

MSP
#7**INTERNATIONAL TAXPAYER SERVICE: The IRS's Strategy for Service on Demand Fails to Compensate for the Closure of International Tax Attaché Offices and Does Not Sufficiently Address the Unique Needs of International Taxpayers****RESPONSIBLE OFFICIALS**

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TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

Despite an increase in the number of international taxpayers, the IRS has significantly decreased its overseas taxpayer service presence in recent years.² While it has plans to expand international criminal investigation locations,³ during late 2014 and 2015, the IRS eliminated the last four tax attaché posts abroad, citing a multi-year decrease in its appropriations.⁴ Taxpayers who benefitted from these offices now must either call an overwhelmed, tolled IRS telephone number in the United States or obtain information from the irs.gov website.

Apart from the attachés, the only free option⁵ for taxpayers to ask a specific question and receive a response from an IRS employee was the Electronic Tax Law Assistance Program (ETLA), which the IRS terminated in October 2015. ETLA allowed the IRS to learn directly from taxpayers what problems and questions they had, and how it needed to update its webpages and publications to provide the necessary information. In conjunction with terminating ETLA, the IRS also discontinued R-mail, a system that allowed customer service representatives to refer taxpayer questions to employees with specific expertise. By eliminating ETLA and R-mail, the IRS has shut itself off from taxpayers with no way of knowing (unless the taxpayer makes a mistake or the IRS selects his or her return for audit) whether it is providing the

1 See Taxpayer Bill of Rights, available at www.TaxpayerAdvocate.irs.gov/taxpayer-rights.

2 National Taxpayer Advocate 2011 Annual Report to Congress 156, fn. 39. See also National Taxpayer Advocate 2009 Annual Report to Congress 134-54.

3 See Internal Revenue Service FY 2016 President's Budget 81 (Feb. 2, 2015), available at <http://www.treasury.gov/about/budget-performance/CJ16/02-06.%20IRS%20FY%202016%20CJ.pdf>.

4 There were originally fifteen foreign tax attaché posts. See *id.* On November 30, 2014, the IRS closed its Beijing office. Memorandum from Acting Deputy Commissioner, International (LB&I) to LB&I, Commissioner; SB/SE, Commissioner; W&I, Commissioner; Director, IBC; Director, IIC; Director, PGLD; Director Taxpayer Advocate Services; Office of the Chief Technology Officer; Chief Criminal Investigations; Chief Financial Officer (Oct. 16, 2014). The IRS closed tax attaché offices in Frankfurt, Germany, London, UK, and Paris, France, on June 26, 2015, Sept. 19, 2015, and Dec. 26, 2015, respectively. Memorandum from Acting Deputy Commissioner, International (LB&I), *Post Closures of Frankfurt, London and Paris* (Feb. 18, 2015).

5 Because taxpayers calling abroad may have to pay long distance toll charges, the international taxpayer assistance line is not considered a free option.

service taxpayers need. The net effect is a reversion back to a “push” approach to taxpayer information, as opposed to a dialogue.

The National Taxpayer Advocate has repeatedly written about the unique needs of international taxpayers, which the IRS has been slow to address.⁶ Given the overwhelming complexity of international tax rules and reporting requirements and the potentially devastating penalties for even inadvertent noncompliance,⁷ the IRS’s withdrawal of dialogue makes it more likely taxpayers will get it wrong. The IRS creates an endless cycle of more noncompliance breeding more enforcement, without more proactive taxpayer service through education and interaction, which would help avoid these problems. In addition to the closure of the attachés and the termination of ETLA, the National Taxpayer Advocate remains concerned that:

- Telephone and correspondence service for international taxpayers is inadequate;
- The IRS’s plans for expanding self-service options, which although having the potential to benefit international taxpayers, cannot fully replace personal service options, either by phone, face-to-face, or an online chat function; and
- The IRS has no permanent servicewide team focused on service for taxpayers abroad.

With its international taxpayer service strategy, the IRS is limiting the opportunity for interaction and will no longer be able to learn firsthand what taxpayers need. Without a two-way dialogue, information will be filtered and the IRS will decide what it thinks taxpayers need to hear, instead of hearing what information taxpayers want and need. This interaction is vital, and any system of taxpayer service worthy of that name must have avenues for learning from its participants, instead of just telling them.

