

**MSP  
#14****AUDIT NOTICES: The IRS's Failure to Include Employee Contact Information on Audit Notices Impedes Case Resolution and Erodes Employee Accountability****RESPONSIBLE OFFICIALS**

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**DEFINITION OF PROBLEM<sup>1</sup>**

Concerned about taxpayers being unable to reach IRS employees both knowledgeable about and accountable for the taxpayers' cases, in § 3705(a) of the IRS Restructuring and Reform Act of 1998 (RRA 98) Congress required the IRS to include the name, telephone number, and unique employee identification number in any "manually generated correspondence."<sup>2</sup> The IRS has failed to meaningfully implement the requirements of § 3705(a).<sup>3</sup> The IRS does not include appropriate employee contact information on most computer-generated notices, even when a particular employee has worked on the case.<sup>4</sup>

The National Taxpayer Advocate has identified the following concerns about IRS audit notices:

- The IRS failed to include contact information for a specific employee on any letter in the sample, even in the five percent of letters where an IRS employee had obviously customized the letter for the specific taxpayer, based on a review of a sample of 100 Letter 105-Cs, *Notice of Claim Disallowance*.<sup>5</sup>
- Where the IRS includes a "name" on most correspondence, it is either so generic as to be meaningless, such as "Tax Examiner," or is a person so high in the chain of management that a taxpayer cannot reach an individual employee who is personally knowledgeable about the case even after the IRS proposes changes to the account;<sup>6</sup> and

1 This Most Serious Problem acts in concert with the Most Serious Problem: CORRESPONDENCE EXAMINATION: *The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*, *supra*. The two pieces must be read together and for true accountability the recommendations from both should be implemented in tandem. The companion Most Serious Problem focuses on Pub. L. No. 105-206, § 3705(b) (1998) and discusses the burden imposed on both the IRS and taxpayers as a result of the IRS's failure to assign a single employee to correspondence exams where the taxpayer has contacted the IRS.

2 Pub. L. No. 105-206, § 3705(a) (1998).

3 IRS, Office of Legislative Affairs, *Enacted Law Report for the Restructuring and Reform Act of 1998* (May 28, 2014). The report shows that the IRS took 57 actions to comply with § 3705 of RRA 98. Of those 57 actions, only seven can be reasonably construed as addressing contact information on correspondence or attempting to assist a taxpayer in reaching a specific IRS employee. Many of the actions taken to implement § 3705 involve creating unique employee identification numbers or determining how to provide assistance in Spanish.

4 Internal Revenue Manual (IRM) 21.3.3.4.16.1, *Preparation of Outgoing Correspondence* (Oct. 25, 2007).

5 Sample set of Letter 105-Cs on file with TAS Attorney Advisor Group.

6 IRM 4.19.10.1.6(6), *Correspondence Examination Letters* (Jan. 1, 2013). See, e.g., Letter 105-C, *Claim Disallowed*, and Letter 106-C, *Claim Partially Disallowed* (containing contact information for a high level IRS official and Letter 525, *General 30 Day Letter*, containing general contact information for the generic "Tax Examiner").

- Employees can generate notices anonymously, particularly in correspondence audits, which can erode accountability for actions taken or not taken in a case.<sup>7</sup>

While it may be unnecessary or impractical to include contact information for a specific employee on all notices, particularly before a case is assigned, failing to do so after a taxpayer has communicated with the IRS may violate the law and contradict the IRS's own Internal Revenue Manual. At a minimum, campus correspondence procedures fail to address Congress' concerns regarding the inability of taxpayers to contact an IRS employee who is knowledgeable about and accountable for the case. This situation also erodes several essential taxpayer rights—*the right to quality service, the right to be informed, and the right to a fair and just tax system*—articulated in the Taxpayer Bill of Rights.<sup>8</sup>

## ANALYSIS OF PROBLEM

### Background

As a starting point for restructuring the IRS, the National Commission on Restructuring the Internal Revenue Service produced a report, *A Vision of a New IRS*, wherein it set forth a fundamental starting point for reform:

As a guiding principle, the Commission believes that taxpayer satisfaction must become paramount at the new IRS and that the IRS should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.<sup>9</sup>

