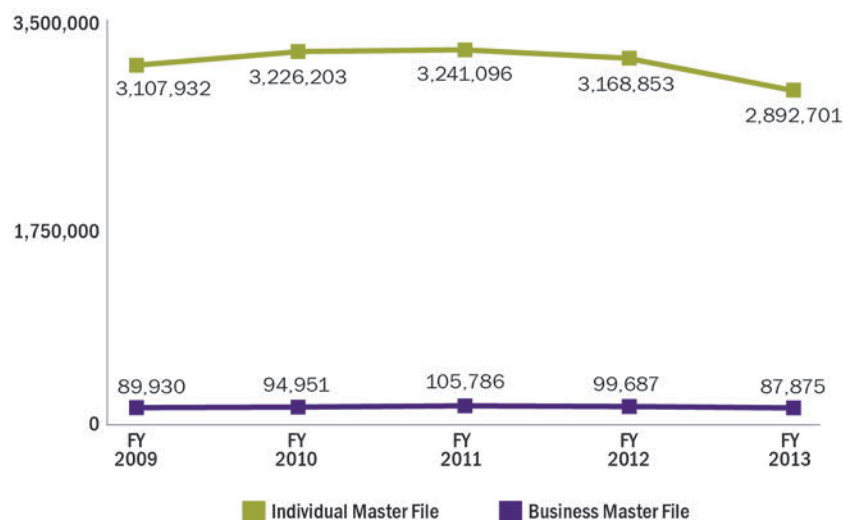


L. The IRS Needs to Improve Service and Access to Payment Options for Taxpayers with Collection Problems

Historically, taxpayers with IRS collection problems have found it difficult to make payment arrangements, including installment agreements (IAs).¹ With the advent of the “Fresh Start” initiative, TAS was hopeful that taxpayers would have easier and increased access to payment options.² While the IRS has made some gains, it needs to improve both service and access to collection alternatives for taxpayers.

Although the IRS changed its policies in fiscal year (FY) 2011 in an effort to increase taxpayer access to IAs, the IRS has accepted fewer IAs every year since.³ In FY 2014 through May, the IRS has entered into 10 percent fewer individual IAs than during the same period in FY 2011, and IAs granted to business taxpayers have dropped by 34 percent.⁴ As such, data collected since 2011 indicates a decrease in accepting individual IAs. Business agreements have also shown a decrease since the Fresh Start Initiative began.

FIGURE II.14, INSTALLMENT AGREEMENTS



1 IRC § 6159. IAs are arrangements by which the IRS allows taxpayers to pay their tax liabilities over time. There are several types, including Direct Debit, Partial Pay, and Payroll Deduction Installment Agreements depending on the circumstances. A Partial Payment Agreements may be granted if full payment cannot be achieved by the Collection Statute Expiration Date, and taxpayers have some ability to pay.

2 The “Fresh Start” initiative, a series of significant operational policy changes in fiscal years 2011 and 2012 introduced some significant changes to the IRS Collection program, particularly in the areas of flexible payment options, lien-filing practices, and flexibility in issuing lien withdrawals. See <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Struggling-with-Paying-Your-Taxes-Let-IRS-Help-You-Get-a-Fresh-Start> for more information.

3 IRS, IR-2011-20, *IRS Announces New Effort to Help Struggling Taxpayers Get a Fresh Start; Major Changes Made to Lien Process* (Feb. 24, 2011).

4 IRS, Collection Activity Report, NO-5000-6, *Installment Agreement Report* May 2011 & May 2014). In FY 2011, through May, the IRS entered into 2,023,518 IAs, of which 70,985 involved Business Master File (BMF) taxes. During the same time in FY 2014, the IRS entered into 1,798,125 IAs, of which 47,012 involved BMF tax liabilities.

The National Taxpayer Advocate believes IRS case assignment practices and internal policies for granting IAs are overly restrictive and burdensome. For example, although taxpayers with delinquencies are initially directed to IRS toll-free phone assistants, these employees have limited authority to grant IAs, particularly for business taxpayers.⁵ Further, if the taxpayer's delinquency includes an unfiled return, the telephone assistants will not even discuss payment options until the return is filed.⁶ Coupled with the IRS's current low levels of service in responding to taxpayer calls and the low number of outbound calls to taxpayers, these practices appear to be counterproductive for the IRS, and exceptionally frustrating for taxpayers.⁷ The recently-adopted Taxpayer Bill of Rights provides that taxpayers have the *right to a fair and just tax system*, meaning the IRS will "consider facts and circumstances that might affect their ability to pay."⁸ If the IRS does not pick up the phone and talk with taxpayers, it will never get the information it needs to make this taxpayer right more than just a promise on paper.

The recently-adopted Taxpayer Bill of Rights provides that taxpayers have the *right to a fair and just tax system*, meaning the IRS will "consider facts and circumstances that might affect their ability to pay."