ANALYSIS OF PROBLEM

International Taxpayers Comprise a Significant Group With Unique Needs and Burdens

The number of U.S. citizens abroad continues to grow, while the numbers of other international taxpayers remain steady. In mid-2015, approximately 8.7 million U.S. citizens lived abroad, compared with about 7.6 million in mid-2014.⁸ The number of U.S. military service personnel and dependents stationed overseas as of June 2015 was 174,100 compared to 149,600 in 2014, an increase of over 16 percent.⁹ There were also many international U.S. taxpayers who were neither residents nor citizens of the United States,

6 See, e.g., National Taxpayer Advocate Fiscal Year 2016 Objectives Report to Congress 77-82 (Area of Focus: *International Local Taxpayer Advocates Would Provide Valuable Assistance to Taxpayers and Protect Their Rights*); National Taxpayer Advocate 2012 Annual Report to Congress 262-80 (Most Serious Problem: *Challenges Persist for International Taxpayers as the IRS Moves Slowly to Address Their Needs*); National Taxpayer Advocate 2013 Annual Report to Congress 205-13 (Most Serious Problem: *International Taxpayer Service: The IRS Is Taking Important Steps to Improve International Taxpayer Service Initiatives, But Sustained Effort Will Be Required to Maintain Recent Gains*).

7 See National Taxpayer Advocate Fiscal Year 2016 Objectives Report to Congress 48-52 (Area of Focus: *The IRS’s Implementation of FATCA Has in Some Cases Imposed Unnecessary Burdens and Failed to Protect the Rights of Affected Taxpayers*).

8 See U.S. Department of State, Bureau of Consular Affairs, *Who We Are and What We Do: Consular Affairs by the Numbers* (May 2014), available at <http://travel.state.gov/content/dam/travel/CA%20Fact%20Sheet%202014.pdf>; U.S. Department of State, Bureau of Consular Affairs, *Who We Are and What We Do: Consular Affairs by the Numbers* (Apr. 2015), available at <http://travel.state.gov/content/dam/travel/CA%20by%20the%20Numbers-%20May%202015.pdf>.

9 U.S. Department of Defense, *Active Duty Military Personnel, Strength by Regional Area and by Country* (Mar. 31, 2015); U.S. Department of Defense, *Active Duty Military Personnel, Strength by Regional Area and by Country* (Mar. 31, 2014), available at https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp; U.S. Department of Defense, *Active Duty Military Personnel, Strength by Regional Area and by Country* (Mar. 31, 2013), available at https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp.

evidenced by the approximately 231,000 U.S. individual tax returns filed by nonresident aliens in 2014, compared to 214,000 in 2013.¹⁰

International taxpayers face unique filing burdens. For example, taxpayers who are not U.S. citizens must apply for an Individual Taxpayer Identification Number (ITIN), an arduous process that often requires mailing original identification documents.¹¹ U.S. citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold, must report their foreign financial assets under the Foreign Account Tax Compliance Act (FATCA).¹² Furthermore, all U.S. persons, that have an interest of \$10,000 or more in foreign financial accounts, must file Financial Crime Enforcement Network Form 114, *Report of Foreign Bank and Financial Accounts* (FBAR).¹³

Without a two-way dialogue, information will be filtered and the IRS will decide what it thinks taxpayers need to hear, instead of hearing what information taxpayers want and need. This interaction is vital, and any system of taxpayer service worthy of that name must have avenues for learning from its participants, instead of just telling them.

The Closure of Tax Attaché Offices Abroad, Concurrent With the Expansion of the IRS's International Enforcement Presence, Harms Taxpayers and Fails to Provide the Assistance They Need

The closure of the last four overseas tax attachés deprives taxpayers abroad of valuable and necessary services.¹⁴ In 2014 and 2015, the attachés collectively held 19 formal outreach events, with approximately 1,500 attendees.¹⁵ These events focused on topics such as filing requirements, the foreign tax credit, FBAR, and tax law changes; and they included a question and answer portion with the opportunity for one-on-one questions after. In fiscal year (FY) 2014, approximately 5,442 taxpayers walked-in to the London attaché office to seek assistance or ask questions, and the Frankfurt office had over three thousand phone contacts.¹⁶ By providing accessible information about what international taxpayers need to do to comply with the tax laws, the attachés supported taxpayers' *rights to be informed* and *to quality service*.

