

TAXPAYER RIGHTS ASSESSMENT: IRS Performance Measures and Data Relating to Taxpayer Rights

In the 2013 Annual Report to Congress, the National Taxpayer Advocate proposed a “report card” of measures that “... provide a good indication whether the IRS is treating U.S. taxpayers well and furthering voluntary compliance.”¹

On June 10, 2014, the IRS adopted a Taxpayer Bill of Rights (TBOR), a list of ten rights that the National Taxpayer Advocate recommended to help taxpayers and IRS employees alike gain a better understanding of the dozens of discrete taxpayer rights scattered throughout the multi-million word Internal Revenue Code.² While this was a significant achievement for increasing taxpayers’ awareness of their rights, and an important first step toward integrating taxpayer rights into all aspects of tax administration, more can be done. The *Taxpayer Rights Assessment* contains selected performance measures and data organized by the ten taxpayer rights and is one step toward integrating taxpayer rights into tax administration.

This *Taxpayer Rights Assessment* is a work in progress. The following data provide insights into IRS performance; however, they are by no means comprehensive. In some instances, data is not readily available. In other instances we may not yet have sufficient measures in place to address specific taxpayer rights. And, despite what the numbers may show, we must be concerned for those taxpayers who still lack access to services and quality service even when performance metrics are increasing. This *Taxpayer Rights Assessment* will grow and evolve over time as data becomes available and new concerns emerge.

- 1. THE RIGHT TO BE INFORMED** – Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

Measure/Indicator	Fiscal Year (FY) 2015	FY 2016
Individual Correspondence Volume (adjustments) ^a	4,358,447	4,817,708
Average cycle time to work Individual Master File (IMF) Correspondence ^b	80 days	84 days
Inventory overage ^c	68.3%	49.1%
Business Correspondence Volume (adjustments) ^d	2,952,329	2,940,925
Average cycle time to work Business Master File (BMF) Correspondence ^e	46 days	47 days
Inventory overage ^f	18.8%	8.6%
Total Correspondence (all types)	TBD	TBD
Quality of IRS Forms & Publications	TBD	TBD
IRS.gov Web Page Ease of Use	TBD	TBD
IRS Outreach	TBD	TBD

a IRS, Joint Operations Center (JOC), *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2016). The FY 2015 figure has been updated from what we reported in the 2015 Annual Report to Congress. These data on correspondence are also repeated under Right 4 – *The Right to Challenge the IRS’s Position and Be Heard*.

b IRS, JOC, *Adjustments Inventory Reports: CIS Closed Case Cycle Time* (FY 2016).

c IRS, *Weekly Enterprise Adjustments Inventory Report, FY 2016* (week ending Oct. 1, 2016).

d IRS, JOC, *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2016).

e IRS, JOC, *Adjustments Inventory Reports: CIS Closed Case Cycle Time* (FY 2016).

f IRS, *Weekly Enterprise Adjustments Inventory Report, FY 2016* (week ending Oct. 1, 2016).

- 1 See National Taxpayer Advocate 2013 Annual Report to Congress xvii-xviii (Preface: *Taxpayer Service Is Not an Isolated Function but Must Be Incorporated Throughout All IRS Activities, Including Enforcement*).
- 2 IRS, IR-2014-72, *IRS Adopts “Taxpayer Bill of Rights;” 10 Provisions to Be Highlighted on IRS.gov, in Publication 1* (June 10, 2014).

- 2. THE RIGHT TO QUALITY SERVICE** – Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

