

10. IMPROVE IRS ALTERNATIVE DISPUTE RESOLUTION USE AND EFFECTIVENESS

The IRS's Alternative Dispute Resolution (ADR) programs offer a unique opportunity for taxpayers to expedite the administrative resolution of their tax disputes, provide finality, and eliminate the burden and need for costly litigation. The IRS designed the ADR programs to save taxpayers and the government time and resources and ensure the protection of taxpayer rights. However, a 65 percent decline in taxpayer use of ADR between FYs 2013 and 2022 reveals significant agency shortcomings and an urgent need to understand the reasons for this decline.⁷⁶ Lack of sufficient data on program management complicates efforts to gauge the effectiveness of ADR initiatives. This negatively impacts taxpayer experiences and potentially results in inefficient use of government resources.⁷⁷

The National Taxpayer Advocate previously recommended the IRS revitalize its ADR programs and ensure they serve as efficient, accessible, and transparent mechanisms for resolving tax disputes to uphold and advance taxpayer rights. To its credit, on April 24, 2024, the IRS announced the creation of an ADR Program Management Office within the Independent Office of Appeals (Appeals) to revamp its ADR offerings.⁷⁸

Objective 10 for FY 2025 – TAS will advocate for improved ADR access for all eligible taxpayers, enhanced data collection and analysis for continuing program improvement, and the reduction of administrative hurdles to taxpayer participation.

- Activity 1: Establish a cross-functional team consisting of TAS and the Appeals' ADR Program Management Office to develop strategies to improve and promote ADR programs.
- Activity 2: Participate in cross-functional team meetings to ensure eligible taxpayers have awareness of and the opportunity for ADR.
- Activity 3: Propose collaborative meetings with Appeals' ADR Program Management Office to develop and deploy a robust IRS-wide data collection and analysis framework. This framework should include taxpayer requests for ADR, denials, and outcomes for each ADR option (*e.g.*, Fast Track Settlement, Fast Track Mediation, Post Appeals Mediation) across all stages of the administrative dispute resolution cycle, focusing on improving transparency, identifying trends, and addressing program shortfalls.
- Activity 4: Advocate for the creation and implementation of a specialized unit within the IRS dedicated to ADR and focused exclusively on mediating tax disputes early in the process and participate in collaborative ADR cross-functional program meetings.
- Activity 5: Propose collaborative meetings with Appeals' ADR Program Management Office to establish guidance to lower ADR participation barriers.
- Activity 6: Propose collaborative meetings to allow TAS to participate in the creation of ADR training for Appeals technical employees.

11. PROTECT TAXPAYER RIGHTS IN EMPLOYEE RETENTION CREDIT CLAIMS

The Employee Retention Credit (ERC) is a refundable tax credit designed to provide employment tax relief for businesses that endured certain pandemic-linked difficulties in 2020 and 2021 yet retained employees on payroll.⁷⁹ However, the ERC's complex eligibility framework, often-lucrative value, and an unregulated preparer industry have made it vulnerable to infiltration by unscrupulous actors who aggressively marketed

76 GAO, GAO-23-105552, *IRS Could Better Manage Alternative Dispute Resolution Programs to Maximize Benefits* (2023), <https://www.gao.gov/products/gao-23-105552>.

77 See National Taxpayer Advocate 2023 Annual Report to Congress 139 (Most Serious Problem: *Appeals: Despite Some Improvements, Many Taxpayers and Tax Professionals Continue to Perceive the IRS Independent Office of Appeals as Insufficiently Independent*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_10_Appeals.pdf.

78 IRS News Release, IR-2024-119, IRS Independent Office of Appeals Forms Alternative Dispute Resolution Program Management Office (Apr. 24, 2024), <https://www.irs.gov/newsroom/irs-independent-office-of-appeals-forms-alternative-dispute-resolution-program-management-office>.

79 IRC § 3134.