The interaction between the attachés and taxpayers created a perfect feedback loop: taxpayers came to the attachés for help, and in addition to providing assistance, the attachés learned about issues taxpayers found confusing or about systemic problems. The attachés then incorporated this information into their future presentations and shared it with other IRS employees who were

10 TAS Research & Analysis query of Compliance Data Warehouse (Dec. 15, 2015).

11 See Most Serious Problem: *Individual Taxpayer Identification Numbers (ITINs): IRS Processes Create Barriers to Filing and Paying for Taxpayers Who Cannot Obtain Social Security Numbers*, *infra*.

12 For more information about the burdens on taxpayers associated with FATCA, see National Taxpayer Advocate FY 2016 Objectives Report to Congress 48-52 (Area of Focus: *The IRS's Implementation of FATCA Has in Some Cases Imposed Unnecessary Burdens and Failed to Protect the Rights of Affected Taxpayers*).

13 See 31 C.F.R. §§ 1010.350(a), 1010.306(c). All U.S. persons includes U.S. citizens, resident aliens, trusts, estates, and domestic entities.

14 In 1993, the IRS had staff members attached to or located at more than a dozen U.S. embassies abroad. See David Kocieniewski, *IRS Will Shut Last Overseas Taxpayer Assistance Centers* (Jan. 14, 2015), available at <http://www.bloomberg.com/news/articles/2015-01-14/irs-will-shut-last-overseas-taxpayer-assistance-centers>. The Commissioner listed growing the attaché presence as one of the many actions the IRS could take if provided with additional funding of \$40.7 million in order to address offshore tax evasion. See FY 16 *Treasury Department Budget: Hearing Before the Senate Appropriations Committee, Subcommittee on Financial Services and General Government*, 113th Cong. (2015) (statement of John A. Koskinen, Commissioner, IRS).

15 IRS response to TAS information request (July 22, 2015).

16 *Id.*

responsible for content on irs.gov, or who might be in a position to influence policies or procedures. The following examples illustrate this:

- The Paris attaché received numerous questions about renunciation, so it posted information on this issue on the embassy website and in its brochures.
- The Paris attaché wrote letters to IRS service centers to resolve systemic problems.
- The Beijing attaché reached out to the Affordable Care Office to recommend it add a Frequently Asked Question to its website, which it did, based on recurring questions from international taxpayers.
- The Beijing attaché elevated to the IRS the issue of taxpayers with foreign addresses being unable to use the online transcript request.
- Upon noticing a large number of returns filed that appeared to be part of a fraudulent scheme, the London attaché elevated the issue to Deputy Large Business & International (LB&I) Commissioner, International, and it was referred to the appropriate office.¹⁷

The attachés also sent monthly reports to IRS headquarters, reporting on trends and the prevailing issues.¹⁸ In this way, the attachés were highly efficient and cost effective because they likely benefited many more taxpayers than just the ones who contacted them.

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The attachés also acted as a liaison to community organizations, professional associations, financial institutions, and the embassy and consulate offices in the surrounding region.¹⁹ The Paris attaché reported meeting with practitioners annually to hear about their issues and problems, and incorporated this information into its annual taxpayer service plan. The attachés also had relationships with treaty partners and spent ample time on exchange of information issues. The attachés used their expertise to provide information about laws and overseas procedures to other IRS offices.²⁰

Unique to the attachés activities was the direct, two-way interaction between them and taxpayers or stakeholders. Although virtual outreach may be beneficial in the future, and the Paris attaché successfully held two virtual outreach events for expatriates in Nairobi and Barcelona during 2015, these did not provide the opportunity for one-on-one interaction. Furthermore, the IRS relied on the partnership of the Department of State in conducting these events, and has recently cited rejections by the Department of State as reasons for stalled progress on plans to conduct similar outreach events during the next filing season.²¹ Even if the IRS is able to orchestrate future virtual sessions without the attachés, providing a one-time brief window will not replace the dialogue that taxpayers had with the attachés throughout the year.

¹⁷ TAS conference call with IRS tax attachés (Sept. 24, 2015).

¹⁸ *Id.*

¹⁹ For example, the Paris office had collaborative relationships with the Organization of Economic Cooperation and Development (OECD) and traveled to meet with treaty partners, embassy officials, and consulates to see what their needs were. See *Id.* The London office had active relationships with a number of expatriate community organizations, as well as professional groups such as the Entertainment Industry Workshop Group and the British-American Business Roundtable. See IRS response to TAS information request (July 22, 2015).

