**Statement of Susan Gallagher-Smith**
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I'd like to thank Nina Olson and the office of the Taxpayer Advocate for inviting the Oregon Board of Tax Practitioners to participate in a National Taxpayer Advocate Forum. It is an honor to be here and to have the opportunity to discuss some of the challenges taxpayers, tax professionals, and our national tax system currently face.

My name is Susan Gallagher-Smith. I am the Chair of the Oregon Board of Tax Practitioners, a tax professional licensed as a Tax Consultant in Oregon, as well as an Enrolled Agent.

There are many challenges facing the Internal Revenue Service (IRS) today that were not an issue ten or more years ago. The IRS must navigate the administration of an increasingly complex tax code, new programs, increasing budget limitations, as well as difficulty in meeting the ever-changing needs of taxpayers and other stakeholders. This is a daunting task. At the moment the IRS appears to be struggling to deliver the quality services prescribed in its mission statement.

Current service delivery to taxpayers lacks transparency. Many taxpayers are left with a sense that there is a lack of accountability and efficiency when interacting with the IRS. Taxpayers must often contact the IRS multiple times to resolve what once might have been considered a simple matter. Our national tax system appears overburdened and its response time to taxpayer correspondence continues to slow. Taxpayers who receive a proposed notice of change accompanied with an additional tax due, often must pay the balance in full or enter into an installment agreement in order to give the IRS time to review the taxpayer's documentation and to recognize the taxpayer did not indeed owe the assessed balance.

I know a senior taxpayer who, unfortunately, had a history of noncompliance due in part to limited access to accurate information about the tax code and poor prior representation. This taxpayer has an adjusted gross income of zero and has been assessed just under $100,000 in taxes and penalties. Multiple years of returns have been amended for accuracy and to reflect the tax code. This taxpayer, who again has an adjusted gross income of zero, had to take out a home equity loan to reduce her balance owed and make monthly payments to avoid garnishment of her nontaxable Social Security benefit or more aggressive collection activity. If she is very lucky, she will only have to pay and wait for 12 to 18 months for her account to be corrected.

I'm also aware of a married filing jointly couple that has waited an incredibly long time for their amended income tax returns to be processed. The amended returns were submitted for review in 2012. The taxpayers continue to receive letters from the IRS requesting an additional 45 days to process their correspondence. They've waited 4 years for a refund of tax which in good faith they believe they do not owe. A tax they paid fearing wage garnishment or other collection activity.

Situations like these are all too common for US taxpayers. If our national tax system stumbles to this extent when serving taxpayers who have a knowledgeable and competent advocate or representative, what are the experiences of taxpayers with less access to quality tax advice?

Recently I've become aware of the IRS's goal of allowing electronic access to taxpayer's accounts. I have grave concerns about taxpayer safety should this occur. While I have the privilege of working and living in an environment where all tax practitioners, regardless of designation, are held to a high standard, 99% of US taxpayers do not. The risk to the public is very high if non-licensed professionals have easy access to taxpayer data. Again the negative consequences of such a system may far outweigh any potential benefits.

I offer a unique perspective in that my relationships with many of my clients has spanned the greater part of my life. One thing I've noticed is, as taxpayers enter later stages of life, they tend to have less confidence in navigating complex financial situations and with using the newest technology. While some of this might be due to physical issues like changes in hearing or cognitive functioning, another component is a lack of access to live customer service representatives.

In my opinion this population benefits greatly from the opportunity to sit down with a professional or revenue agent to discuss their financial and/or tax issues. Frankly the option to sit down and talk to a person who is both accountable and empowered to act on the information provided by the taxpayer is what most taxpayers want if the tax issue proves serious enough. As a tax professional I have found it is ultimately more efficient for an elderly client and I to meet face-to-face rather than struggle through lengthy and sometimes unintelligible correspondence, electronic or otherwise. Cutting in-person services at the IRS will not only harm this segment of the population, it will reduce voluntary compliance and faith in the nation's revenue system.

