

Statement of Dana Goldstein
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Who We Are and Who We Serve

The Low Income Taxpayer Clinic of Community Legal Aid Services represents low-income individuals who are at or below 250% of the Federal Poverty Level and who have a tax problem. We serve an 8 county area in Northeast Ohio which includes the counties of Columbiana, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Wayne. Our demographics are diverse. We are truly a melting pot of individuals from various cultural backgrounds. Our clients live in a variety of urban settings and remote rural areas where even cell phone service can be spotty. Two active relocation centers for refugees are located within our service area which contributes to our diversity. Approximately 6.5% of our population speaks English as a Second Language and we have some communities for whom it is difficult to find interpreters, such as the Mon speaking population from Burma. Our geographic area covers some Amish communities from whom you will hear directly. We are part of the rust belt so many of our taxpayers worked in heavy industry that fell on hard times. During the financial recession of 2008, we had a large number of taxpayers who cashed in their pensions to survive when they were out of work, creating unique tax problems. Like a lot of the country, we had a large number of foreclosures which pose tax issues related to cancelled debt. The common core of our client base is poverty; the path to poverty is diverse.

Many clients face a number of issues simultaneously. While the client might appear at the Low Income Taxpayer Clinic, after interviewing them, it is apparent that taxpayers are dealing with a multitude of issues: these include tax issues, medical and mental health concerns, education problems for their children, access to food stamps, access to OWF, access to medical insurance and social security, transportation issues, evictions, and issues surrounding domestic violence. Incredulously, clients appear at Legal Aid for their tax problem as the reason for seeking legal assistance rather than for the eviction they face within a month! I will talk later about why

clients would choose to address their tax problem before their imminent homelessness. Legal Aid tries to resolve as many of these legal concerns as we can. While this paints a picture of abject helplessness and despair, I find with many of my clients inspiring tales of determination and strength, and courageousness in the face of these adverse situations.

[The Needs of Those We Serve: Access to Justice; Access to the IRS is Desperately Needed by Low-Income Taxpayers And the Future State Plan Proposed by the IRS Impedes that Access.](#)

The Right of Access to Justice is the principle at the core of the 5th Amendment: no deprivation of life, liberty, and property without due process of law. “Access to Justice” is a common value and principle incorporated into American Jurisprudence. It is a principle intertwined and incorporated into the US Tax Code and the Regulations adopted by the IRS.¹ It is a principle that both the wealthy and impoverished have embraced. Low-income taxpayers are not an insignificant segment of the United States population. Low-income taxpayers who are at or below the 250% of poverty level comprise 45% of individual taxpayers.²

An expansion of this concept of “access to justice” requires we look at “meaningful access”. And this requires the IRS, as an institution, to understand the barriers that confront its users, the taxpayers. Obviously, the IRS can’t solve low-income taxpayer’s barriers, nor is it their job, but it is incumbent upon the IRS to understand these barriers. A system that does not comprehend these obstacles cannot meet the individuals where they are and that system will create a vacuous illusionary access to justice for a large segment of the population. Indeed Nina Olson reported this precise position in her article, “*Procedural Justice for All: A Taxpayer Rights Analysis of IRS Earned Income Credit Compliance Strategy*”,

“To achieve procedural justice, the tax agency must have knowledge of the characteristics of the population it is interacting with, and must design its processes to

¹ See 26 USC 6213, 26 USC 6320, 26 USC 6330 for a few examples of due process protections.

² See, NATIONAL TAXPAYER ADVOCATE, INTERNAL REVENUE SERVICE, 2015 ANNUAL REPORT TO CONGRESS, PREFACE at p. ix (2015), available at http://www.taxpayeradvocate.irs.gov/Media/Default/Documents/2015ARC/ARC15_Volume1. Pdf.

best meet that population's needs. Absent this approach, taxpayers will not have a successful engagement with the agency or feel they were listened to or respected.”³

So what are some of these obstacles of access to justice for the low-income taxpayers? Quite frankly, my clients are afraid of the IRS. Some of my clients' fears are based in reality and others are not. My clients are afraid the IRS will take their bank accounts and their wages, and because of these “takings” my clients fear they won't be able to pay their rent. My clients have no safety net. And all of these mentioned fears have become realities for at least some of my clients. And so their worst fear could, in fact, be true. When a Future State Plan creates an internet system of access with little or no ability to talk with a person and explain hardships like homelessness; no ability to explain hardships like living in a domestic violence shelter and provide for children; no ability to explain hardships like confronting medical issues that consume all of one's assets, resources, and time then that system is unjust, unworkable, and I believe will not be used. It is not meaningful access to justice for my clients.