²⁰ TAS conference call with IRS tax attachés (Sept. 24, 2015).

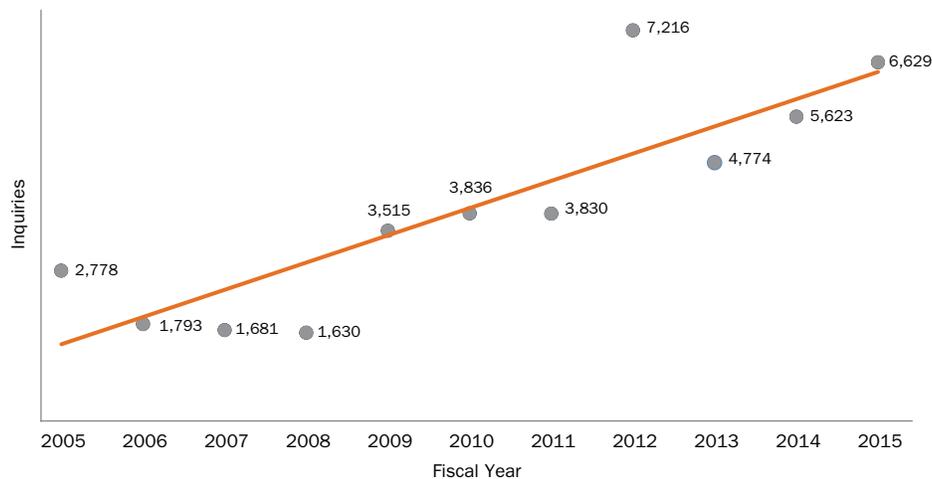
²¹ *Id.*

The National Taxpayer Advocate is concerned that the IRS did not analyze the impact of closing the attachés prior to making its decision. The IRS stated “these closures have relatively little impact on taxpayers and treaty partners;” however, the IRS did not conduct any impact studies to determine the potential effects on taxpayers, compliance, or revenue. The IRS estimated the closures would save \$4 million per year.²² However, at the same time, the IRS has asked for \$8.4 million to expand offshore criminal investigations, including opening two additional posts.²³ Impact studies may have considered the effects on voluntary compliance, especially encouraging voluntary payments.²⁴ Instead of closing the existing attachés, the IRS should analyze the impact of reopening additional attaché offices. In addition, each IRS office abroad should include a Local Taxpayer Advocate (LTA) to provide international taxpayers with better access to TAS, foster increased communication and information sharing, and encourage reporting of systemic issues.²⁵ Increases in voluntary compliance resulting from better service for taxpayers abroad would more than offset the additional costs.²⁶

Shutting Down the Electronic Tax Law Assistance Program Removed the Only Free Option for International Taxpayers to Meaningfully Interact With the IRS

On October 1, 2015, the IRS shut down the ETLA program, the only free method for taxpayers abroad to ask and receive answers to their specific tax law questions without paying toll phone or fax charges.²⁷ An internal email indicates that a drop in usage since its initiation drove the IRS’s decision.²⁸ However, low usage was by design, as the irs.gov website includes little mention of ETLA.²⁹ Furthermore, ETLA inquiries have actually increased in recent years, with an average of almost 32,000 inquiries per year during the last four years, compared with an average of only about 13,500 inquiries per year during the prior four years.³⁰ Inquiries from aliens and U.S. citizens living abroad have grown substantially, up 39 percent since FY 2013.³¹