I am also particularly concerned about seniors becoming the victim of tax-related fraud. Dennis M. Lormel, Chief, Financial Crimes Section, Federal Bureau of Investigation, identified several reasons the elderly are preyed upon in his September 10, 2001 testimony before the United States Senate Special Committee on Aging in Washington, DC. In the interest of brevity I will summarize the key points of his testimony. He states that in the experience of the FBI, the elderly are preyed upon by unscrupulous individuals for several reasons:

1. Older American citizens are most likely to have a nest egg.
2. Those who grew up in the 1930's, 40's and 50's are more likely to be more polite and trusting than younger generations. These are wonderful strengths of character except when it comes to con artists.

3. Seniors are less likely to report a fraud. They may not know if or when the fraud occurred. They also may not know who to report it to, or be too ashamed to report it.
4. When an elderly victim does report a crime, he or she may make a poor witness.

My grandmother fit into these categories when she became a victim. She was well educated both with a college degree and a significant amount of life experience as a business owner. Complex financial situations were comfortable and easy for her throughout most of her life. In her eighties her confidence and financial strengths began to decline. By her late 80s my grandmother became too embarrassed and ashamed of her cognitive changes to ask for help. That's when she began to fall prey to con artists.

The thefts started slowly and in small amounts during the first few years. Once the con artists had a foothold she lost everything over the course of six to nine months. Grandmother had to move from being financially independent to having a federally appointed fiduciary for her pension and a representative payee. A woman who survived the Great Depression and World War II had her right to decide where and how she lived forcibly removed and given to a third party; me.

During this traumatic transition my grandmother was contacted by a man who reported to be an Enrolled Agent practicing in Florida. Charming and well-spoken he promised the IRS would issue her refunds to help my grandmother recover every bit of the over $120,000 stolen. He could begin to work on her case for a retainer of roughly $3,000. For those who may be unfamiliar with the application of Internal Revenue Code, the deliverance he promised was impossible. He called her repeatedly despite her many refusals until she finally capitulated. I had to change her telephone number and place it into my name to keep con artists like him away.

If this can happen to a vivacious, educated, intelligent, dynamic person like my grandmother, it could happen to anyone.

During my grandmother's decline, con artists convinced and often assisted her by providing step by step instructions to complete a wide variety of complex financial transactions. She applied for business loans that she never received the proceeds for. She opened online bank and investment accounts that she essentially had no control of. There were lines of credit opened and wire transfers made. The list of transaction types that occurred in conjunction with the fraud goes on and on. I have no doubt that that Grandmothers tax information would have been used to identify her income sources if she could have been directed to access her federal tax information on line. Her resources would have been raided and depleted faster and years earlier.

With phishing scams and other cons being delivered into our homes via the internet and the telephone, it is reasonable to suspect elderly adults will be targeted for not only their nest eggs but also for their tax identities. In my opinion giving criminals and unscrupulous individuals another foothold into the elderly's lives by transitioning to

Internet-based contact is a disservice to the elderly, a disservice to the IRS, and a disservice to all of us as taxpayers.

The final concern I would like to address are the services the IRS proposes to offer to taxpayers online. There are several points that trouble me within the vignette about Bennett, owner of Method Learning, who is an example of how small businesses will be served. After submitting his tax return, the IRS notifies Bennett and his representative that Bennet may be at risk of audit due to an unusually high increase in his other business expenses.

This kind of notice, especially when accompanied with the prospect of an audit, can be terrifying for taxpayers. There is a significant likelihood that some taxpayers will unnecessarily remove deductions they were entitled to and should take per the Internal Revenue Code. These taxpayers will pay more tax than is fair out of fear of punishment or retribution. It also undervalues the role of the taxpayer and/-or their representative in preparing tax filings. The time to determine the legitimacy of and assess the substantiation of these deductions through business records is during the tax preparation process. It should be completed before submitting the return. Furthermore, the challenge with conducting a virtual examination or audit is that many records, like purchase receipts, do not scan or fax well.

There's a great deal to be learned when taxpayers and/-or the taxpayer's representative have in-person or telephone contact with the IRS. It's also an excellent opportunity for the revenue agent to provide the taxpayer with important education about deductions, business records, income, etc. Most taxpayers want to pay their fair share of income taxes. Many taxpayers who find themselves out of compliance in one small area benefit from the investment of additional time and education provided by the IRS. The investment reduces the chances the noncompliance will reoccur and strengthens taxpayer confidence in our national tax system. Moving toward virtual audits may result in missed opportunities for both the taxpayer and the IRS.

