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Taxpayer Advocate Service: Purpose, History, Performance, and Resources

The Taxpayer Advocate Service (TAS) is intended to play a significant role in protecting taxpayer rights and fostering taxpayer confidence in the accountability and integrity of the Internal Revenue Service (IRS). TAS does this by receiving and seeking to resolve taxpayer problems in working with the IRS. This In Focus looks into TAS's purpose and procedures, history, performance, and resources.

Purpose and Procedures

The authority of the TAS and its director, the National Taxpayer Advocate (NTA), is set forth in Sections 7803(c) and 7811 of the federal tax code. The NTA is appointed by the Secretary of the Treasury and has no term limit. TAS's statutory mission is to help taxpayers resolve problems with the IRS; identify issues in dealing with the IRS that affect large numbers of taxpayers; and propose legislation and changes in tax administration to address those issues.

TAS has two main functions, as specified in Internal Revenue Code (IRC) Section 7803(c)(2): case advocacy and systemic advocacy. Case advocacy is concerned with protecting taxpayer rights before the IRS and helping taxpayers resolve problems with the IRS. Systemic advocacy focuses on identifying systemic problems with taxpayer services that affect large numbers of taxpayers and recommending legislative or administrative remedies.

TAS receives cases through a variety of sources. These include referrals from the IRS and congressional offices; direct contact with taxpayers via email, regular mail, and the NTA's toll-free telephone lines; and visits to Local Tax Advocate offices (LTAs).

TAS only accepts cases that meet certain criteria. A case has to present an economic or a procedural burden to a taxpayer, or raise questions about the impact of the IRS's policies and procedures on a taxpayer's rights. In addition, the NTA can take on cases because of broader policy concerns tied to them.

For some cases, TAS resolves problems by exercising its statutory or delegated authorities. When TAS lacks the requisite authority, it can issue an Operations Assistance Request (OAR) to the IRS office capable of resolving a taxpayer's problem. If TAS and an IRS office cannot agree on a course of action, the former can issue a Taxpayer Assistance Order (TAO) to require the IRS to take or refrain from certain lawful actions by a specified date.

To strike a balance between the volume of inquiries TAS receives and its resources, TAS employs an "intake strategy" intended to provide immediate assistance to

taxpayers while looking at their situations for conditions that may warrant the involvement of case advocates. These advocates are authorized to pursue four courses of action: (1) assist taxpayers with self-help options, (2) act to resolve the problems with the IRS, (3) establish a case assuming a taxpayer meets the TAS criteria, and (4) refer the taxpayer to the appropriate IRS office for help.

TAS has also managed the low-income taxpayer clinic grant program since 2003. The program provides up to \$100,000 in grants to organizations that offer assistance to taxpayers in IRS proceedings and inform non-English speakers about their tax obligations and their rights as taxpayers.

History

TAS evolved from an IRS taxpayer advocacy program begun in 1977 known as the Problem Resolution Program (PRP). The PRP served two purposes: (1) to give taxpayers another option for addressing problems that were difficult to resolve through IRS's district offices and service centers, and (2) to enable the IRS to identify and correct administrative problems affecting large numbers of taxpayers. PRP assistance was available only to taxpayers who had been referred to the program by an IRS agent who had verified that the taxpayers had tried and failed to get their problems resolved or questions answered through the IRS's regular taxpayer assistance channels. In 1979, the IRS created the Office of the Taxpayer Ombudsman (TO) to manage the PRP; the TO was appointed by and reported to the IRS Commissioner.

Although the PRP provided a better pathway for taxpayers to resolve IRS problems and concerns than previous options, some argued that it was not serving as an independent source of taxpayer advocacy within the IRS. To back this claim, critics pointed out that PRP employees located in district and service centers did not report directly to the TO but to their IRS managers instead.

To address this concern, Congress passed the Taxpayer Bill of Rights (TBOR 1), as part of the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647). TBOR 1 codified the TO position in IRC Section 7811 and granted the TO the authority to issue TAOs when the TO determined that a taxpayer was suffering, or about to suffer, a "significant hardship" because of IRS enforcement actions.

Congress replaced the TO with the Office of the Taxpayer Advocate (OTA) when it passed the Taxpayer Bill of Rights 2 (TBOR 2, P.L. 104-168) in 1996. TBOR 2 authorized the OTA to help taxpayers resolve certain

problems with the IRS, identify broad taxpayer issues concerning the IRS, and propose administrative and legislative options for addressing those issues. TBOR 2 also altered the rules for TAOs so that they could be modified or rescinded only by the TA, the IRS Commissioner, or the IRS Deputy Commissioner and could include a deadline for the IRS to take corrective action.