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- 22 See David Kocieniewski, *IRS Will Shut Last Overseas Taxpayer Assistance Centers* (Jan. 14, 2015), available at <http://www.bloomberg.com/news/articles/2015-01-14/irs-will-shut-last-overseas-taxpayer-assistance-centers>. The IRS requested \$283 million for international enforcement resources for FY 2014, and only about \$8.5 million for all field assistance for the LB&I Operating Division, which includes a Headquarters office and one other domestic office. IRS response to TAS information request (July 10, 2015).
- 23 IRS FY 2016 President’s Budget 81 (Feb. 2, 2015), available at <http://www.treasury.gov/about/budget-performance/CJ16/02-06.%20IRS%20FY%202016%20CJ.pdf>. Currently, the IRS maintains ten criminal investigation offices overseas. IRS, Criminal Investigation, Fiscal Year 2014 National Operations Annual Business Report, 27, available at <http://www.irs.gov/pub/foia/ig/ci/REPORT-FY2014-IRS-CI-Annual-Report.pdf>.
- 24 As an example, taxpayer remittances received by the London attaché in FY 2014 totaled almost \$27 million. IRS response to TAS information request (July 22, 2015).
- 25 For a detailed discussion of the need for LTAs abroad, see National Taxpayer Advocate FY 16 Objectives Report to Congress 77-82 (Area of Focus: *International Local Taxpayer Advocates Would Provide Valuable Assistance to Taxpayers and Protect Their Rights*). See also National Taxpayer Advocate 2013 Annual Report to Congress 213; National Taxpayer Advocate 2011 Annual Report to Congress 190.
- 26 More than 98 percent of all tax revenue collected by the IRS is paid voluntarily and timely. In FY 2014, the IRS collected total tax revenue of about \$3.1 trillion. Of that amount, it collected \$57.1 billion through enforcement actions. Government Accountability Office (GAO), GAO-15-173, *Financial Audit: IRS’s Fiscal Years 2014 and 2013 Financial Statements* 29 (Nov. 2014), available at <http://www.gao.gov/assets/670/666863.pdf>.
- 27 See SERP Alert 15A0387 (Aug. 18, 2015).
- 28 See email from Chief, Electronic Services and Programs, SE:W:CAS:AM:ESP (Aug. 13, 2015).
- 29 A search on irs.gov on August 18, 2015, for “ETLA” or “Electronic Tax Law Assistance” turned up only two web pages on irs.gov, neither of which actually had a link that taxpayers could use to access the ETLA system.
- 30 ETLA Fiscal Year Reports, FY 2008-2015.
- 31 *Id.*

FIGURE 1.7.1³²**Growth in ETLA Inquiries Received From Aliens and U.S. Citizens Living Abroad**

Although some ETLA inquiries resulted in long wait times for taxpayers,³³ the average response time during FY 2015 for questions related to aliens and U.S. citizens living abroad was only 3.9 days,³⁴ meaning the IRS was able to manage its resources in a way to efficiently answer these questions. In addition to the superficially low usage rate, the IRS also cites cost as a reason for discontinuing ETLA, comparing the cost per contact of \$116 with the cost per contact for toll free assisted calls of \$42.³⁵ However, one ETLA submission is not equal to one telephone call. ETLA questions are usually those that are not covered in online applications or are difficult to understand or interpret in the context of a taxpayer's specific circumstances, meaning they are inherently likely to be more difficult and thus more expensive to answer. Taxpayers could also ask questions 24 hours a day, which is crucial for taxpayers in international time zones.

In conjunction with terminating ETLA, the IRS also discontinued its R-mail program, which was an automated system used to refer specific tax law questions received through ETLA to headquarters employees to clarify confusing issues or instructions. The IRS cited low usage for this program, which is a self-fulfilling proposition, a result of the IRS not answering "out of scope" questions, precisely the type of question that might require a referral.³⁶ R-mail could have provided a valuable feedback loop between international taxpayers who are experiencing confusion regarding an issue or instruction, and the IRS employee receiving the referral, who can recommend changes to the instructions or procedures based on what the taxpayer identifies as confusing.

32 ETLA Fiscal Year Reports, FY 2005-2015.

33 For example, questions involving the Child Care Credit and Other Credits handled by the Dallas office had an average wait time of nearly 30.1 days for inquiries worked during FY 2015. ETLA Fiscal Year 2015 Report. The IRS has a goal of answering all ETLA inquiries within three business days. Internal Revenue Manual (IRM) 21.3.2.1, *Electronic Tax Law Assistance Overview* (Dec. 10, 2014).

34 ETLA Fiscal Year Reports for inquiries received between October 1, 2014 and September 30, 2015.

35 See Briefing Document, *Retiring Electronic Tax Law Assistant (ETLA) and Referral Mail (R-Mail)* (sent by email from Wage and Investment Senior Advisor to TAS, Aug. 31, 2015).

36 IRM 21.2.1.57.2, *Procedures* (Mar. 15, 2012), provides procedures for R-mail telephone referrals and states: "Depending on the complexity of the message, you may determine that a question is outside the scope of the service. IRM 21.2.1.57.2.2.7, "Out of Scope" Procedures."

