

National Taxpayer Advocate Public Forum
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Written Statement by:

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The Internal Revenue Service has a simple Mission Statement: “Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.”

In my experience over the past several years it has had increasing difficulty accomplishing its mission. . . . When I first began practicing law with the U.S. Department of Justice, Business Week magazine reported that a poll of business executives rated the IRS was the top agency in the Federal Government in terms of professionalism, competence and honesty. Unfortunately the IRS could not rank so high today. . . . The view of the IRS by tax professionals and individuals who interact with the agency on a regular basis has fallen greatly.

As an attorney represents taxpayers who have problems with the IRS, there four IRS functions that I routinely deal with:

1. Examination. The IRS has moved towards remote audits that are conducted from the IRS Service Centers. The IRS sends a letter to a taxpayer asking for the taxpayer to provide documents to support a deduction or credit claimed on a tax return or information on why it failed to report income that a third party claimed it paid the taxpayer. If the taxpayer does not respond on time, the IRS issues a notice of deficiency to the taxpayer. Taxpayers are often not represented in these exams and thus do not understand how to respond or the potential consequences of failing to respond to the IRS request by the due date. Even where a taxpayer is represented by a tax professional, it is difficult to find anyone at the IRS to speak with about the audit and IRS employees who conduct these audits are trained to treat the cases on an assembly-line basis.

Where an examination is conducted by a local IRS revenue agent, the results can be frustrating. In many instances, IRS examiners have not received adequate training. This is not always the case, but from my perspective and that of other tax attorneys, too many agents who conduct taxpayer examinations are not sufficiently trained.

2. Collection. Automated collection systems may work for taxpayers who owe modest sums that they can pay over time through an installment agreement. For anyone else, it can be a nightmare. The centralization of the IRS offer in compromise program, which processes offers on an assembly-line basis, is problematic.

3. Appeals: Appeals was for many years a place where a taxpayer could resolve a dispute with the IRS in a rational manner—in many respects it exemplified what was best about the IRS. That is no longer the case. Like most of the IRS, Appeals has suffered from hiring freezes, a cut back in personnel and a lack of adequate training. Cases are routinely assigned to Appeals Officers in cities far from the taxpayer and his or her representative. This means that the taxpayer cannot have a face to face conference with the Appeals Officer unless he or she is willing to spend the time and money to travel. Even where the case is assigned to an Appeals Officer in the same area, it is difficult to get more than one meeting. These problems are increased due to the adoption of the Appeals Judicial Approach and Culture (AJAC) initiative, under which Appeals sends the case back to exam for comment if the taxpayer submits new information. To paraphrase Shakespeare, “AJAC is their fool.”
4. Criminal Investigation: This is the one IRS function that has managed to retain a reasonable level of competence. It is also the one that a taxpayer least wants to hear from. But there has been a large drop of in the investigation of routine criminal tax cases and that is not good for our voluntary compliance system.

These problems are most apparent with taxpayers who are wage earners, owners of small and medium sized businesses and people on a fixed income. For taxpayers who fall under the jurisdiction of the IRS's Large Business & International Division, the problems are not as great. Only a very small portion of taxpayers are, however, within the jurisdiction of LB&I.

Many of the IRS problems stem from a lack of funding and an ill-conceived reorganization instituted in the late 1990's. Without funding, it lacks the resources to adequately train its personnel, it cannot replace personnel and, even when it has funds to hire additional personnel, it cannot attract the highest caliber of people. With a move towards increased automation, the outsourcing of collection functions to for-profit companies, as required by Congress, and an increase in its functions (such as the Affordable Care Act) in my view dealing with the IRS will become ever more difficult. Congress and the IRS have to recognize that the nation's tax collection and enforcement agency is not a credit card company whose primary purpose is profit maximization. If this does not occur, the IRS will have to change its Mission Statement.

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