

TAS Uses Taxpayer Advocate Directives to Advocate for Change

IRS Delegation Order 13-3 authorizes the National Taxpayer Advocate to issue a Taxpayer Advocate Directive (TAD) “to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment or provide an essential service to taxpayers.”¹ IRC § 7803(c)(2)(B)(ii)(VIII) requires the National Taxpayer Advocate to identify in her Annual Report to Congress any TAD “which was not honored by the Internal Revenue Service in a timely manner.”²

Under the Delegation Order, the authority to issue a TAD is provided solely to the National Taxpayer Advocate and may not be redelegated. The authority to modify or rescind a TAD is delegated to the Deputy Commissioner for Operations Support, the Deputy Commissioner for Services and Enforcement, and the National Taxpayer Advocate. Before a TAD is issued, TAS works with the responsible operating division or function to try to resolve the pertinent issues. Under procedures prescribed in the Internal Revenue Manual, the National Taxpayer Advocate generally issues a “proposed TAD” before issuing a TAD to apprise senior IRS leaders of her concerns and give them an opportunity to address them.³ However, the National Taxpayer Advocate may dispense with the issuance of a proposed TAD if she “determines that the problem is immediate in nature and a delay in addressing it would have significant negative impact on taxpayers.”⁴

TAXPAYER ADVOCATE DIRECTIVES ISSUED IN FISCAL YEAR 2021

The National Taxpayer Advocate issued one TAD and one proposed TAD in FY 2021. Working collaboratively, TAS and the IRS were able to agree on actions needed to resolve the National Taxpayer Advocate’s concerns, but the IRS is still working to implement the directed actions.

In FY 2021, TAS issued:

- Taxpayer Advocate Directive 2021-1: Process the Backlog of Unprocessed Tax Returns and Correspondence (March 1, 2021); and
- Proposed Taxpayer Advocate Directive 2020-3: Develop a Process to Immediately Address the Backlog of TAS Operations Assistance Requests (OARs) Directed to W&I Submission Processing (November 6, 2020).

Although the IRS has agreed to take actions to address both the TAD and the proposed TAD, it has indicated it will not be able to meet the deadlines set forth in the TADs for the actions to be completed.⁵ TAS will continue to monitor the IRS’s progress and work with the IRS to resolve the issues.

Endnotes

- 1 Internal Revenue Manual (IRM) 1.2.2.12.3, Delegation Order 13-3 (formerly DO-250, Rev. 1), Authority to Issue Taxpayer Advocate Directives (Jan. 17, 2001).
- 2 Section 1301 of the Taxpayer First Act, Pub. L. No. 116-25, 133 Stat. 981 (2019) amended IRC § 7803(c) to codify the process for the IRS to respond to a TAD and for the National Taxpayer Advocate to appeal a modified or rescinded TAD, and imposed a reporting requirement on the National Taxpayer Advocate for any TAD not honored by the IRS in a timely manner.
- 3 A proposed TAD is a written communication from the National Taxpayer Advocate that recommends action (or forbearance of action) to address a systemic problem that affects multiple taxpayers that TAS has brought to the attention of the responsible head of office. IRM 13.9.1.1.4, Terms (Oct. 8, 2020).
- 4 IRM 13.9.1.3(2), The TAD Process (Oct. 8, 2020); IRM 13.9.1.3.1(2), TAD Without a Proposed TAD (Oct. 8, 2020).
- 5 IRS response to Taxpayer Advocate Directive 2021-1 (Process the Backlog of Unprocessed Tax Returns and Correspondence) (Apr. 14, 2021) (on file with TAS); IRS response to Proposed Taxpayer Advocate Directive 2020-3 (Develop a Process to Immediately Address the Backlog of TAS Operation Assistance Requests (OARs) Directed to W&I Submission Processing) (Dec. 3, 2020) (on file with TAS).