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National Taxpayer Advocate delivers Annual Report to Congress: focuses on Taxpayer First Act implementation, taxpayer service, and IRS funding

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WASHINGTON — Acting National Taxpayer Advocate Bridget Roberts today released her [2019 Annual Report to Congress](#). Key challenges highlighted in the report include implementation of the Taxpayer First Act, inadequate taxpayer service and limited funding of the agency.

Roberts also released the third edition of the [National Taxpayer Advocate's "Purple Book,"](#) which presents 58 legislative recommendations designed to strengthen taxpayer rights and improve tax administration.

The report highlights that the Taxpayer First Act, enacted into law on July 1, 2019, has made the most comprehensive revisions to IRS procedures since the IRS Restructuring and Reform Act of 1998, including some 23 provisions previously recommended by the National Taxpayer Advocate. The Taxpayer First Act also requires the IRS to develop four strategic plans: (i) a comprehensive taxpayer service strategy (due to Congress by July 1, 2020); (ii) a comprehensive plan to redesign the IRS's organizational structure (due to Congress by Sept. 30, 2020); (iii) a comprehensive employee training strategy that includes taxpayer rights training (due to Congress by July 1, 2020); and (iv) a multi-year plan to meet IRS information technology (IT) needs.

“By passing the Taxpayer First Act, Congress has sent the IRS a clear message that it needs to rethink the way it operates – the services it provides, its organizational structure, the way it trains employees, and the technology it uses,” Roberts wrote in the [preface to the report](#).

Roberts also noted that long-time National Taxpayer Advocate Nina E. Olson retired five months ago, and a permanent replacement has not yet been appointed. “While I am honored to serve as the Acting National Taxpayer Advocate,” Roberts wrote, “the Office of the Taxpayer Advocate – and taxpayers – deserve a permanent appointee. . . . Given the current crossroads at which the IRS finds itself, it is critical that a permanent National Taxpayer Advocate be appointed as quickly as possible to help ensure the IRS protects taxpayer rights and meets its obligations to taxpayers.”

Highlights of the report are summarized below.

The IRS Is Struggling to Accomplish Its Mission

According to its mission statement, the IRS aims to “[p]rovide 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.” The report says the IRS is struggling to meet both of those goals.

The IRS has been found to be among the lowest performing federal agencies in providing a positive customer experience. The President’s Management Agenda emphasizes the importance of high-quality customer service and cites the American Customer Satisfaction Index (ACSI) and the Forrester U.S. Federal CX Index™ as key benchmarks. The ACSI report for 2018 ranked the Treasury Department tied for 10th out of 12 federal departments and says that “most [IRS] programs score . . . well below both the economy-wide national ACSI average and the federal government average.” The 2019 Forrester report ranked the IRS as 13th out of 15 federal agencies and characterized the IRS’s score as “very poor.”

During fiscal year (FY) 2019, the Advocate’s report says the IRS received approximately 100 million telephone calls, and customer service representatives answered only 29%. In recent years, the agency has scaled back in-person assistance, closing more than 10% of its Taxpayer Assistance Centers, generally requiring taxpayers to schedule appointments in advance, and reducing the number of taxpayers served by nearly half from FY 2015 to FY 2018.

The report says the IRS is also struggling to enforce the law with “fairness to all.” The IRS recently estimated it was unable to collect an annual average of about \$381 billion in unpaid tax attributable to legal-source income for tax years 2011-2013. With approximately 122 million U.S. households in 2013, that suggests each U.S. household is effectively paying an average annual “surtax” of more than \$3,000 to subsidize noncompliance by others.

The report says that “fairness to all” also requires that the IRS be accessible to taxpayers against whom it takes enforcement actions, such as wage garnishments, bank levies, or the filing of notices of federal tax lien. Levies often create economic hardships for individual taxpayers, and the law requires the IRS to release levies in those cases. Yet taxpayers often cannot reach the IRS to make it aware of their hardships. During FY 2019, the IRS’s Automated Collection System (ACS) more than doubled the number of levies it served (from about 200,000 in FY 2018 to about 428,000 in FY 2019), while the percentage of calls answered on the consolidated ACS telephone lines dropped from 49% to 31%. Wait times for taxpayers who got through increased from 24 minutes to 38 minutes.