Another fear my clients have of the IRS that is common and warrants mentioning, is the fear of incarceration by the IRS. One of my first tasks is to inform my clients and reassure them that jail is not an option unless they intentionally failed to report income such as a tax evasion scheme (the Al Capone situation), or they consciously and deliberately refuse to file a tax return. This fear of incarceration is reinforced and preyed upon by the multitude of telephone scammers threatening jail or deportation for individuals who owe the IRS money. Realistically, even if my clients had internet access and could use the internet (which obviously many of them don't), the question becomes: would they access a system with no option to talk to anyone when they believe that by toggling “1” they might be expeditiously creating a pathway to jail? While this may seem incredulous—I can assure you that it is absolutely a fear of my clients. Unless the IRS wants to go on a campaign stating that one can't be incarcerated (which in fact is untrue) this fear will persist. I think this explains why clients sometimes pick tax as their most pressing problem in the face of an imminent eviction. The point here is that the

³ Nina E. Olson, *Procedural Justice for All: A Taxpayer Rights Analysis of IRS Earned Income Credit Compliance Strategy*, 22 ADVANCES IN TAXATION 1, 6 (2015) available at http://www.taxpayeradvocate.irs.gov/Media/Default/Documents/Advances Taxation_Vol22_Olson.pdf.

“Future State Plan” proposed by the IRS--one without a realistic opportunity to speak with someone--isn't access to justice for the population I serve.

“Access to Justice” and the Future State Plan creates a barrier for my clients when they don't understand their tax problem, or they have different kinds of tax problems, or they might have tax problems that don't fit into narrowly-defined categories.

Most of my clients contact the LITC realizing they have a tax problem. The exact nature of the problem is unclear. Even low-income taxpayer problems are frequently complex and not easy to understand. Sometimes my clients don't owe, but there was an error which my clients don't understand that relieves them of this liability. Sometimes, my clients might have tax controversies for different years in different procedural phases involving completely different types of issues, such as a collection matter for one year and a failure to receive a sizable refund for another year. Even assuming, *ad arguendo*, my clients perfectly understood all of their problems, an internet option would be unrealistic because which button would they toggle for which problem, for which administrative phase, for which tax year. Forcing my clients to address the issue without having access to a person is just not access to justice. Selecting one option is not workable even for me as a tax practitioner. I frequently have to stay on the line to talk to an operator because my client's problem doesn't neatly fit in a category that the IRS defines.

This all brings me back to Access to Justice and the Vision of the Future: This vision of the future proposed by the IRS attempts to streamline people to the internet and creates problems for those who cannot navigate the internet system and for those who simply don't have internet access. When drive time to a library is 30 minutes, where there is no public transportation to that library, the internet is just not an option. Even if my rural clients could get to a library, understand their tax problem, navigate the internet and toggle the correct buttons, and enter the correct identifying information, they may, unknowingly, be setting themselves up for ID theft. It is unlikely taxpayers know how to clear the “cookies” and identifying information/ footprints left in the library system so another person cannot access their sensitive information. By accessing the internet through a public system, my clients now create a possible avenue for ID theft. This is simply not useable access to justice for my clients.

Creating a Future State Plan that allocates a significant amount of the IRS resources to an internet system that low-income taxpayers cannot use further subsidizes a section of the wealthy taxpayer population that can bear the cost of inefficiencies and telephone wait times with the IRS. If the IRS allocates its resources to beefing up the internet connections as set out in the Future State Plan and guts the phone service that low-income taxpayers desperately need, then this goes against the very core principle of our Democracy and it cannot be reconciled with the concept of justice for all. This becomes even more important where low-income taxpayers have so few options. In rural areas, there is no Taxpayer Assistance Center and access even to LITC's can be difficult. I understand administering a tax system in such a large country is obviously exceedingly difficult and challenging, but it would be a travesty to ignore the needs of the lowest 45% of our population that are most in need of access to the IRS. These are the people with the fewest resources, with no safety nets available. Curtailing service by cutting back on phone service staffed by IRS people who can listen and assist low income taxpayers is a violation of a fundamental core of American Jurisprudence—access for all.

Needs of the LITC

While my clients need access to IRS staff to resolve their problems, the converse is true for many practitioners. There are many times when I, as a practitioner, don't want to call the IRS but I am forced to do so in order to obtain information. An internet that would allow licensed practitioners to obtain transcripts, to obtain closing codes for Currently Not Collectible (CNC), to obtain Notices of Deficiencies, to obtain dates of the Notice of Deficiency, to obtain information (through a flag/indicator system) on whether reconciliation with Advanced Premium Tax Credit needs to occur, to obtain Collection Statute End Dates (CSED)—this would be extraordinarily helpful. This information is obviously already available and does not appear to involve a large financial investment because the IRS staff on the Practitioner's line already seems to have access to this information. In addition, I would rather view the information directly rather than rely on the IRS personnel to view the information and inform me. If this information is available online, it would practically eliminate my need to call Practitioners' Helpline, it would eliminate my need for FOIA requests, it would eliminate my need to request

Notices of Deficiencies, and it would eliminate the time to supplement the returns with ACA information. Creating an accessible internet system, with this broad range of information already accessible to IRS agents, to be accessed by licensed practitioners (obviously with security systems in place) will free-up a considerable amount of IRS staff time which can be funneled to the 45% of low-income taxpayers: they need it!