Although the offer in compromise (OIC)⁹ program has produced noteworthy improvements since FY 2010, FY 2014 data indicate these gains have decreased. After four years of increased offer acceptances, through May 2014, accepted OICs are down 19 percent from the prior year, and overall OIC dispositions are down by 14 percent.¹⁰

In her 2013 Annual Report to Congress, the National Taxpayer Advocate raised a number of concerns regarding the Automated Collection System's (ACS) reliance on notices of intent to levy or systemic levies that are often not effective and can place taxpayers

in an economic hardship.¹¹ In its response to this report, the IRS states that ACS collection representatives are trained to discuss payment options with the taxpayer. However,

5 See IRM 21.3.12.4.7(1) (Oct. 1, 2013). The IRS disagreed with this statement in its response to recommendation 12-1, National Taxpayer Advocate 2013 Annual Report to Congress Most Serious Problem: *Collection Process: IRS Collection Procedures Harm Taxpayers and Contribute to Substantial Amounts of Lost Revenue* (May 23, 2014), available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/IRS-2013-MSP-Responses.pdf>. The IRS response notes that the Accounts Management (AM), Compliance Services Collection Operation (CSCO), and Automated Collection System (ACS) operations have limited criteria for working these business cases, and "AM and CSCO are not well suited for working cases that require follow-up actions." The IRS seems to recognize the need to provide business taxpayers better access to installment agreements, and indicates that the online payment agreement (OPA) application has recently been modified accordingly. However, through May 2014, the IRS reports only a few IAs have been issued via the OPA involving business-related taxes, while overall business-related IAs have declined by 22 percent from the same time in FY 2013.

6 Internal Revenue Manual (IRM) 21.3.12.2.1(3) (Oct. 1, 2013).

7 Wage and Investment division (W&I) response to TAS research request (June 5, 2014). In 2013, the total number of ACS inbound calls/services provided was 4,192,501, the average handle time was 21.16 minutes, and average hold time was 5.17 minutes. ACS made only 109,217 outbound calls, or three percent of total calls, whose average handle time was 6.52 minutes, and average hold time was .77 minutes.

8 See Publication 1 at <http://www.irs.gov/pub/irs-pdf/p1.pdf> and Taxpayer Bill of Rights at <http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights>.

9 IRC § 7122. An OIC is an agreement between a taxpayer and the IRS that settles a tax liability for less than the full amount owed. The IRS may accept an OIC based on doubt as to collectibility, doubt as to liability, or effective tax administration.

10 IRS, Collection Activity Report, NO-5000-108, *Report of Offer in Compromise Activity* (September 2013 & May 2014). In FY 2014, through May, the IRS accepted 16,715 offers, and processed 41,016 offers. During the same period in FY 2013, the IRS had accepted 20,697 offers and processed 47,472.

11 National Taxpayer Advocate 2013 Annual Report to Congress 84-93 (Most Serious Problem: *The Automated Collection System's Case Selection and Processes Result in Low Collection Yields and Poor Case Resolution, Thereby Harming Taxpayers*).

the IRS believes that offering collection alternatives before the issues and facts of the case are known can be misleading to taxpayers¹² The National Taxpayer Advocate disagrees with this IRS analysis. It is her experience that when the IRS sets out alternatives up front, taxpayers are more forthcoming about their facts and circumstances because they know there are options available. Thus, informing taxpayers early in the process about collection alternatives actually results in more positive case resolutions.

Moreover, as described in the Most Serious Problem, ACS collects tax largely by offsetting taxpayers' refunds and eliminates much of its inventory by passing cases to other parts of the IRS. TAS believes there is room for improvement, and that greater flexibility in offering and approving collection alternatives to taxpayers in advance would yield better collection results and cause less harm to taxpayers.

The IRS recently proposed a realignment of its compliance operation to consolidate some organizations and policymakers under the same leadership. The IRS expects the combined organization to better identify compliance issues, provide more consistency in the way these issues are handled, and improve customer service for both taxpayers and tax preparers. Employees will also benefit from enhanced management accountability, consistent guidance, and potential improvements to workplace resources such as training.¹³ TAS is uncertain whether these expectations are reasonable, and will monitor the implementation of the realignment.

TAS Is Working to Inform Taxpayers About Collection Alternatives and Help Them Resolve Their Cases on Their Own.

To help taxpayers resolve collection problems, TAS is developing a series of self-help instructional videos on what taxpayers can do if they cannot pay their taxes in full. These videos have information not readily available or accessible on IRS.gov and explain the various options available for resolving tax debt. TAS expects to make these instructional videos available by the end of FY 2014 on the TAS YouTube channel and the Tax Toolkit site.¹⁴ The tax toolkit, where these videos will reside, is currently being redesigned to be mobile friendly on all portable devices.