Measure/Indicator	FY 2015	FY 2016
Number of Returns Filed (projected, all types) ^a	245,821,318	248,898,800
Total Individual Income Tax Returns ^b	148,840,642	151,027,600
E-file Receipts, calendar year (Received by 12/04/15, 12/02/16) ^c	128,784,000	131,851,000
E-file: Tax Professional (calendar year) ^d	61%	60%
E-file: Self Prepared (calendar year) ^e	39%	40%
Returns Prepared by:		
VITA/TCE/AARP (tax year) ^f	3,519,006	3,580,640
Free File Consortium (tax year) ^g	2,588,934	2,356,167
Fillable Forms (tax year) ^h	355,080	346,098
Number of Taxpayer Assistance (“Walk-In”) Centers ⁱ	378	376
Number of TAC Contacts ^j	5.6 million	4.5 million
Total Calls to IRS ^k	116,679,405	117,479,981
Number of Attempted Calls to IRS Customer Service Lines ^l	101,507,150	104,275,387
Toll-Free: Percentage of calls answered (LOS) ^m	38.1%	53.4%
Toll-Free: Average Speed of Answer ⁿ	30.5 minutes	17.8 minutes
NTA Toll-Free: Percentage of calls answered (LOS) ^o	43.7%	58.1%
NTA Toll-Free: Average Speed of Answer ^p	16.2 minutes	8.9 minutes
Practitioner Priority: Percentage of calls answered (LOS) ^q	47.6%	71.0%
Practitioner Priority: Average Speed of Answer ^r	46.6 minutes	10.5 minutes
Tax Exempt/Government Entities: Percentage of calls answered (LOS) ^s	60.2%	56.8%
Tax Exempt/Government Entities: Average Speed of Answer ^t	23.4 minutes	15.9 minutes
Toll-Free Customer Satisfaction ^u	87.0%	88.0%
Awareness of Service (or utilization)	TBD	TBD
IRS Issue Resolution – Percentage of taxpayers who had their issue resolved as a result of the service they received	TBD	TBD
Taxpayer Issue Resolution – Percentage of taxpayers who reported their issue was resolved after receiving service	TBD	TBD

a IRS Pub. 6292, *Fiscal Year Return Projections for the United States 2016-2023* (Aug. 2016), at 4. The FY 2015 figure has been updated from what we reported in the 2015 Annual Report to Congress to report actual return counts. The FY 2016 figures are projected numbers. The number of returns and related metrics are proxies for IRS workload and provide context for the environment in which taxpayers seek Quality Service and other rights.

b IRS Pub. 6292, *Fiscal Year Return Projections for the United States 2016-2023* (Aug. 2016), at 4. The FY 2015 figure has been updated from what we reported in the 2015 Annual Report to Congress to report actual return counts.

c IRS, Filing Season Statistics, available at <https://www.irs.gov/uac/newsroom/filing-season-statistics-for-week-ending-december-second-2016> (last visited Dec. 12, 2016).

d *Id.*

e *Id.*

f Free, in-person return preparation is offered to low income and older taxpayers by non-IRS organizations through the Volunteer Income Tax Assistance (VITA), Tax Counseling for the Elderly, and AARP Tax-Aide programs. IRS, Compliance Data Warehouse (CDW), Individual Returns Transaction File. The FY 2015 figure represents tax year 2014 returns. The FY 2016 figures represent tax year 2015.

g IRS, CDW, Electronic Tax Administration Marketing Database.

h *Id.*

i FY 2015 figures from W&I analyst (Dec. 13, 2016). FY 2016 figure from W&I response to TAS fact check (Dec. 20, 2016). In the 2015 Annual Report to Congress we reported a different figure for 2015 (380) which reflected the number of TACs open during the filing season.

j W&I, Business Performance Review (BPR), 4th Quarter, FY 2016 (Nov. 9, 2016) at 7.

k IRS, JOC, *Snapshot Reports: Enterprise Snapshot* (week ending Sept. 30, 2016; report generated Nov. 5, 2016).

l *Id.* Number of calls to Accounts Management (formerly Customer Services) is the sum of 29 lines (0217, 1040, 4933, 1954, 0115, 8374, 0922, 0582, 5227, 9887, 9982, 4184, 7388, 0452, 0352, 7451, 9946, 5215, 3536, 2050, 4017, 2060, 4778, 4259, 8482, 8775, 5500, 4490, and 5640).

m IRS, JOC, *Snapshot Reports: Enterprise Snapshot* (week ending Sept. 30, 2016; report generated Nov. 5, 2016). Accounts Management calls answered include reaching live assistant or selecting options to hear automated information messages.

n *Id.*

Footnotes continued on next page. ►

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o IRS, JOC, *Snapshot Reports: Product Line Detail* (week ending Sept. 30, 2016; report generated Nov. 5, 2016).
 p *Id.*
 q *Id.*
 r *Id.*
 s *Id.*
 t *Id.*
 u W&I, BPR, 4th Quarter, FY 2016 (Nov. 9, 2016), at 12.