In another vignette, Jane is an example of how the new system may not benefit individual taxpayers. Jane files and amends her personal income tax return via the new IRS website. Jane's return includes the Earned Income Tax Credit (EITC). The vignette implies the IRS is matching her son's status as a full time student with Form 1098-T.

Income tax returns that involve EITC are very complex and an error involving excess payment of this tax credit can be devastating for low-income individuals. Verifying returns that have EITC with informational returns is problematic because every taxpayer is unique. This raises several questions.

How will the IRS help taxpayers like Jane determine when a Form 1098-T is not accurate for the purposes of calculating tax credits, etc.? How will the IRS advise taxpayers like Jane that her son may still qualify as a full time student even though her informational return indicates the contrary? Does the IRS anticipate refund delays for taxpayers who do not make recommended changes? Will Jane be automatically audited if she believes her income tax return was accurate as filed?

In this vignette the IRS has taken on the role of an income tax preparation software provider. At the prompting of the IRS, Jane concluded her child was not a full time student so she changed her Federal income tax return, perhaps unnecessarily. How will the IRS advise Jane that she may need to amend her state filing?

Implementing an Internet-based access point and services for taxpayers at this time may create greater problems for taxpayers and the IRS than it solves. I strongly encourage the IRS to shift its focus away from developing an Internet-based taxpayer account system that anyone can access to a nationwide system of regulating and licensing tax practitioners.

I practice personal income tax preparation under unparalleled ethical, educational, and professional standards. Every practitioner preparing personal income tax returns for consideration within Oregon is required to be licensed or registered with their governing state authority. Attorneys must be admitted to the Oregon State Bar. The Board of Accountancy is responsible for licensing and regulating Certified Public Accountants and Public Accountants. The Oregon Board of Tax Practitioners governs and licenses all other professionals and personal income tax preparation businesses.

The Oregon Board of Tax Practitioners was developed as a result of a desire to provide the public with greater protection and practitioners with greater accountability and education. A 1972 report, based on IRS shopping tests in which agents posed as taxpayers, stated that 97% of tax practitioners were either incompetent or dishonest. The Association of Tax Consultants was formed in response to this article. From their hard work within our professional community and the Oregon Legislature, the Oregon Board of Tax Practitioners was essentially born. Licensing of Oregon practitioners began January 1, 1974.

In our 42 years in service to the public and the State of Oregon, the Board of Tax Practitioners has made a significant positive impact for the public, the Oregon Department of Revenue, and tax practitioners working in Oregon. Prior to its inception, there were almost no tax classes available to practitioners. Shortly afterward, classes and seminars were being held across the state through colleges, tax businesses, and tax organizations such as the Oregon Association of Tax Consultants and the Oregon Society of Tax Consultants.

The outcome from a robust education system for practitioners is higher quality income tax preparation. John Lobdell, former Director of the Oregon Department of Revenue, affirmed this conclusion when he wrote "My observation of Oregon's tax service examination program is that it has substantially improved the quality of tax returns prepared by Oregon's tax practitioners. The effects of [the Board's] requirements for continuing education are evident not only in the return preparation but in the manner in which tax practitioners represent their clients before the Department of Revenue."

The Board has evolved into a self-supporting organization dedicated to protecting Oregon consumers by ensuring Oregon tax practitioners are competent and ethical in their professional activities.  Its strengths include:

- Dedication to public safety by using a two-tiered tax professional licensing system which tests competency in both Federal and Oregon personal income tax law at each level, by requiring annual continuing education for all licensees, and by requiring new tax practitioners to be supervised.
- An emphasis on education and educating practitioners into compliance.
- Developing strong licensee-stakeholder relationships though frequent communication, volunteer opportunities, and other outreach opportunities
- Accountable and easily accessible to all stakeholders; the public, licensees, Oregon Department of Revenue, etc.