12 IRS response to recommendation 11-5, National Taxpayer Advocate 2013 Annual Report to Congress Most Serious Problem: *The Automated Collection System's Case Selection and Processes Result in Low Collection Yields and Poor Case Resolution, Thereby Harming Taxpayers* (May 23, 2014), available at <http://www.taxpayeradvocate.irs.gov/userfiles/file/IRS-2013-MSP-Responses.pdf>. Response 11-5 completed by the IRS states, "All ACS Collection Representatives are trained to discuss payment options with the taxpayer. Once the ACS employee has identified the issue with the taxpayer, the employee is trained to discuss payment options with the taxpayer. Offering collection alternatives before the issue and facts of the case can mislead taxpayers. They may think an option is appropriate for them only to find out later that not all taxpayer situations allow the taxpayer to qualify for all payment options. The IRS is, however, looking broadly at collection activities, and if research indicates that this recommendation would be helpful, the IRS will incorporate the recommendation into any redesign of collection processes."

13 IRS, *IRS Looks at Realigning Compliance Operations* (May 2014).

14 A recent enhancement to the TAS websites is the removal of the "exit disclaimer" that previously appeared when taxpayers moved from IRS.gov to the Taxpayer Advocate website (also called the Tax Toolkit). The exit disclaimer made it appear that the taxpayer was entering a non-governmental website, which could be misleading to the taxpayer. It is now transparent to taxpayers when they move between the two sites that they remain on a government website.

TAS also produces Consumer Tax Tip brochures to help taxpayers in identifying specific issues and contacting TAS for further information. TAS recently published a new brochure, Publication 5107, *The IRS Collection Process – Your Rights and Responsibilities*. This brochure, available on the Consumer Tax Tips Product Page, assists taxpayers facing collection issues or experiencing financial struggles.¹⁵ It describes specific actions a taxpayer can take if the IRS is attempting to collect a tax debt and discusses collection alternatives, collection actions, and the appeals process. In FY 2014, focus groups of taxpayers and tax return preparers unanimously found the brochure very helpful.¹⁶

To help taxpayers who contact TAS directly before working with the IRS or who are referred to TAS with issues that do not meet TAS case acceptance criteria, TAS has developed (and is negotiating with the National Treasury Employees Union) self-help approaches and tools for taxpayers who can resolve their specific issues on their own. TAS case intake advocates will be required to assess, through conversation with the taxpayer, whether the issue is one TAS has designated as a self-help issue and whether the taxpayer can resolve it without TAS opening a case. The benefit of this approach is that taxpayers may be able to resolve their own cases quickly, immediately in many instances, with information provided by intake advocates through the TAS intake process.

A self-help video for collection issues will cover all collection alternatives the taxpayer may be entitled to with guidance on what to do and what information may be necessary for each one. TAS will also provide specific guidance to taxpayers who cannot full pay and who want to make monthly payments. Dependent on the amount owed, many taxpayers qualify for a streamlined or guaranteed installment agreement, and with minimal guidance, can be directed to the IRS website to establish an installment agreement the same day, on their own, without the need to create a TAS case. In addition, intake advocates will provide taxpayers with information on contacting TAS again if they cannot resolve the issue(s) on their own.

Assisting taxpayers in resolving their own issues up front during the intake process and reducing the volume of cases unnecessarily assigned to TAS inventory will allow TAS case advocates to focus on more complex cases that truly need their involvement. Of course, taxpayers who cannot resolve their issues through self-help can come back to TAS for assistance, and we will have a record of their initial contact. This information will enable us to identify what functions are not providing adequate assistance.

Focus for 2015

TAS will continue to develop progressive tools, such as the self-help instructional videos, to assist taxpayers facing collection issues or experiencing financial difficulty. Additional collection videos may deal with currently not collectible status, OICs, and bankruptcy. TAS

¹⁵ Available at: <http://www.irs.gov/pub/irs-pdf/p5107.pdf>.

¹⁶ TAS completed a study entitled "A Taxpayer Advocate Service Study on A Potential Publication 1C – A Collections-Focused Version of Pub 1" in January 2014. It included eight focus groups: two in each of four cities (East Rutherford, NJ; Chicago, IL; Dallas, TX; Los Angeles, CA).

also will pursue agreements with the IRS to update guidance to employees that addresses the following concerns:

- Liquidation of equity in assets prior to consideration of IAs;
- The requirement of a Direct Debit Installment Agreement (DDIA) or Payroll Deduction Installment Agreement (PDIA) when entering into a Partial Pay Installment Agreement (PPIA);
- Filing a Notice of Federal Tax Lien on accounts in the amount of \$10,000 or over that are being placed in the queue; and
- Pre-levy considerations in cases involving low income taxpayers on fixed incomes where the IRS is likely to have financial information in its own databases that can be used to establish economic hardship.