3. THE RIGHT TO PAY NO MORE THAN THE CORRECT AMOUNT OF TAX – Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

Measure/Indicator	FY 2015	FY 2016
Toll-Free Tax Law Accuracy ^a	95.0%	96.4%
Toll-Free Accounts Accuracy ^b	95.5%	96.1%
Scope of Tax Law Questions Answered	TBD	TBD
Correspondence Examinations (Form 1040 Series)		
No change rate ^c	17.3%	16.2%
Agreed rate ^d	16.3%	20.6%
Non-response rate ^e	48.3%	42.1%
Percentage of cases appealed	TBD	TBD
Field Examinations (Form 1040 Series)		
No change rate ^f	15.3%	14.6%
Agreed rate ^g	45.7%	45.4%
Non-response rate ^h	0.3%	0.3%
Percentage of cases appealed	TBD	TBD
Office Examinations (Form 1040 Series)		
No change rate ⁱ	13.5%	12.2%
Agreed rate ^j	44.7%	43.4%
Non-response rate ^k	19.8%	20.6%
Percentage of cases appealed	TBD	TBD
Math Error Adjustments	TBD	TBD
Math Error Abatements	TBD	TBD
Number of Statutory Notices of Deficiency Issued	TBD	TBD
Number of Statutory Notices of Deficiency Appealed	TBD	TBD
Number of Collection Appeals Program Conferences	TBD	TBD
Number of Collection Appeals Program Conferences Reversing IRS position	TBD	TBD
Number of Collection Due Process Conferences	TBD	TBD
Number of Collection Due Process Conferences Reversing IRS position	TBD	TBD

a W&I, BPR, 4th Quarter, FY 2016 (Nov. 9, 2016), at 4.
 b *Id.*
 c IRS, CDW, Audit Information Management System, Closed Case Database.
 d *Id.*
 e *Id.*
 f *Id.*
 g *Id.*
 h *Id.*
 i *Id.*
 j *Id.*
 k *Id.*

- 4. THE RIGHT TO CHALLENGE THE IRS'S POSITION AND BE HEARD** – Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

Measure/Indicator	FY 2015	FY 2016
Individual Correspondence Volume (adjustments) ^a	4,358,447	4,817,708
Average cycle time to work Individual Master File Correspondence ^b	80 days	84 days
Inventory overage ^c	68.3%	49.1%
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Average cycle time to work Business Master File Correspondence ^e	46 days	47 days
Inventory overage ^f	18.8%	8.6%
Percentage of Math Error Adjustments Abated	TBD	TBD
Percentage of Statutory Notices of Deficiency Appealed to Tax Court	TBD	TBD
Number of Collection Appeal Program (CAP) Conferences Requested by Taxpayers ^g	TBD	TBD
Percentage of CAP Conferences that Reversed the IRS Position	TBD	TBD
Number of Collection Due Process (CDP) Hearings Requested by Taxpayers ^h	TBD	TBD
Percentage of CDP Hearings that Reversed the IRS Position	TBD	TBD

a IRS, JOC, *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2016). The FY 2015 figure has been updated from what we reported in the 2015 Annual Report to Congress.

b IRS, JOC, *Adjustments Inventory Reports: CIS Closed Case Cycle Time* (FY 2016).

c IRS, *Weekly Enterprise Adjustments Inventory Report, FY 2016* (week ending Oct. 1, 2016).

d IRS, JOC, *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2016).

e IRS, JOC, *Adjustments Inventory Reports: CIS Closed Case Cycle Time* (FY 2016).

f IRS, *Weekly Enterprise Adjustments Inventory Report, FY 2016* (week ending Oct. 1, 2016).

g Taxpayers may request a Collection Appeals Process review as the result of IRS actions such filing a Notice of Federal Tax Lien, an IRS levy or seizure of property, and termination, rejection, or modification of an installment agreement. See IRS Pub. 1660, *Collection Appeal Rights*.

h Taxpayers may request a Collection Due Process review when the IRS plans to take actions such as filing a federal tax lien or levy. See IRS Pub. 1660, *Collection Appeal Rights*.