None of the alternatives to ETLA provide real interaction. The IRS cites various tools on its website,³⁷ but even the so called “interactive” tools only provide canned responses to questions the IRS has come up with, leaving taxpayers unable to ask their actual questions and the IRS oblivious as to what issues taxpayers have. Contingent on funding, the IRS has proposed two options for virtual webcasts to assist taxpayers abroad who no longer have the benefit of ETLA or virtual outreach conducted by the attachés. The first option includes a live webcast with up to 20,000 attendees where questions can be asked and answered during the webcast. The second option is for a PowerPoint slide webcast with audio that is envisioned to accommodate at least 2,000 attendees and can be recorded for subsequent viewing, but without audience interaction and the capability to respond to audience questions.³⁸ Even if the IRS is able to achieve the first option, it would provide only a single opportunity for dialogue with a limited number of taxpayers at a time that may not be convenient or when taxpayers even have questions. Given the reliance on ETLA by taxpayers abroad, terminating ETLA as a whole reflects poor decision-making and disregard for international taxpayers’ needs.

Telephone and Correspondence Service for International Taxpayers Is Inadequate

Although an increasing number of international taxpayers prefer online services over telephone, non-filers were significantly more likely than filers to want more IRS resources devoted to telephone service as opposed to online service improvements, according to a 2012 IRS survey.³⁹ This may be because only 58 percent of non-filers surveyed reported having Internet access at home, and 35 percent reported having no Internet access at all.⁴⁰ Foreign taxpayers face burdens in calling the IRS, primarily because they must call a domestic IRS office, which may be many time zones away, and pay significant tolls depending on the length of the call. This is especially problematic given the decline in phone service over recent year. In FY 2013, the average wait time on the international phone line was 10.5 minutes, compared to 19.9 minutes in FY 2015, a 90 percent increase.⁴¹ Furthermore, the average level of service on the international phone line in FY 2015 was only 55 percent.⁴²

The IRS could accommodate the international taxpayer service need driven by the increase in international enforcement by allocating additional funding for international taxpayer phone lines. Using Voice over Internet Protocol (VOIP) technology could potentially allow the IRS to reduce its phone costs and provide toll-free service to overseas taxpayers. When asked about barriers to using this technology, the IRS response was based solely on its experience as a tenant of the U.S. embassy in London, where the Department of State used such technology, reflecting that the IRS has not researched this possibility.⁴³

37 The IRS cites Tax Topics, Tax Trails, and the Interactive Tax Assistant as alternatives, although additions to the Interactive Tax Assistant are contingent on funding. See IRS Briefing Document, *Retiring Electronic Tax Law Assistance and Referral Mail* (sent by email from Wage and Investment Senior Advisor to TAS on Aug. 31, 2015).

38 See IRS Briefing Document, *Retiring Electronic Tax Law Assistance and Referral Mail* (sent by email from Wage and Investment Senior Advisor to TAS on Aug. 31, 2015).

39 Forty-six percent of nonfilers favored improving telephone service over online service, as opposed to only 30 percent of filers who favored telephone service. IRS, Wage and Investment Research and Analysis, *2012 Taxpayer Experience of Individuals Living Abroad: Service Awareness, Use, Preferences, and Filing Behaviors* 10 (Aug. 2012).

40 IRS, Wage and Investment Research and Analysis, *2012 Taxpayer Experience of Individuals Living Abroad: Service Awareness, Use, Preferences, and Filing Behaviors* 10 (Aug. 2012).

41 IRS, JOC Snapshot Reports for weeks ending Sept. 30, 2013 and Sept. 30, 2015.

42 IRS, JOC Snapshot Report for week ending Sept. 30, 2015.

43 See IRS response to TAS information request (July 22, 2015).

Although many questions can be answered from an online article or the Interactive Tax Assistant (ITA), questions about a taxpayer's account or requests for a manager to explain an employee's handling of their case must be answered over the phone. Furthermore, the term "interactive" in describing the ITA is misleading because the taxpayer only receives one of a number of canned answers to questions the IRS has created on its own.

Although many questions can be answered from an online article or the Interactive Tax Assistant (ITA),⁴⁴ questions about a taxpayer's account or requests for a manager to explain an employee's handling of their case must be answered over the phone. Furthermore, the term "interactive" in describing the ITA is misleading because the taxpayer only receives one of a number of canned answers to questions the IRS has created on its own. There is no two-way interaction between the taxpayer and an employee where the taxpayer could receive a specific answer to his or her question and the IRS could learn about how to improve its taxpayer resources based on the taxpayer's question.