TBOR 2 did not address the institutional independence of the OTA. This issue was addressed in the final report of a commission Congress created in 1996 to recommend ways to “restore public trust in the IRS.” The report pointed out that while the OTA should operate as an “independent voice for the taxpayer within the IRS,” it was unable to do so because the OTA had always been managed by career IRS employees, setting the stage for conflicts of interest.

The commission’s findings helped pave the way for the enactment of the IRS Reform and Restructuring Act of 1998 (RRA98, P.L. 105-206). Among other things, RRA98 renamed the TA as the National Taxpayer Advocate (NTA) and renamed the OTA as the Taxpayer Advocate Service (TAS). The act also enhanced the independence of the NTA by requiring that the position be filled by someone with a background in customer service and experience representing taxpayers. It also specified that an officer or employee of the IRS cannot serve as the NTA during the two years before or the five years after his or her tenure. While the NTA (like the TO) continued to report directly to the IRS Commissioner, the NTA was appointed by the Secretary of the Treasury, after consulting with the IRS Commissioner and the IRS Oversight Board. In addition, RRA98 created LTAs in every state and mandated that they report directly to the NTA. (Presently, there are 78 LTAs.)

Performance

The most recent detailed figures on TAS casework available to CRS are for FY2021. That year, TAS received 264,343 cases and closed 246,702 cases. (In a recent blog, NTA estimated that the number of new cases in FY2022 could total 253,000.) TAS provided full or partial relief to taxpayers in 79% of the cases closed in FY2021. Measured as a percentage of the total number of cases received in FY2021, the top three issues were unposted and rejected returns (17.3%), pre-refund inquiries and wage verification holds (14.0%), and amended return processing (7.0%).

TAS Budget and Staffing

Taxpayers receiving help from TAS pay nothing for the assistance. Instead, the cost is covered by TAS’s budget, which is funded entirely out of IRS appropriations for taxpayer service. In FY2022, TAS is receiving \$221 million in appropriations, at least \$5.5 million of which must be used for cases involving identity theft or refund fraud. While it is unclear how the FY2022 budget will be divided between case advocacy and systemic advocacy, the former typically receives the vast share of funds; in FY2017, 78% of TAS’s budget (\$206.9 million) went to case advocacy, and 4.5% to systemic advocacy.

Budget cuts since FY2011 have significantly reduced TAS’s resources. If its budget had kept pace with inflation

since 2011, TAS’s FY2022 budget would be \$274.1 million, instead of \$221 million. In addition, TAS’s number of full-time equivalent (FTE) employees totaled 1,742 in FY2017, about 19% less than the FY2011 total. These declines contributed to a 44% decrease in the number of cases worked by TAS from FY2011 to FY2017.

The caseload for TAS caseworkers has increased in recent years. The average caseload per employee more than doubled between the second quarter of FY2017 and the second quarter of FY2021, according to the NTA. This rise was driven by the large growth in the IRS’s inventory of unprocessed tax returns and unanswered taxpayer correspondence in FY2020 and FY2021.

To manage its growing caseload, TAS recently notified congressional offices that it will limit its acceptance of cases involving unprocessed paper tax returns until at least October 15.

Policy Issues

As Nina Olson, a former NTA, has commented, the structure of TAS “causes tension and even conflict.” In her view, such an outcome is inevitable for an organization that assists taxpayers in resolving IRS problems but is embedded within the IRS.

Olson maintains that a key to balancing TAS’s need to be independent with its placement within the IRS is for TAS employees to remain advocates for taxpayers through their work. They do this by trying to independently and impartially examine the facts of a case and applying tax law, IRS procedures, and their knowledge of internal IRS processes to reach an agreement with a taxpayer over how TAS might help resolve his or her IRS problem.

A concern with organizational independence has been a perennial issue since the days of the PRP. Some argue that TAS and the NTA can fulfill their mission only if they operate independently of IRS management and its priorities. Given that conflicts may arise from time to time between TAS and the IRS, Congress may consider periodically examining how the relationship between the two entities might be affecting TAS’s effectiveness as a taxpayer advocate.

Some critics of TAS and NTA claim that they are not truly independent of the IRS because they are IRS employees. In their view, both should be eliminated and more resources should be channeled into training IRS employees to make them better at their jobs and more skilled at resolving taxpayer problems. They maintain that the office of the NTA represents a layer of unneeded bureaucracy within the IRS.

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