The report urges the IRS to prioritize phone service for taxpayers against whom it takes collection action. “The IRS has an obligation to be accessible to these taxpayers, and it should not ramp up enforcement actions beyond the point where it has enough telephone assistants to handle the taxpayer calls those actions generate,” Roberts wrote.

The report attributes the IRS’s shortcomings mostly to budget constraints but also to a culture in which the agency focuses on its own priorities without adequately factoring in the needs of taxpayers.

The IRS Does Not Receive Enough Funding to Meet Taxpayer Needs

Since FY 2010, the IRS budget has been reduced by about 20% after adjusting for inflation, and the number of full-time equivalent employees has declined by about 22%. The report points out that answering 100 million telephone calls, conducting audits, and taking enforcement actions require adequate staffing, and the IRS cannot substantially improve its performance without additional resources.

The report [urges Congress to increase IRS funding](#) and to change the budget rules to account for the revenue additional IRS appropriations are likely to generate. In FY 2018, the IRS collected nearly \$3.5 trillion on a budget of about \$11.4 billion. “It is economically irrational to underfund the IRS,” the report says. “If a company’s accounts receivable department could generate an ROI [return on investment] of 300:1 and the chief executive officer (CEO) failed to provide enough funding for it to do so, the CEO would be fired. Yet in general, the federal budget rules exclusively take into account outlays and ignore the revenue those outlays generate.”

In particular, the report recommends that Congress increase funding for taxpayer service and IT modernization. “Mostly because of antiquated technology, a smaller workforce, and an increasing workload, [the IRS] cannot afford to provide the quality of service that taxpayers deserve,” the report says.

The IRS Should Use the Taxpayer First Act as an Opportunity to Identify Taxpayer Needs and Preferences and Develop Initiatives to Meet Them

Despite the IRS’s significant funding limitations, the report urges the IRS to utilize the Taxpayer First Act requirements – to develop plans to revamp its taxpayer service strategy, organizational structure, employee training strategy, and technology priorities – as a roadmap for a once-in-a-generation reassessment of its objectives and operations.

Noting that the IRS often has developed strategies in a vacuum without soliciting taxpayer feedback and taking into account taxpayer needs and preferences, the report urges a full-scale “cultural shift.” “If the culture of the organization is one where employees look to minimize interactions with taxpayers in an effort to move work, or where taxpayers who owe money are automatically viewed negatively, then expanding digital services [alone] will not improve customer service,” Roberts wrote. “The IRS needs to take a holistic view of how it operates and understand what is and is not working.”

The report identifies the [absence of an existing comprehensive customer service strategy](#) that focuses on taxpayer needs and preference as the #1 most serious problem facing taxpayers. It makes numerous recommendations to improve the customer experience, including that the IRS take the following actions:

- Conduct multi-disciplined, comprehensive research into taxpayer needs and preferences.
- Require that all IRS business units, including those charged primarily with enforcement, develop a detailed customer service strategy.

- Appoint a Chief Customer Experience Officer to coordinate service initiatives across IRS business units.
- Ensure that taxpayers who cannot work with the IRS digitally or whose issues are not resolved online can reach and work with an IRS employee.
- Address the needs of practitioners who interact with the IRS on behalf of large numbers of taxpayers.
- For each proposal included in its customer service strategy, include cost estimates, milestones, and taxpayer-focused performance measures so the effectiveness of the strategy in improving customer service can be measured over time.

The report expresses concern that the IRS declined to include the National Taxpayer Advocate or a Taxpayer Advocate Service (TAS) representative as part of a core team created to coordinate the agency's Taxpayer First Act implementation activities. "I find this deeply concerning," Roberts wrote. "Congress created the Office of the Taxpayer Advocate to serve as the statutory voice of the taxpayer within the IRS. No one has a better view into the problems that taxpayers and practitioners face day-to-day when working with the IRS than TAS. Over the last 20 years, TAS has worked more than 4.4 million cases resulting from problems with IRS systems or processes. That history with individual and business taxpayers' problems gives TAS unique insight, perspective, and information that could be a key resource for identifying areas in need of improvement as the IRS develops a comprehensive customer service strategy."

