

**WRITTEN
TESTIMONY OF
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BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON OVERSIGHT
REFORMING HOW THE IRS RESOLVES TAXPAYER DISPUTES
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INTRODUCTION

Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to discuss “Reforming How the IRS Resolves Taxpayer Disputes”.

As the 2016-2017 recent past Chairman of the FICPA Federal Tax Committee and the Managing Partner of a successful Southwest, Florida CPA firm since 1993, this is a topic that I have been professionally engaged in for over 38 years. During this time, I have experienced the conversion from paper filings to e-filing and the start of e-services and then helped with establishing filters for protecting the innocent taxpayer who had their identity stolen. In fact, my identity was stolen through an illegal request through e-services of my data and a false return was filed and I received the very letter from the filter that prevented the “bad guy” from getting illegal funds from the US Treasury.

“Taxpayer Service First”

I have a unique perspective as I have been involved in oversight of the Florida CPAs for well over a decade and most practitioners work hard to get it right. It is the handful of marginal practitioners and aggressive taxpayers that try to push the envelope. These are the practitioners and taxpayers that need to be reviewed. As the National Taxpayer Advocate, Nina Olson spoke of in her May 2017 report that “98 percent of all revenue is paid timely and voluntarily. Less than two percent is collected through enforcement actions”. I agree completely. I want to give you several recommendations for improvement of services that will help both the taxpayer and the Service. Remembering the mission of “Taxpayer Service First,” I have collected several concerns from fellow CPAs and Tax attorneys that I have worked with over the years and have also included their thoughts.

Correspondence Audits –

Correspondence audits have been expanded in lieu of field examinations for many individual returns. These exams have a high probability of no change once the IRS receives the submitted response. Taxpayers’ rights are being ignored by the issuance

of 15-day letters and then shortly thereafter the issuance of a 90-day letter (Notice of Deficiency), and thereby ignoring the 30-day letter, which grants the taxpayer the right to request an administrative appeals hearing. Taxpayers are put in a position where a large proposed assessment is assessed against them, which in many cases they do NOT owe. The evidence to support their position has been previously submitted, in most cases by certified mail, and although proof of delivery is furnished, the Service moves on with issuing the 90-day letter with no further adjustments to the erroneous proposed assessments. The taxpayer is then left with having to spend more time and fees for representation in Tax Court or docketed Appeals because of the lack of contact availability with an examiner to correct the issue at hand.

All taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including correspondence examinations; but, by not issuing the proper 30-day letter, the Service is violating the taxpayers' rights to request an administrative appeals hearing as afforded by the Taxpayer Bill of Rights.

Solutions-

1. Have a standard that exists that the process must be maintained and if the Service jumps over the process the Service loses the right to pursue additional revenue. Only the largest taxpayers can afford to take on the Service when faced with the incredibly complicated and expensive track to clear up the issues. "Fast track" is not being considered since the option is only available to a certain point. It appears the Service wants to quickly close open exams because management is tracking the time that exams are open versus review of the process they are not having a proper sign off of each step prior to issuing a Notice of Deficiency.
2. We should always maintain proper process to protect the taxpayer and the Service. Simplify the steps and REQUIRE "Fast Track" to prevent the circumstances that exists today.

Field Examinations –

The process has become VERY TAXPAYER UNFRIENDLY with a litigious and enforcement tone. Over my 38 years, we have reached a new low regarding respect for the taxpayer and their professionals. It is as if, the taxpayer is guilty and they have to prove the IRS wrong. The agents are doing several audits at the same time and they tend to start and stop during the audit. This prolongs the process and time spent increases while reducing flow of issues and discussions start and stop repeatedly. The IRS personnel are trying to do their job; however, the process is very strong handed, as shown with the various statements required to be signed and agreed to at the beginning of the exam process. An example is the new partnership exam rules that have brought the process to a state of total chaos.

Solutions-

1. Simplifying the process, stay on task while maintaining proper tone and protecting taxpayer rights is imperative.

Telephone Calls and Local Office Access –

Unfortunately, the wait times on phone calls are extraordinarily long for the taxpayer or their professional to get to the right person that can handle the particular issue. Overall my experience has been good once you get to that person. This shows how the Service needs to open up the process to handle the communications reasonably.

Solutions-

1. The Service should increase call center available hours (earlier, later and weekends) and adding additional personnel would improve service.
2. The Service had a very good e-service process and that was reduced due to “budget cuts”. Please expand that immediately with proper authentication of taxpayer/professional.
3. The local offices used to allow walk ins and this is now abandoned to an appointment only policy. This is just not TAXPAYER FIRST. The taxpayers need to have reasonable access.

