further, if the taxpayer calls back and the employee isn't available, the taxpayer can be given a choice: would you like to receive a callback from your assigned ACS CSR, or wait for the next available CSR? Implementing Congress' guidance in IRS Restructuring and Reform Act of 1998 (RRA 98) would enhance taxpayer's communication with ACS by improving continuity, quality taxpayer service, and effective tax administration.

Another significant problem with the design of how ACS manages its cases is that there is no coordination between where the taxpayer resides and the location of the ACS site to which the taxpayer's account is assigned. For instance, a taxpayer who resides in the mid-Atlantic may have his or her case assigned to the ACS site in Des Moines, Iowa. This is problematic because the ACS employee is likely unaware of the particulars of that region, such as cost of living, local industry, and the effect of local natural disasters. For example, ACS employees located in Des Moines, Iowa, may be unfamiliar with and unaware of the long-lasting effects of a natural disaster such as Hurricane Sandy.

ACS May Not Be Identifying the Most Productive Cases to Work but Instead May Be Addressing Cases That Are Better Suited for Field Collection

ACS cases are prioritized by categories high, medium, and low based on modeling scores and a collection potential calculation that calculate the probability of case resolution and compliance. High-priority cases are pushed to the top of the rankings to be worked first by ACS customer service representatives in the “next case” process. However, previous studies have shown that flaws in ACS case prioritization models may exist, and cases it deems low priority may actually yield a higher return on investment (ROI) than cases deemed high priority.³⁶ During the 2006-2009 IRS private debt collection program, the IRS repeatedly stated that it would not choose to work the private collection agency (PCA) inventory if it had additional resources because the “next best case” criteria it used prioritized other cases, such as older cases with higher balances due.

However, a TAS study that compared the two years that PCAs worked cases to the subsequent two years that ACS worked the same cases showed that the IRS was significantly more effective than the PCAs in collecting tax liabilities in all but the first six months after case receipt.³⁷ Specifically, the IRS collected about 62 percent more than the PCAs (\$139.4 million compared to \$86.2 million).³⁸ In addition to

35 IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206 § 3705(b), 112 Stat. 685, 777 (1998). Additionally, Congress has recently endorsed a single-point-of-contact customer service approach by requiring that one IRS employee be assigned to each identity theft case. H.R. 5439, 115th Cong. § 1 (2018).

36 IRS response to TAS information request (Sept. 14, 2018). Since the time of these studies, the IRS has implemented a different prioritization system. It ranks cases by high-medium-low in a prioritization process. Defaulted IAs are not a prioritized inventory.

37 We compared PCA and IRS collections during four consecutive six-month intervals following case receipt. See National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, *A Comparison of Revenue Officers and the Automated Collection System in Addressing Similar Employment Tax Delinquencies* 97-107.

38 National Taxpayer Advocate 2013 Annual Report to Congress vol. 2 97-107 (Study: *A Comparison of Revenue Officers and the Automated Collection System in Addressing Similar Employment Tax Delinquencies*). Since the time of this study, ACS has changed its method for prioritizing cases. Thus, the IRS should conduct a study similar to that cited here, applying its new case prioritization method.

demonstrating that hiring PCAs is an ineffective way to collect outstanding tax liabilities,³⁹ this study also shows that the IRS's assumptions as to what cases are more or less productive was flawed. Another TAS study showed that the cases that are in ACS might yield better results if placed elsewhere in the IRS's collection function. For example, a TAS research study pertaining to employment tax liabilities showed that the Collection Field Function (Cff) collected more dollars and resolved delinquencies more quickly than ACS, regardless of the size of the delinquency. Further, ACS transferred more tax modules, particularly medium- and high-dollar modules (over \$1,500), to the queue and Cff, reducing the IRS's speed and effectiveness in addressing them,⁴⁰ thus indicating these employment tax cases may be best suited for initial placement in Cff rather than in ACS.

As mentioned above, ACS prioritizes its cases using modeling scores and a collection potential calculator that calculates the probability of the case resolution and compliance. Surprisingly, however, these modeling scores do not prioritize cases where the taxpayer has previously entered into an IA but have since defaulted on the installment payment.⁴¹ Logically, the IRS should rank cases where there is a defaulted IA as high priority since the taxpayer has previously engaged with the IRS to make arrangements to settle his or her outstanding tax liability. The IRS could categorize these cases as high priority and quickly contact the taxpayer after he or she has defaulted on the IA, stating something to the effect of, "We noticed you recently stopped making payments on your installment agreement and the agreement has been defaulted. We wanted to see if your financial circumstances have changed and if your prior installment agreement could be modified to bring you back into compliance." Since the IRS knows that such taxpayers have the desire to resolve the outstanding liability, it only makes sense that their cases should be moved to the top of the heap.⁴² Accordingly, ACS likely can collect more revenue by taking a closer look at how it prioritizes cases and the assumptions on which this prioritization is based.

CONCLUSION

ACS's emphasis on pushing taxpayers towards self-service channels in its redesigned notices risks alienating taxpayers who either do not have access to such channels, or do not feel comfortable using such channels. When a taxpayer contacts ACS, it should use all the information at its fingertips to consider the taxpayer's unique situation and to suggest resolution options that may best suit that individual taxpayer. Taxpayers are further frustrated when talking to ACS because they may be talking to an employee who is unfamiliar with their geographic circumstances, and because they may have to explain the conditions in their region over and over since ACS provides no single point of contact. Finally, it is critical that ACS use its resources effectively by ensuring it is working the most productive cases. These changes would result in better experiences for taxpayers and better collection outcomes for the IRS.

39 For a more in-depth discussion of the problems facing the IRS's current PDC program, see 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 PCA Inventory Accumulates*, *infra*.

40 National Taxpayer Advocate 2013 Annual Report to Congress vol. 2 16-31.

41 IRS response to TAS information request (Sept. 14, 2018).

42 See OECD, *Working Smarter in Tax Debt Management* 42 (2014), http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/working-smarter-in-tax-debt-management_9789264223257-en#page1.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Assign one ACS employee to a taxpayer's case, provide this employee's contact information on each notice that is sent to the taxpayer, and assign the case to an ACS employee who is located in the same geographic region as the taxpayer.
2. Send out monthly notice reminders to taxpayers regarding their tax liabilities and accrued penalties and interest.
3. Revise ACS notices using a Taxpayer Bill of Rights framework that conspicuously informs taxpayers of the rights impacted by a given notice.
4. Apply an indicator to cases in which the taxpayer is likely experiencing economic hardship and route these cases to a separate Economic Hardship Shelter excluded from assignment to private collection agencies.
5. Revise ACS's Internal Revenue Manual and scripts to instruct employees when a taxpayer has an economic hardship indicator placed on their account, to consider all possible avenues for resolution, including Partial Payment Installment Agreements, offers in compromise, or placement into Currently Not Collectible hardship status.
6. Conduct a research study to determine if IRS's modeling scores and collection potential calculator are truly identifying the cases that are most likely to be resolved.
7. Reorder ACS protocols to give high priority to cases where a taxpayer has defaulted on a prior installment agreement.