The text of RRA 98 demonstrates that this guiding principle was at the forefront of § 3705(a), where Congress attempted to remedy the inability of taxpayers to reach an IRS employee familiar with their case.<sup>10</sup> The Joint Committee on Taxation reported the reason for this change to the law was so taxpayers could receive prompt answers to questions about their tax liabilities, as many expressed frustration at not knowing which employee to contact.<sup>11</sup>

### *Members of Congress Were Concerned About Taxpayers' Access to IRS Employees with Knowledge of Their Cases.*

Before RRA 98 was enacted, taxpayers who received notices without specific contact information for the employees handling their cases were sometimes left with no alternative but to seek help from members

<sup>7</sup> IRM 4.19.20.1(1), *Automated Correspondence Examination Overview (ACE)* (May 21, 2013) (“Using the ACE [Automated Correspondence Examination], Correspondence Examination can process specified cases with minimal to no tax examiner involvement until a taxpayer reply is received. Because the ACE system will automatically process the case through creation, statutory notice and closing, tax examiner involvement is eliminated entirely on no-reply cases. Once a taxpayer reply has been considered, the case can be reintroduced into ACE for automated Aging and Closing in most instances.”) For a detailed discussion of the National Taxpayer Advocate's concerns regarding assigning one IRS employee to handle a taxpayer's matter until it is closed, see Most Serious Problem: CORRESPONDENCE EXAMINATION: *The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*, *supra*.

<sup>8</sup> The IRS adopted the Taxpayer Bill of Rights on June 10, 2014. See IRS, *Taxpayer Bill of Rights*, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights>. See also IRS, Publication 1, *Your Rights as a Taxpayer* (2014).

<sup>9</sup> National Commission on Restructuring the Internal Revenue Service, *A Vision for a New IRS*, 5 (1997).

<sup>10</sup> Pub. L. No. 105-206, § 3705(a) (1998) (“Any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence...”).

<sup>11</sup> J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in 1998*, 128 (1998).

of Congress in finding them. Senator Domenici of New Mexico spoke to this point during the debate leading up to RRA 98:

In New Mexico, a notice can come from the Albuquerque, Dallas, Phoenix, or Ogden IRS center. Taxpayers are often left with no option but to contact my office asking for help in simply identifying who they should talk to at the IRS to settle their tax matter. The caseworkers are experts, but it would take them 2 days to track down the right IRS office so that the constituent could try and solve their problem. It was so commonly befuddling to constituents that my caseworkers asked that this identification provision be included in this bill.<sup>12</sup>

Senator Domenici further stated: “I can’t believe we have to pass a Federal statute to accomplish this next task but apparently we do. The bill requires all IRS notices and correspondence to include the name, phone number, and address of an IRS employee the taxpayer should contact regarding the notice.”<sup>13</sup>

IRS stakeholders, including the American Institute of Certified Public Accountants (AICPA), proposed similar requirements for IRS notices as early as 1988.<sup>14</sup> Twenty-six years later, stakeholders are still expressing similar, and valid, sentiments. For example, during a 2012 IRS Oversight Board Public Forum panel discussion, the National Association of Tax Professionals voiced concerns about IRS employee accountability where no single employee is assigned to a correspondence exam and the extra burden this causes taxpayers when they need to explain their case to a new employee on each subsequent IRS contact.<sup>15</sup>

### *Members of Congress Were Also Concerned About IRS Employee Accountability for Actions on Taxpayer Cases.*

Hearings leading up to RRA 98 focused on taxpayer experiences with IRS employees.<sup>16</sup> During a panel hearing, the Senate heard the testimony of four taxpayers<sup>17</sup> who spoke of intimidation, threats, not knowing who they were talking to since employees did not sign their names to notices, paying taxes they knew they did not owe, the inability to get the same answer twice from employees, and not being able to talk to the same employee.<sup>18</sup> During the same set of hearings, Senators Moynihan and Grassley referred to accountability for IRS employees with Senator Grassley stating, in regards to the behavior described by the taxpayer panel, that “when heads roll, then it sends a clear signal to other people that this sort of action will not be tolerated.”<sup>19</sup>

12 144 CONG. REC. S7717-04 (1998) (statement of Sen. Domenici).