The lack of phone service is especially critical given barriers to receiving correspondence abroad. The Treasury Inspector General for Tax Administration (TIGTA) recently found that typographical errors and systemic address limitations lead to undeliverable international mail and registered mail may not be delivered to its intended recipients abroad.⁴⁵ TIGTA noted that approximately 855,000 notices and letters were sent to U.S. taxpayers abroad during 2014, but the IRS could not determine how many taxpayers responded.⁴⁶ Without effective correspondence or accessible phone service, the IRS infringes a taxpayer's *right to be informed*. Taxpayers abroad may not receive crucial information about their accounts, as well as learn when they need to take actions to exercise their rights. For example, without receiving a Statutory Notice of Deficiency, a taxpayer abroad may not know he or she must petition Tax Court within 150 days to challenge the deficiency in court.⁴⁷

The IRS's Plans for Expanding Self-Service Options, Which Although Having the Potential to Benefit International Taxpayers, Cannot Fully Replace Personal Service Options, Either by Phone, Face-to-Face, or an Online Chat Function

The IRS has improved some self-service resources for international taxpayers; however, most only provide static information, with no way for taxpayers to interact with an IRS employee. In June 2015, the IRS released three YouTube videos for international taxpayers on the topics of filing requirements, the foreign earned income tax exclusion, and ITINs.⁴⁸ It also added two new international "Tax Trails," which are a series of "interactive" questions that allow a taxpayer to find canned answers to tax law and tax filing questions chosen by the IRS.⁴⁹ The IRS also expanded its coverage of international issues on its "Tax Map," which now includes an index of international issues and provides links to various IRS online articles about specific topics, such as tax treaties or FATCA. In FY 2015, the international pages received 15,484 total

44 The Interactive Tax Assistant is a tax law resource that takes a taxpayer through a series of questions on a limited number of topics and provides responses. See [http://www.irs.gov/uac/Interactive-Tax-Assistant-\(ITA\)-1](http://www.irs.gov/uac/Interactive-Tax-Assistant-(ITA)-1). The term "interactive" is misleading, as the taxpayer only receives one of a number of canned answers to questions the IRS has created on its own, as opposed to interacting with an employee who could answer the taxpayer's specific question.

45 See TIGTA, Ref. No. 2015-30-072, *Planned Improvements Have Not Been Made to Manage and Track Correspondence With International Taxpayers* (Sept. 8, 2015).

46 *Id.*

47 IRC § 6213 provides that within 90 days (or 150 days if the notice is addressed to a person outside the United States) after a notice of deficiency is mailed, a taxpayer can petition Tax Court to challenge the deficiency.

48 See IRS, IR 2015-85, *New YouTube Videos, Online Resources Help Taxpayers Abroad* (June 4, 2015), available at <http://www.irs.gov/uac/Newsroom/New-YouTube-Videos,-Online-Resources-Help-Taxpayers-Abroad>.

49 See *id.*

hits through June 29, 2015, with the top five non-U.S. visitor countries of origin being: China, UK, Canada, Germany, and Spain.⁵⁰

TAS asked the IRS about its progress during the last two fiscal years on expanding online resources for international taxpayers, including secure messaging portals, Free File fillable forms, e-filing, and improvements to irs.gov. The IRS response reflected the main actions were improvements to irs.gov, which primarily consisted of updating informational webpages. The only significant action was to develop a registration page allowing foreign financial institutions to register with the IRS regarding their participation in FATCA and obtain a Global Intermediary ID Number to use for FATCA reporting.⁵¹

The IRS should invest in catching up with technology already developed by the private sector to create a secure internet connection for taxpayers abroad so they could communicate with the IRS via an “e-chat” system. The IRS can also pilot the Virtual Service Delivery (VSD) technology it successfully uses for in-person interaction with taxpayers domestically.⁵² To avoid security concerns involving foreign Internet Protocol addresses, the IRS could partner with the U.S. Department of State to install VSD terminals at U.S. embassies and consulates. However, before the IRS develops alternatives for taxpayers abroad to interact with IRS employees virtually, it is vital for the IRS to reinstate and maintain the services offered by the tax attachés.⁵³

Furthermore, the IRS should not focus its entire international taxpayer service strategy on web-based self-service options. Currently, some taxpayers do not have access to several existing online services. For example, the Get Transcript application cannot be used by taxpayers with ITINs, which are used by individuals not eligible for Social Security numbers. Nonresident alien taxpayers cannot file Form 1040-NR or Form W-7, *Application for IRS Individual Taxpayer Identification Number*, electronically. As explained above, a significant number of taxpayers abroad who did not file returns lack internet access.