Other Major Issues Addressed

The National Taxpayer Advocate's 2019 annual report has been consolidated and differs from prior reports in two ways. First, the Taxpayer First Act reduced the number of "most serious problems" the National Taxpayer Advocate must identify from at least 20 to ten. Second, the National Taxpayer Advocate initiated the Purple Book two years ago as a supplement to more detailed legislative recommendations proposed in the main volume of the report. This year, all legislative recommendations have been consolidated into the Purple Book, and the longer-form recommendations have been eliminated.

Overall, this year's report identifies ten "most serious problems," provides status updates on two problems identified in previous reports, makes dozens of recommendations for administrative change, makes 58 recommendations for legislative change, analyzes the ten tax issues most frequently litigated in the federal courts, and presents four research studies.

Among other problems addressed are the following:

Refund Delays. The report says too many taxpayers who file legitimate returns are being harmed because the IRS's anti-fraud filters unnecessarily flag their returns and delay their refunds for weeks or months. During the 2019 filing season, the IRS used a new refund fraud filter (known as "Filter X") that ultimately flagged and stopped the processing of nearly 1.1 million returns. More than half the refunds were eventually paid. The false positive rate for other non-identity theft refund fraud filters was 71% (meaning that 71 out of every 100 refunds stopped by these filters were eventually determined to be legitimate).

The increase in returns flagged by these filters (known as “pre-refund wage verification hold” cases) has had a significant impact on TAS’s case advocacy operations. The number of TAS cases generated by these filters has increased from about 20,000 in FY 2017 to about 92,000 in FY 2019. TAS case receipts have increased by 44% over the past two years, entirely attributable to this category of cases, and this work surge has increased the average cycle time of TAS cases across-the-board. TAS is working with the IRS to try to reduce this workstream of cases for the upcoming filing season.

Free File. The report says the Free File program is failing to promote the best interests of taxpayers, citing low usage and taxpayer confusion. Under the program’s terms, 70% of individual taxpayers qualify to prepare their returns through Free File at no cost. Yet fewer than 2% of taxpayers use the program, the report finds, and over the past four years, fewer than half of taxpayers who have used Free File in one year have used it again the following year. The low initial usage rate and low repeat usage rate suggest taxpayers are not generally satisfied with the program. In addition, the report says the IRS incurs costs to administer the program and Free File members provided free tax software to at least 17.7 million taxpayers outside the Free File program during the 2019 filing season. It is likely that most, if not substantially all, of the 2.5 million taxpayers who used Free File software last year would have been able to file for free through company websites if Free File did not exist.

The report makes several [recommendations to improve the Free File program](#). In addition, it recommends that the IRS establish two usage goals for the program: (i) increase the Free File usage rate to a significantly higher yet attainable level, such as 10% of the 70% of individual taxpayers eligible to use the program, and (ii) increase the retention rate to 75% of taxpayers who used the program in the preceding year. If the established goals are not attained by 2025, the report recommends the IRS replace Free File with an alternative approach to make tax software available to taxpayers at no or low cost, such as through sole-source or multi-source contracts with tax software companies.

(On Dec. 30, 2019, after this report went to press, [the IRS announced](#) it had signed an [addendum](#) to its memorandum of understanding with Free File, Inc. that, among other things, prohibits Free File members from excluding their Free File landing pages from organic internet searches and removes a provision that had prohibited the IRS from creating and offering its own tax software to taxpayers or allowing taxpayers to file their returns directly with the IRS.)