13 *Id.*

14 *Serious Problems Exist in the Quality of IRS Correspondence with Taxpayers: Hearing Before a H. Subcomm. of the Comm. on Government Operations, 100th Cong. 108 (1988)* (statement of Ida Bergman, Chairman of the Tax Administration Subcommittee of the AICPA). Mr. Bergman stated: “One example [of lack of sufficient information on correspondence] is the necessity to have on the notice the name of the person at the Internal Revenue Service with whom to correspond after the first response by the taxpayer. Getting effective communication with the Service, without knowing the person to speak to, is most frustrating.”

15 See also National Association of Tax Professionals (NATP), *IRS Oversight Board Public Forum: Panel 1: How Can Correspondence Audits Be More Effective for the IRS and Less Burdensome for Taxpayers?* (Feb. 28, 2012). The NATP noted concerns about IRS employee accountability when no single employee is assigned to a correspondence exam and the burden on taxpayers when they need to explain their case to a new employee on each IRS contact.

16 *Practices and Procedures of the Internal Revenue Service: Hearings Before the S. Comm. on Finance, 105th Cong. 105-190 (1997)*.

17 *Id.*

18 *Id.*

19 *Id.* at 97 (1997) (statement of Sen. Grassley).

After the taxpayers concluded testifying, the Senate Finance Committee called then-Acting Commissioner Dolan to testify. Senator Roth, Chairman of the Senate Finance Committee, questioned Acting Commissioner Dolan about employee accountability.<sup>20</sup> The Chairman asked Acting Commissioner Dolan if indeed the IRS intended to hold employees accountable going forward, then wouldn't their names need to be included on future notices?<sup>21</sup> The Acting Commissioner acknowledged that notices needed work, that a series of notices were not signed, and some contained only a phone number.<sup>22</sup> These hearings emphasize the importance Congress placed on employee accountability in the debate leading to RRA 98.

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**The IRS reports it took 57 actions related to § 3705 of the IRS Restructuring and Reform Act of 1998, but none involved a comprehensive review of correspondence to determine which notices should be considered manually generated and contain employee contact information.**

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### *Congress Did Not Define the Phrase “Manually Generated.”*

The final text of RRA 98 contains the words “manually generated” in § 3705(a).<sup>23</sup> However, the act does not define the phrase “manually generated,” nor do the words appear in any discussion involving § 3705(a). The original Senate discussion framing the section addressed a bill that would have required all IRS notices and correspondence to contain employee contact information.<sup>24</sup>

While the available record is silent on how the term “manually generated” arose, Senate Finance Committee hearing testimony shows that Acting Commissioner Dolan stated that he would like to come back to Chairman Roth and talk about the entire universe of notices and draw distinctions between types of notices.<sup>25</sup> This suggests a conversation about types of notices may have occurred off the record or in correspondence that remains sealed.<sup>26</sup> It is possible that if this discussion occurred or letters were written about the IRS notice process, the IRS may have clarified to the Senate its procedures for sending automatic notices before an employee would have looked at a case, resulting in the reference to “manually generated.”

### **The IRS Has Not Adequately Implemented Section 3705(a) or Addressed Congress’s and Stakeholder Concerns About Access to the IRS and Employee Accountability.**

Following the enactment of RRA 98, the IRS Office of Legislative Affairs tracked all actions the IRS took to comply with the implementation of the law.<sup>27</sup> The IRS reports it took 57 actions related to § 3705 of RRA 98,<sup>28</sup> but none involved a comprehensive review of correspondence to determine which notices

20 *Practices and Procedures of the Internal Revenue Service: Hearings Before the S. Comm. on Finance*, 105th Cong. 105-190 (1997).

21 *Id.* at 214 (1997) (testimony of Michael Dolan, Acting Commissioner of the Internal Revenue Service).

22 *Id.*

23 Pub. L. No. 105-206, § 3705(a) (1998). The words “manually generated” did not appear until the Conference version of the bill in June 1998. 144 CONG. REC. H5100-01 (1998).