The IRS Needs a Permanent Servicewide Team Focused on the Unique Service Needs of International Taxpayers

To specifically address the needs of international taxpayers, in 2012 the IRS created the International Individual Taxpayer Assistance (IITA) team with representatives from the LB&I, the Wage & Investment Division (W&I), the Office of Online Services (OLS) and TAS. Although the team was initially instrumental in updating and streamlining various international IRS webpages, the team’s efforts have flagged in recent years. The IRS declined to adopt the National Taxpayer Advocate’s 2012 recommendations to make the team permanent with a formal charter and required periodic reporting,⁵⁴ and not surprisingly, the team has been largely inactive recently. The team’s main actions during the last two fiscal years have been limited to adding content to international taxpayer web pages, with the exceptions of preparing a 2015 filing season information document for U.S. embassies and convening an ad-hoc team in 2015 to

50 See IRS response to TAS information request (July 22, 2015).

51 IRS response to TAS information request (July 10, 2015).

52 Virtual service delivery enables taxpayers to interact directly with IRS employees using videoconferencing equipment and allows taxpayers to transmit and discuss documents in real time. Currently, the IRS employs VSD technology at only brick and mortar locations, as opposed to allowing taxpayers to use their own technology equipment at home. The National Taxpayer Advocate has made numerous recommendations over the years to expand the IRS’s use of VSD. See, e.g., National Taxpayer Advocate 2014 Annual Report to Congress 152-62 (Most Serious Problem: *Virtual Service Delivery: Despite a Congressional Directive, the IRS Has Not Maximized the Appropriate Use of Videoconferencing and Similar Technologies to Enhance Taxpayer Services*).

53 The National Taxpayer Advocate has also advocated for LTAs to be placed at each international tax attaché office to better serve taxpayers abroad. See National Taxpayer Advocate FY 2016 Objectives Report to Congress 77-82 (Area of Focus: *International Local Taxpayer Advocates Would Provide Valuable Assistance to Taxpayers and Protect Their Rights*).

54 See National Taxpayer Advocate 2012 Annual Report to Congress 280.

work on virtual outreach sessions.⁵⁵ Without formalizing and making permanent the IITA team, taxpayer service for international taxpayers will dissipate further.

CONCLUSION

International taxpayers are a growing population who face declining taxpayer service resources and increased filing and reporting requirements, along with substantial penalties for noncompliance. The closure of the overseas tax attaché offices exacerbates this problem by eliminating a key means of providing outreach and technical assistance, identifying issues with IRS processes and procedures, and learning about current challenges and the needs of international taxpayers. Furthermore, by terminating ETLA and R-mail, the IRS has shut itself off from taxpayers, preventing taxpayers from asking their own questions and preventing the IRS from learning how to better serve taxpayers and prevent problems. The IRS's planned focus on web-based self-service for international taxpayers will not replace the services lost. While in the current budget environment it may be tempting to migrate taxpayer service toward superficially lower-cost self-assistance options, significantly reducing personal service options may ultimately impair voluntary compliance and undermine taxpayers' *rights to be informed and to quality service*.⁵⁶

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Reopen the four international tax attaché offices and provide funding for TAS to establish one LTA position at each office.
2. Conduct impact studies to determine the effects on taxpayer service, compliance, and revenue by opening additional tax attaché offices around the world.
3. Reestablish the ETLA (or a similar program) with timeframes for responses and create a process for using the information from ETLA inquiries in updates to IRS internal and external materials, including the irs.gov website.
4. Allocate funding for staffing additional telephone service to accommodate the need created by the expansion of international enforcement activities.
5. Create a task force to analyze and provide a report within one year on the barriers to VOIP usage and partnering with the U.S. Department of State to employ VSD technology for taxpayers at U.S. embassies and consulates.
6. Reinstate the IITA Team, with a formal charter, regular meetings, objectives, and measurable results.

⁵⁵ See IRS response to TAS information request (July 22, 2015).

⁵⁶ For a detailed discussion of the Taxpayer Bill of Rights, see <http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights>.