Foreign Disclosure Examination-

We are seeing a situation growing with the continued disclosure of foreign assets and bank accounts going to appeals and the appeals officers feel like they can't settle, so the issue goes to an offshore technical advisor. Then it ends up “all or nothing” with no leeway. This creates more controversy, time and resources.

Solution-

1. Allow flexibility to Appeal Officers with guidance on settlement opportunities.

Tax Law Complexity –

The tax code, in its current state, remains the number one problem facing both the IRS and taxpayers. The complexity of the code creates enormous administrative challenges for the IRS and imposes huge compliance burdens on taxpayers. With a simpler code, the job of the compliance by the taxpayer and the IRS would be far easier.

Since most of my career has been with small and medium size businesses, I can talk specifically about the challenges complying with the law and rules. According to the

Tax Policy Center, 93% of small businesses are organized as pass-through entities, which is what we primarily file for our clients. Knowing this then:

1. Why do Partnerships and S Corporations have different rules for calculating Tax Basis, and how Business Debt is treated differently for partners of a partnership versus the shareholder of an S corporation. If the shareholder/owner guarantees the debt and this then reduces available borrowings, should it be different?
2. If the losses are from real negative cash flow shouldn't they be allowed regardless of PASSIVE RULES?

What have we created? Have we created more complexity than really needs to be in place? Can't we just converge the best into one set of rules. Reality and practical considerations should flow to the integrity of the law.

Parts of the Law have created cottage industries for areas such as the Research & Development credit which has become excessively complex breeding specialty industries to assist business. Is this taxpayer first?

We could go on and on.

Online Accounts –

I strongly support providing online account access to taxpayers, but I believe the IRS should continue to fully staff other service channels such as telephone and face-to-face service for taxpayers who want or need to interact with the IRS through personal contact. The population of the United States is large and diverse in its taxpayer service needs, and a one-size-fits-all approach is not appropriate for a tax collection agency. Moreover, voluntary compliance and trust in the tax system are best promoted by person-to-person contact. Thus, a multi-faceted service strategy based on the needs and preferences of taxpayers is required

New Entity ID Numbers-

We have experienced recently a serious slowdown in the assignment of new Federal Identification Numbers which has taken numerous follow up calls and refaxing of the application forms with weeks involved to issue said number. This has held up opening of accounts at banks and closings on purchases of real estate to name a few examples. It appears that layered LLC entities is causing a slowdown or paralyzing effect on the system.

Solutions-

1. A review of the process and streamlining similar to trusts and estate numbers should be considered.

Identity Theft and Refund Fraud –

Since many ID theft victims were in Florida, and I was also a victim and chair of the FICPA subcommittee on ID theft, we should REQUIRE all taxpayers, business and individual, to have a PIN number for authentication of the e-filing and with any communications. Same as in banking.

I concur completely with National Taxpayer Advocate – Nina Olson – with her assessment and have quoted her below from her May 23, 2017 Report to Congress entitled “Hearing on IRS Oversight”:

“Taxpayer Service: The IRS must be a “taxpayer service first” agency. In my most recent annual report, I expressed concern that the IRS historically has viewed itself first and foremost as an enforcement agency, and its emphasis on enforcement over taxpayer service is detrimental to both taxpayers and tax compliance. High-quality taxpayer service helps taxpayers voluntarily comply with their tax obligations and builds trust. Facilitating front-end compliance is much more cost-effective than collecting from noncompliant taxpayers one audit at a time. This is critical because more than 98 percent of all revenue the IRS collects is paid timely and voluntarily. Less than two percent is collected through enforcement actions. There is no doubt that enforcement plays an important role in deterring noncompliance. But today the IRS spends 43 percent of its budget on enforcement and less than six percent on taxpayer outreach and education activities... We can and should do better.”

Solution-

1. We should REQUIRE all taxpayers, business and individual, to have a PIN number for authentication of the e-filing and with any communications.

Conclusion-

I recommend a separate taskforce that answers to Congress to assist the National Taxpayer Advocate in developing change in the business structure and processes being used.

Practical, and reasonable changes must be put at the forefront to protect taxpayer rights and help the IRS with oversight.

Thank you in advance for the opportunity to share my thoughts with you and with your leadership we will have a much-improved Tax System.