24 144 CONG. REC. S7717-04 (1998) (statement of Sen. Domenici). See also S. REP. No. 105-174, 103 (1998) (“The provision requires that all IRS notices and correspondence contain a name and telephone number of an IRS employee whom the taxpayer may call.”).

25 *Practices and Procedures of the Internal Revenue Service: Hearing Before the S. Comm. on Finance*, 105th Cong. 105-190, at 214 (1997) (testimony of Michael Dolan, Acting Commissioner of the Internal Revenue Service).

26 S. Res. 474, 96th Cong. (1980) (enacted) “Sec. 2. (a) Subject to such rules and regulations as the Secretary of the Senate may prescribe, any other records of the Senate or any committee of the Senate which are so transferred may be made available for public use—(2) in the case of all other such records, when such records have been in existence for twenty years.”

27 IRS, Office of Legislative Affairs, *Enacted Law Report for the Restructuring and Reform Act of 1998*, (May 28, 2014).

28 *Id.*

should be considered manually generated and contain employee contact information.<sup>29</sup> Nor did the IRS seek an official legal opinion from the Office of Chief Counsel regarding the requirement to include contact information on manually generated notices. Of the actions, only seven could be reasonably interpreted as providing employee contact information on correspondence or assisting a taxpayer in finding a specific employee on a subsequent contact.<sup>30</sup> Four actions included awareness memos to employees about the requirement to include employee contact information on notices, two involved procedures on locating employees by badge or name on subsequent employee contacts, and one involved including tax examiner information on a specific class of real property tax notices.<sup>31</sup>

The IRS's implementation of § 3705(a) highlights concerns about the IRS audit process as it stands today. Notices in the audit process often request a time-sensitive response from the taxpayer or trigger a taxpayer's legal rights, including the right to an appeal and the right to petition the Tax Court.<sup>32</sup> Particularly where notices are legally significant, such as with Statutory Notices of Deficiency, the taxpayer should be provided with a specific employee to contact.<sup>33</sup>

The IRM on correspondence exam notices provides that 69 letters mailed on cases from the Campus Correspondence Examination inventory (the part of the IRS that audits a taxpayer's return solely via letter) "will include the appropriate BOD (business operating division) corporate toll free number, 'Tax Examiner' as the person to contact and the site specific identification number."<sup>34</sup> This instruction covers both cases where the taxpayer has not responded and others where the taxpayer either wrote to the IRS or spoke with an employee, yet subsequent correspondence to that taxpayer still does not contain contact information for the employee who read the first letter or spoke with the taxpayer by phone.<sup>35</sup>

The IRS automatically issues millions of notices every year.<sup>36</sup> Assigning an individual employee to each of these cases is not necessarily practical. At the least, however, once a taxpayer has written to or called the IRS, the contact information of the employee who reviews that correspondence or answers the call should appear on all future correspondence regarding that issue.<sup>37</sup>

Instead, the current IRS practice is to put taxpayers back into the IRS Automated Correspondence Exam (ACE) program for automatic case aging and processing even if the taxpayer has contacted the IRS.<sup>38</sup>

29 IRS, Office of Legislative Affairs, *Enacted Law Report for the Restructuring and Reform Act of 1998*, (May 28, 2014).

30 *Id.* Actions AT-2009-13272, AT-2009-13276, AT-2009-13284, AT-2009-13300, AT-2009-13301, AT-2009-13307, and AT-2009-13327 address including contact information on notices or assisting taxpayers in finding a specific IRS employee.

31 IRS, Office of Legislative Affairs, *Enacted Law Report for the Restructuring and Reform Act of 1998* (May 28, 2014). Actions AT-2009-13272, AT-2009-13276, AT-2009-13284, AT-2009-13300, AT-2009-13301, AT-2009-13307, and AT-2009-13327.

32 See, e.g., Letter 531, *General Statutory Notice of Deficiency*.

33 See *id.*

34 IRM 4.19.10.1.6, *Correspondence Examination Letters* (Jan. 1, 2013). Sixty-nine letters are included in IRM 4.19.10.1.6(2) which are generated from the Campus Correspondence Examination inventory and will only contain a generic contact.

