

Prepared Statement for National Taxpayer Advocate Public Forum
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May 13, 2016

Thank you to Nina Olson, Jim Leith, and to the rest of the members of the panel. It is an honor to be here and to have an opportunity to speak on behalf of my clients.

I am a proud alumnus of the University of Maryland School of Law where I – eagerly – completed the Cardin Requirement through the law school’s immigration clinic. Since 2010, I have been in private practice as an immigration attorney here in Baltimore. I represent clients from all over the world with immigration matters. Specifically, I represent non-citizens in removal (deportation) proceedings, with immigration benefit applications before United States Citizenship and Immigration Services (USCIS), and with consular cases in various countries around the world.

I was initially perplexed by my invitation to join this forum, but after speaking more with Mr. Leith and Ms. Olson it became apparent that the issues and obstacles that my non-citizen clients face in their interactions with the IRS are important and lasting and need to be addressed. So, I am indeed grateful for the opportunity to do so here today.

First, I would note that, by and large, my clients – even those without legal immigration status in this country – *want* to be tax compliant. In my years of practice, I can only recall a handful of clients who had lived and worked in the United States for any period of time and had not filed tax returns on income earned in the U.S. This is so even for my undocumented clients without Social Security Numbers who must apply for and file under their Individual Taxpayer Identification Numbers. So what is clear to me is that tax compliance is an important issue for the overwhelming majority of my clients.

And this is a good thing, because in fact, my clients’ tax returns often become an important part of many of the immigration cases that I handle. For example, tax returns are a required part of the Affidavit of Support that all United States citizen and lawful permanent resident sponsors must submit when applying for an immigrant visa for a family member. We also use tax returns to establish continuous residence and physical presence, as required by many immigration benefit applications (i.e., Cancellation of Removal, Temporary Protected Status, and Deferred Action for Childhood Arrivals). We use tax returns to establish the “bona fides” of a marriage in a marriage-based visa petition case. We use tax returns for purposes of establishing that an individual merits a favorable exercise of discretion, which is an element of almost every immigration benefit application. And notably, the immigration reform bill that passed the Senate in 2013 with an overwhelming, bipartisan majority included as a requirement for “Registered Provisional Immigrant” status that applicants “satisfy federal tax liabilities.”

For these purposes, the apparent ease of availability of documents – returns, W-2s, etc. – that the IRS Future State envisions, would be a benefit to many of my clients. For example, it is not always easy for my clients to obtain copies of their tax returns from the past 10 years, and to do so with an oftentimes immediate, pending deadline imposed by the Court or by USCIS. So for this reason, I can see at least one possible benefit in being able to access that information through a personalized online account.

However, there are many foreseeable drawbacks in the Future State Vision, and for my clients, many of the barriers begin at the beginning. When I consider the vignette offered by the IRS – the “Taxpayer Experience of the Future” – I am immediately concerned about language issues for my clients and about access to technology. And these are really the “easy” issues as I see it.

The larger issue that I see is the significant fear and unwillingness on the part of many of my clients to interact directly with any government agency. This is especially so for my undocumented clients who live in near-constant apprehension of the immigration authorities. This apprehension – perhaps at odds with their desire for tax compliance – leads most (if not all) of my clients to seek the services of third party preparers.

And this is where the problems begin for many of my clients. It is common in my practice to see tax returns prepared by third-parties (in the Spanish-speaking community they are known as “notarios”) that, for example, are filed under the wrong filing status, or that list numerous, unidentifiable dependents, or that suspiciously reduce the taxpayer’s taxable income down to almost nothing.

Such problems with tax filings can wreak havoc on an immigration case. The use of tax returns for the purposes of discretion cuts the other way when my client has to account for – in front of an immigration judge or a USCIS adjudicator – why their Form 1040 lists five dependent “children” when their adjustment of status (i.e., green card) application lists only two. The use of tax returns for purposes of establishing the “bona fides” of my client’s marriage is made impossible when he files “Head of Household” when in fact he is legally married. The use of tax returns for the required Affidavit of Support in connection with a family member’s immigrant visa application is made impossible when the taxpayer’s total income is reduced to below 125% of the federal poverty guidelines. And when questioned as to these irregularities, my clients always – and credibly – plead ignorance and tell me that their tax preparer told them to do it.

Nothing in the Future State Vision would seem to address these issues, and in fact, I see a real possibility that these issues may be compounded where, for example, third-party preparers would have unfettered access to their “clients” online accounts. One can only imagine the possible misfeasance and the impact that it would have not only on my clients’ tax compliance with the IRS but also, as discussed herein, with their ability to stay and/or gain lawful status in the United States.

In sum, my recommendation would be to proceed with extreme caution. If this truly does represent the future of the individual taxpayer’s interactions with the IRS, then I would want to see the IRS also endeavor into more robust enforcement against fraudulent or non-accredited third-party tax preparers. I would like to see more outreach on the part of the IRS into the immigrant communities to inform and advise against the use of dubious third-party preparers. USCIS embarked on a similar campaign several years ago with their Unauthorized Practice of Immigration Law Initiative which included targeted ad campaigns, agency outreach events, and enhanced online, telephonic, *and in-person* assistance and guidance for customers. The IRS could consider doing the same, to help combat those who would prey upon the less-knowledgeable and less-advantaged among us, and also as a way to breed to breed trust among the non-citizen community who are otherwise less inclined to interact directly with agency, but who might actually benefit the most from more direct interaction.