- 5. THE RIGHT TO APPEAL AN IRS DECISION IN AN INDEPENDENT FORUM** – Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

Measure/Indicator	FY 2015	FY 2016
Number of Cases Appealed ^a	113,870	114,362
Appeals Staffing (On-rolls) ^b	1,569	1,449
Number of States without an Appeals or Settlement Officer ^c	11	10
Customer Satisfaction of Service in Appeals ^d	TBD	TBD
Average Days in Appeals to Resolution	TBD	TBD
Percentage of Statutory Notices of Deficiency Appealed to Tax Court	TBD	TBD

a Office of Appeals, BPR, 4th Quarter FY 2016 (Nov. 7, 2016), at 8.

b *Id.* at 10.

c IRS, Human Resources Reporting Center, <https://persinfo.web.irs.gov/posrpt.htm>. Employee Position (OF8) Listing for weeks ending Oct. 3, 2015 and Oct. 1, 2016.

d Appeals awarded a new contract for collecting customer satisfaction data during FY 2016; data not yet available. Office of Appeals, BPR, 4th Quarter FY 2016 (Nov. 7, 2016), at 8.

- 6. THE RIGHT TO FINALITY** – Taxpayers have the right to know the maximum amount of time they have to challenge the IRS’s position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

Measure/Indicator	FY 2015	FY 2016
Average Days to Complete Correspondence Examination (non-EITC) ^a	231 days	196 days
Average Days to Complete Correspondence Examination (EITC) ^b	221 days	217 days
Average Days to Reach Determination on Applications for Exempt Status ^c	83 days	54 days
Average Days for Exempt Organization Function to Respond to Correspondence ^d	175 days	45 days

a W&I, BPR, 4th Quarter, FY 2016 (Nov. 9, 2016), at 8.

b *Id.*

c Tax Exempt and Government Entities (TE/GE), Business Performance Review, 4th Quarter FY 2016 (Dec. 5, 2016), at 18.

d TE/GE, BPR, 4th Quarter FY 2016 (Dec. 5, 2016), at 20.

- 7. THE RIGHT TO PRIVACY** – The right to privacy goes to the right to be free from unreasonable searches and seizures and that IRS actions would be no more intrusive than necessary. Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and will provide, where applicable, a collection due process hearing.

Measure/Indicator	FY 2015	FY 2016
Number (or percentage) of Collection Due Process cases where IRS cited for Abuse of Discretion	TBD	TBD
Number of Offers in Compromise Submitted using ‘Effective Tax Administration’ as Basis	TBD	TBD
Percentage of Offers in Compromise Accepted that used ‘Effective Tax Administration’ as Basis	TBD	TBD
Number of cases where taxpayer received repayment of attorney fees as result of final judgment.	TBD	TBD

- 8. THE RIGHT TO CONFIDENTIALITY** – Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

Measure/Indicator	FY 2015	FY 2016
Number of Closed Unauthorized Access of Taxpayer Account (UNAX) Investigations ^a	173	147
UNAX Investigations Resulting in Prosecution, Removal, Resignation or Suspension of Employee ^b	70	38
UNAX Investigations Resulting in other Administrative Dispositions ^c	83	81
UNAX Investigations Where Employee Cleared of Wrongdoing ^d	20	28

a Automated Labor and Employee Relations Tracking System (ALERTS). The number of IRS employees averaged 89,251 in FY 2015 and 85,002 in FY 2016. IRS, Human Resources Reporting Center, *Fiscal Year Population Report*.

b ALERTS.

c *Id.* Administrative dispositions includes alternative discipline in lieu of suspension; case cancelled or merged with another case; caution letter; last chance agreement; oral counseling; reprimand; written counseling; etc.

d ALERTS.