35 IRM 4.19.20.1(1), *Automated Correspondence Examination Overview (ACE)* (May 21, 2013). "Once a taxpayer reply has been considered, the case can be reintroduced into ACE for automated Aging and Closing in most instances."

36 IRS Compliance Data Warehouse (CDW), Notice Delivery System, fiscal year (FY) 2014 (Nov. 2014).

37 We discuss the assignment of a single employee to correspondence exam cases in the companion Most Serious Problem. Most Serious Problem: CORRESPONDENCE EXAMINATION: *The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*, *supra*. The recommendations in both pieces should be implemented in tandem for full accountability. As with the recommendation to assign an employee to a case once the taxpayer has contacted the IRS, similarly, not all correspondence exams require an employee assignment. However, once a taxpayer has engaged with the IRS, the employee who answered the phone call or correspondence should be assigned to the case until the issue is resolved, improving employee accountability and providing a taxpayer with an employee knowledgeable about the case.

38 IRM 4.19.20.1(1), *Automated Correspondence Examination Overview (ACE)* (May 21, 2013).

This practice does not facilitate taxpayer access to the employee knowledgeable about his or her case. Nor does it foster accountability of IRS employees who close those cases without communicating with the taxpayer or addressing concerns.

### The IRS's Systems Seem to Be Set to Ignore the IRM Definition of "Manually Generated Correspondence" and as a Result Most Audit Correspondence Does Not Contain Specific Employee Contact Information.

The IRS definition of manually generated correspondence, where the contact information of the IRS employee working the case should be included, includes correspondence where the employee has exercised judgment in working or resolving the case.<sup>39</sup> However, even where correspondence is generated only because of an IRS employee working and making decisions on a taxpayer's case, the correspondence still does not contain the name and contact information for the employee.<sup>40</sup>

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Twenty-six years after the enactment of the IRS Restructuring and Reform Act of 1998, tax professionals continue to voice concerns about IRS employee accountability where no single employee is assigned to a correspondence exam and the burden on taxpayers when they need to explain their case to a new employee on each IRS contact.

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The IRS ACE program exists solely to conduct examinations with little or no human involvement.<sup>41</sup> Notices and letters are sent automatically via a computer program without specific contact information, even if an employee exercised judgment in the case or is requesting information, in seeming violation of the IRM. These letters notify taxpayers that their refunds have been frozen, deductions have been disallowed, further information is required to verify the return, and more.<sup>42</sup>

TAS pulled a sample of Letter 105-C, *Claim Disallowance*, which notifies taxpayers that their claim for a refund or tax credit has been disallowed.<sup>43</sup> Of the sample of 100 letters, none were signed by an individual employee who would have worked on the case; instead, all were stamped with the signature of a high-level manager or even program director.<sup>44</sup> While most of the letters contain standard paragraphs, that either an employee or the computer can select as a letter is generated, five of the letters contained specific, non-standardized information about the taxpayers' particular situations.<sup>45</sup>

One letter even referred to correspondence that a taxpayer submitted to substantiate the credit claimed, which would have required an employee to review the correspondence and decide if it was valid to support the claim.<sup>46</sup> In these cases, it is clear that an employee worked the case and exercised discretion to determine

39 IRM 21.3.3.4.16.1, *Preparation of Outgoing Correspondence* (Oct. 25, 2007). The IRS defines "manually generated correspondence" in the IRM as "correspondence issued as a result of an IRS employee exercising his/her judgment in working/resolving a specific taxpayer case or correspondence, or where the employee (Tax Examiner, Revenue Agent, Revenue Officer, etc.) is asking the taxpayer to provide additional case-related information." The IRS defines "non-manually generated correspondence" in the same IRM: "Non-manually generated correspondence may be issued as a result of the taxpayer filing a return, using an automated system, or requesting information about an account or tax law matter either by telephone or in writing. This correspondence does not require the name of a specific employee to whom the taxpayer needs to talk in connection with the letter received."

40 See IRM 4.19.10.1.6(6), *Correspondence Examination Letters* (Jan. 1, 2013). Sixty-nine letters are listed which will only contain generic contact information when issued on campus exam inventory.