TAS Research Studies

The report presents research studies on the following topics:

- **[The subsequent compliance of taxpayers who received educational letters from the National Taxpayer Advocate after they appeared to have claimed the Earned Income Tax Credit \(EITC\) in error in the prior year.](#)** Generally, the study found the letters enhanced compliance both on the first return filed after the letters were sent and during the subsequent three-year period.
- **[IRS compliance with rules governing the imposition of two-year bans on eligibility for refundable tax credits.](#)** The Internal Revenue Code bans taxpayers from receiving the EITC, the Child Tax Credit, or the American Opportunity Tax Credit for two years if

the IRS determines a taxpayer claimed the credit recklessly or with intentional disregard of rules and regulations. The ban is intended to deter frivolous claims. However, the amounts at stake represent a high percentage of the annual income of many eligible families, so it is critical that bans be imposed only in appropriate cases. A review of a representative sample of cases in which the bans were imposed as a result of audits of tax year 2016 returns shows the IRS often did not follow its own procedures: (i) in 53% of the cases, required managerial approval for imposing the ban was not secured; (ii) in 82% of the cases, the IRS did not adequately explain to the taxpayer why the ban was imposed, as required; (iii) in 61% of the cases in which the auditor was required to speak to the taxpayer before imposing the ban, no such conversation took place; and (iv) in 54% of the cases in which taxpayers submitted documents, it appeared from the documents submitted that the taxpayer believed he or she qualified for the credit.

- **[The specific deterrence implications of increased reliance on correspondence audits](#)**. Generally, the study found that face-to-face audits are consistently effective in promoting future reporting compliance, while future reporting compliance after correspondence audits is mixed. These results are consistent with a recent survey commissioned by TAS that found most taxpayers who underwent a face-to-face audit recalled the audit, while the majority of taxpayers subjected to a correspondence examination reported they had not been audited.
- **[The extent to which the IRS continues to erroneously approve Form 1023-EZ applications](#)**. In 2014, the IRS introduced a streamlined tax-exemption application that does not require applicants to attach articles of incorporation or bylaws to their applications but merely requires them to “attest” that they meet the eligibility requirements. In 2019, TAS examined a representative sample of organizations that the IRS had approved as tax-exempt by reviewing articles of incorporation in 25 states that make articles of incorporation available online at no cost. TAS found that 40% of the approved organizations did not qualify for IRC § 501(c)(3) status based on their articles of incorporation.

Please visit www.TaxpayerAdvocate.irs.gov/2019AnnualReport for more information.

Related Items:

- [Complete Report: 2019 Annual Report to Congress](#)
- [Executive Summary](#)
- [Purple Book](#)

About the Taxpayer Advocate Service

TAS is an *independent* organization within the IRS that helps taxpayers and protects taxpayer rights. Your local advocate’s number is available in your local directory and at <https://taxpayeradvocate.irs.gov/contact-us>. You may also call TAS toll-free at 877-777-4778. TAS can help if you need assistance resolving an IRS problem, if your problem is causing financial difficulty, or if you believe an IRS system or procedure isn’t working as it should. And our service is free. For more information about TAS and your rights under the Taxpayer Bill of

Rights, go to <https://taxpayeradvocate.irs.gov>. You can get updates on tax topics at facebook.com/YourVoiceAtIRS, [Twitter.com/YourVoiceatIRS](https://twitter.com/YourVoiceatIRS), and YouTube.com/TASNTA.

The Taxpayer Advocate Service will mark its 20th anniversary in March 2020. Created by Congress as part of the IRS Restructuring and Reform Act of 1998, TAS has two main statutory missions: (i) to assist taxpayers in resolving problems with the IRS and (ii) to identify areas in which groups of taxpayers are experiencing problems in their dealings with the IRS and make administrative and legislative recommendations to mitigate the problems. Over the past 20 years, TAS has assisted more than 4.4 million taxpayers, made hundreds of administrative recommendations adopted by the IRS, and proposed some 46 legislative recommendations that Congress has enacted into law. A key accomplishment was the IRS's adoption and Congress's later enactment of the [Taxpayer Bill of Rights](#) for which the National Taxpayer Advocate had long advocated. Visit the [TAS website](#) to learn more about TAS and how it can help you.