9. THE RIGHT TO RETAIN REPRESENTATION – Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

Measure/Indicator	FY 2015	FY 2016
Percentage of Power of Attorney Requests overage (as of 9/26/15, 10/1/16) ^a	0%	0%
Number of Low Income Taxpayer Clinics Funded (calendar year) ^b	132	138
Funds Appropriated for Low Income Taxpayer Clinics ^c	\$10.0 million	\$12.0 million
Number of States with a Low Income Taxpayer Clinic (calendar year) ^d	49	49
Number of Low Income Taxpayer Clinic Volunteer Hours (calendar year) ^e	54,164	60,669

a IRS, JOC, *Customer Account Services, Accounts Management Paper Inventory Reports* (weeks ending 9/26/2015 and 10/1/2016).

b IRS Pub. 5066, *Low Income Taxpayer Clinics Program Report* (Dec. 2015, Jan. 2017).

c Consolidated and Further Continuations Appropriations Act, 2015, Pub. L. No. 113-235, enacted Dec. 16, 2014. Consolidated Appropriations Act, 2016, Pub. Law 114-113, enacted Dec. 18, 2015. The amounts actually awarded to Low Income Taxpayer Clinics (LITCs) are made on a calendar year basis, and differed from the appropriated amounts. The IRS contributed an additional \$0.25 million in 2015 bringing the total to \$10.25 million. The amount awarded to clinics in 2016 was \$11.4 million based on the number of available grantees who met the requirements.

d IRS Pub. 5066, *Low Income Taxpayer Clinics Program Report* (Dec. 2015, Jan. 2017). Forty-nine states and the District of Columbia have at least one LITC. Currently there is no LITC in North Dakota.

e Form 13424-A, *Low Income Taxpayer Clinic (LITC) General Information Report* (Apr. 2016). LITC grantees are required to submit this form which includes the number of volunteer hours. The LITC program office aggregates the calendar year totals. The FY 2015 figure reflects volunteer hours from calendar 2014. The FY 2016 figure reflects volunteer hours from calendar 2015.

10. THE RIGHT TO A FAIR AND JUST TAX SYSTEM – Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from TAS if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Measure/Indicator	FY 2015	FY 2016
Offer in Compromise (OIC): Number of Offers Submitted ^a	66,600	64,479
Offer in Compromise: Percentage of Offers Accepted ^b	42.5%	42.5%
Installment Agreements (IAs): Number of Individual & Business IAs ^c	2,986,121	3,115,404
Streamlined Installment Agreements: Number of Individual & Business IAs ^d	2,567,623	2,630,811
Installment Agreements: Number of Individual & Business IAs ^e	52,053	42,978
Streamlined Installment Agreements (CFF): Number of Individual & Business IAs ^f	10,679	8,477
Number of OICs Accepted per Revenue Officer ^g	7.4	7.7
Number of IAs Accepted per Revenue Officer ^h	14.0	12.0
Percentage of Cases in the Queue (Taxpayers) ⁱ	15.7%	15.5%
Percentage of Cases in the Queue (Modules) ^j	24.7%	23.9%
Percentage of TDAs reported Currently Not Collectible - Tolerance ^k	16.3%	16.9%
Age of Delinquencies in the Queue ^l	4.5 years	4.5 years
Percentage of Modules in the Queue prior to three tax years ago ^m	79.2%	78.7%
Percentage of Cases where the taxpayer is fully compliant after five years ⁿ	44%	48%

a IRS, Collection Activity Report No. 5000-108, FY 2015 (Oct. 4, 2015) and (Oct. 7, 2016).

b *Id.*

c IRS, Collection Activity Report No. 5000-6, FY 2015 (Dec. 9, 2015) and FY 2016 (Oct. 3, 2016).

d *Id.*

e *Id.*

f *Id.*

g *Id.* See also IRS Human Resources Reporting Center – number of revenue officers in SB/SE as of the end of FY 2015 and FY 2016 (pay period 19).

h *Id.*

i IRS, Collection Activity Report No. 5000-2, FY 2015 (Oct. 5, 2015) and (Oct. 3, 2016).

j *Id.*

k IRS Collection Activity Report No. 5000-149 FY 2015 (Oct. 5, 2015) and FY 2016 (Oct. 3, 2016).

l Accounts Receivable Dollar Inventory. Age of cases in the collection queue as of cycle 37 of 2015 and 2016.

m IRS, Collection Activity Report No. 5000-2, FY 2015 (Oct. 5, 2015) and (Oct. 3, 2016).

n Calculation by TAS Research. Percentage of taxpayers with tax delinquent accounts in 2010 and 2011, respectively, and who have no new delinquencies five years later. IRS, CDW, Individual Master File (IMF).