41 IRM 4.19.20.1, *Automated Correspondence Examination Overview* (May 21, 2013).

42 See, e.g., Letter 565, *Acknowledgement and Request for Additional Information*.

43 IRS, Letter 105-C, *Claim Disallowance*.

44 Sample set on file with TAS Attorney Advisor Group.

45 IRS, Letter 105-C, *Claim Disallowance*.

46 Sample set on file with TAS Attorney Advisor Group.

the validity of the taxpayers' claims, yet the letters still only contain the signature of a high level manager, not the contact information for the employee who made the decision and is familiar with the case.<sup>47</sup>

Although the IRS has issued over 560,000 105C letters in FY 2014 and many are standardized due to a mismatch of information between what a taxpayer has reported on a tax return and what the IRS has on file from third party reporters, it is clear that not all 105C letters are automatically generated.<sup>48</sup> In cases where these notices are issued by an employee who reviewed a taxpayer's account and made a decision, according to its own IRM, the IRS should provide that specific employee's name and contact information.<sup>49</sup> Failure to do so leaves the taxpayer with no way to contact an employee accountable for the decision. It also fails to address Congress' concerns that taxpayers be able to reach an IRS employee both knowledgeable and accountable for the taxpayer's case.

### **The IRS's Failure to Include Employee Contact Information on Campus Correspondence Burdens Taxpayers, Erodes Employee Accountability, and May Delay Case Resolution.**

Lacking an initial specific employee to contact, a taxpayer may call the generic IRS number printed in the notice. As the IRM states, "Any employee answering the Toll-Free number should be able to respond appropriately."<sup>50</sup> Each time taxpayers call the IRS, they must explain their situation again to the new employee who answers the general toll-free line.<sup>51</sup>

While taxpayers have indicated in focus groups that their desire to speak to an employee is greater than their desire to speak to the specific employee who made the decision on their case, this only holds true so long as the employees are "on the same page" and "know what they are doing."<sup>52</sup> However, employees are not always on the same page. A taxpayer who needs to contact the IRS more than once usually never speaks to the same person twice and the employee who answers the phone on a subsequent call will have to interpret notes, if any, that the previous employee has recorded.<sup>53</sup> Employees are expected to take notes while on a call with the taxpayer.<sup>54</sup> Taxpayers complain that they are frustrated with talking to tax examiners who do not have their files, having to resubmit paperwork, not having documentation acknowledged, having to repeat conversations, not receiving return calls, and not being able to get their cases resolved while on the phone.<sup>55</sup> Notably, 62 percent of calls received in the IRS correspondence examination unit are from repeat callers, which may indicate that taxpayers are not receiving the assistance they require, and their calls are being handled inadequately by employees unfamiliar with the

47 Sample set on file with TAS Attorney Advisor Group.

48 IRS, CDW, Notice Delivery System FY 2014 (Nov. 2014). For FY 2014, the IRS has issued 564,008 105-C letters.

49 IRM 21.3.3.4.16.1, *Preparation of Outgoing Correspondence* (Oct. 25, 2007).

50 *Id.*

51 For a detailed discussion of the National Taxpayer Advocate's concerns regarding assigning one IRS employee to handle a taxpayer's matter until it is closed, see Most Serious Problem: CORRESPONDENCE EXAMINATION: *The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*, *supra*.

52 Pacific Consulting Group, *Compliance Center Examination (CC Exam) SB/SE National Report, January Through March 2008* (July 2008).

53 IRM 4.19.19.2(17), *Call Requirements* (Mar. 28, 2013).

54 *Id.*

55 Phone Optimization Project (POP) Team Recommendations, *Solutions to Improve Taxpayer Satisfaction in Correspondence Examination Briefing Document* (June 21, 2010).

specific issues in the audits.<sup>56</sup> Repeat calls for the same issue creates rework for the IRS and contributes to taxpayer frustration.

### *Lack of Specific Employee Contact During Correspondence Exams May Contribute to Taxpayer Burden and Dissatisfaction.*

While correspondence exams and automation of the examination process allow the IRS to conduct many additional exams, the IRS must balance technology with customer service. Taxpayers fare worse in correspondence exams than in field or office audits.