I recommend the IRS implement licensing of personal income tax practitioners and their businesses as both a short-term and long-term strategy for improving taxpayer safety and satisfaction, and increasing tax administration efficiency.  An ideal Federal licensing structure would strongly encourage individual states to develop their own programs to license practitioners.  States would be required to develop programs that meet or exceed minimum licensing requirements established by the IRS.

The IRS's minimum guidelines should include a two-level licensing program with competency testing before licensing at each level.  Only attorneys and CPAs would be exempt.   The guidelines should also include supervision of new licensees, a minimum number of annual continuing education hours, including 2 hours of ethics, and licensee supervision or management of tax practices within their jurisdiction.  In addition each state should have provisions for enforcement or assessment of penalties when tax practitioners are found to be negligent, noncompliant or unlicensed.

The benefits of state administration are many.  First, states are uniquely aware of the needs of their residents and can add or shape their requirements to the needs of their taxpayers.  For example, OBTP's initial license is as a Tax Preparer (LTP).  Successful LTP applicants are proficient in the preparation of Form 1040 and typical Schedules A, B, C, D, and E.  Due to the needs of our taxpayers we also require a basic understanding of Schedule F.  Applicants should be well versed in identifying filing statuses, tax credits such as EITC and Child and Dependent Care Credit, and education credits and deductions.  We feel this combination of knowledge is required prior to preparing an average income tax return in Oregon.  Our second tier of licensing, Licensed Tax Consultants, require applicants to pass a more comprehensive and complex examination about state and federal personal income taxes.  Other states may want to emphasize different sorts of income or transactions while decreasing their focus in other areas.

Second, state licensing organizations could investigate and retain civil penalties assessed on unlicensed activity or noncompliant licensees.  In so doing there may be little to no cost to states and taxpayers to maintain a robust tax practitioner licensing program. OBTP is self-sustaining.

It would be prudent for the IRS to permit state licensees to register with the IRS for a reduced fee compared to practitioners in non-regulating states. The IRS could add an incentive for states who choose to regulate tax practitioners by assigning an agent, or group of agents, to assist with information exchange regarding more challenging unlicensed activities. OBTP regularly communicates with the IRS and Oregon Department of Revenue regarding practitioner activity which appears to pose a greater than usual threat to the public. Increasing communication between the IRS and Department of Revenue would assist OBTP with investigating unlicensed activity.

As a Licensed Tax Consultant, I may see 20 new letters from the IRS per 1,000 tax returns prepared within my practices. This is an estimated correspondence rate of 2% (20 letters divided by 1,000 returns). Of those 20 letters, approximately 2 will be issued by the IRS to resolve discrepancies with the taxpayer's estimated tax payments. The rest of the IRS correspondence my clients receive relates to questions about program matching errors. 90% to 95% of these letters are about income which was accurately reported on the originally filed income tax return.

How would the national tax administration workload decrease if the average correspondence rate for all tax practices was 2% or less? That would mean returns prepared by tax professionals would generate an estimated 1.56 million or fewer letters per year. Assuming these tax professionals had a similar degree of experience and understanding than I do, more than 75% of the letters sent would not require changes to the taxpayer's income tax return. How many resources would be freed from the decrease in correspondence to educate and assist taxpayers who self-prepare their income tax returns?

An August 2008 study by the US Government Accountability Office (GAO), submitted to the US Senate Committee on Finance proclaimed that "Oregon's Regulatory Regime May Lead to Improved Federal Tax Return Accuracy and Provides a Possible Model for National Regulation." In summary the GAO found Oregon preparers were 72% more accurate than other preparers in the nation. It states "the average Oregon return required approximately $250 less of a change in tax liability than the average return in the rest of the country. For Oregon's 1.56 million individual tax filers, this equates to over $390 million more in federal income taxes paid in Oregon than would have been paid if the returns were as accurate as similar returns in the rest of the country."

In conclusion, with more than half of Federal income tax returns prepared by tax professionals, increasing the accuracy of professionally prepared income tax returns would significantly decrease the IRS's annual number of taxpayer contacts and collection activity. Regulating and licensing tax practitioners has proven itself in Oregon for more than 40 years. It is a cost-effective solution to many of the issues we are here to discuss today.