Correspondence exams have lower “agreed to” rates, where the taxpayer accepts the IRS’s findings, than field and office exams. Only about 26 percent of correspondence exams were closed as “agreed to” in comparison to almost 63 percent of field and office exams.<sup>57</sup> This may be due in part to difficulty in communicating with an anonymous examiner who may have drafted letters specifically requesting information or informing the taxpayer of decisions that do not include his or her contact information.

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Sixty-two percent of calls received in the IRS correspondence examination unit are from repeat callers, which may indicate that taxpayers are not receiving the assistance they require, and their calls are being handled inadequately by employees unfamiliar with the specific issues in the audits.

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### **The Lack of Contact Information for a Specific IRS Employee Knowledgeable About and Accountable for the Correspondence Sent to the Taxpayer Violates Taxpayer Rights.**

Failing to include the contact information of an employee with whom the taxpayer may discuss his case violates the *right to quality service*, the *right to be informed*, and the *right to a fair and just tax system* contained in the Taxpayer Bill of Rights.<sup>58</sup> The *right to quality service* should ensure that a taxpayer can reach an employee who is knowledgeable about his or her case, preferably the same employee each time, to resolve the issue timely and with the least burden to the taxpayer.

Taxpayers have the *right to be informed* in clear and easily understandable language about actions taken on their accounts and to have an employee familiar with the case provide the explanation the taxpayer requires. Under the *right to a fair and just tax system*, taxpayers have the right to have information particular to their situations considered in resolving account issues. When a taxpayer does not know who to contact and cannot reach the employee who made a preliminary determination or requested additional information from them, they may need to explain their issue multiple times to different employees and may receive different responses each time.

<sup>56</sup> See IRS, *Phone Optimization Project (POP), POP to the TOP Phone Enhancement Training Participant Guide 1* (2009) (cited by National Taxpayer Advocate 2011 Annual Report to Congress, vol. 2 80). See also Treasury Inspector General for Tax Administration, Ref. No. 2012-30-093, *Improved Toll-Free Telephone Services Should Make It Easier for Taxpayers to Obtain Assistance During a Correspondence Audit 1* (Aug. 17, 2012). The IRS has not performed any follow-up studies for this measurement. IRS response to TAS information request (Sept. 5, 2014).

<sup>57</sup> IRS, CDW, Audit Information Management System (AIMS) Closed Case Database FY 2014 (Nov. 20, 2014). The IRS closed 26.2 percent of correspondence exams as agreed and 62.9 percent of field and office exams as agreed in FY 2014.

<sup>58</sup> IRS, Publication 1, *Your Rights as a Taxpayer* (June 2014).



## CONCLUSION

While technological advances have permitted the IRS to automatically generate and send many notices and letters to taxpayers that were previously sent by employees, the IRS must strike a balance between technology and customer service. Given the volume of notices issued by the IRS and the technology that allows the IRS to automatically identify many errors in tax returns, it would be impractical to assign an employee to every piece of correspondence. However, where an actual employee has looked at a taxpayer's account and made a decision about that account, that employee's name and specific contact information should appear on the notice that communicates that decision. Contact information should also be provided where an employee has looked at a case as a result of taxpayer correspondence or phone calls. Failing to include specific contact information for employees on such notices puts the IRS right back to where it was when Senator Domenici could not believe that a statute had to be passed to accomplish such a basic task.<sup>59</sup>

## RECOMMENDATIONS

The National Taxpayer Advocate recommends that:

1. All audit notices and correspondence currently sent to taxpayers, including those generated by Examination software, should be reviewed to ensure compliance with § 3705(a) of RRA 98.
2. Where an employee has reviewed a case, letters generated by that review should contain the employee's name and contact information even if the letter is generated with the assistance of automated systems or software.
3. If a notice is generated automatically through a program such as ACE, but has legal impact on the taxpayer, such as a Statutory Notice of Deficiency (SNOD), the contact information for a manager should be included on such notices to facilitate call-routing and case assignment.
4. Once a taxpayer has communicated with the IRS, either by correspondence or via a phone call, contact information for the employee who reviews that correspondence or answers the telephone call should appear on subsequent correspondence.

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59 144 CONG. REC. S7717-04 (1998) (statement of Sen. Domenici).