

The National Taxpayer Advocate Issued the IRS a Mid-Year Report Card

06.24.22 01.07.26

The Taxpayer Advocate Service ("TAS") is an independent body housed within the Internal Revenue Service (the "Service" or "IRS"). Its mission is to ensure taxpayers are treated fairly by the Service and that taxpayers know and understand their rights with respect to the federal tax system. Further, the TAS was created by Congress to help taxpayers resolve matters with the IRS that are not resolved through normal IRS procedures. Additionally, the TAS was established to address large-scale, systemic issues that impact groups of taxpayers. The TAS is currently led by Ms. Erin M. Collins, who joined the TAS in March 2020. She serves as the National Taxpayer Advocate ("NTA"). The NTA submits two reports to Congress each year, namely an "Annual Report" in January and what is called an "Objectives Report" in June.

On June 22, 2022, the NTA submitted the TAS [Fiscal Year 2023 Objectives Report](#) to Congress. In addition to identifying the TAS's objectives for the upcoming fiscal year, Ms. Collins sets out the good, the bad and the ugly relative to the Service's performance during the year. As a report card, it does not appear Ms. Collins gave the IRS all A's. She expressed critical comments centered primarily around three areas of customer service that include unprocessed paper-filed tax returns, delays in responding to taxpayer correspondence and failures in answering taxpayer telephone inquiries. Whether the criticism is warranted may be debatable.

The NTA did, however, recognize in the Objectives Report that the impetus for many (if not all) of the IRS performance problems stem from the COVID-19 pandemic. Ms. Collins stated:

"Before we discuss the problems encountered in the 2022 filing season, I want to credit the IRS for doing a lot right under difficult circumstances. In fairness, each year the agency has multiple taxpayer service, information technology (IT), and enforcement priorities and limited resources to allocate among them. The extraordinarily high return processing and correspondence backlogs we have seen over the past two years did not exist before the pandemic. The pandemic forced the IRS to temporarily shut down its processing facilities for the health and safety of employees. That, in turn, caused the IRS to fall behind on its inventories. Over the last two years, IRS inventories snowballed into unprecedented delays and challenges, and the IRS is still struggling to catch up. Adding further complexity, during the

pandemic, Congress directed the IRS to administer several financial relief programs that required the IRS to divert resources from its tax administration work, straining its resources even more. These challenges are a few of the reasons that taxpayers are waiting unusually long for their refunds. Although understandable, it is not acceptable for such unreasonable delays in taxpayers' refunds."

On June 23, 2022, the IRS issued comments on the Objectives Report. It stated:

"The inventory numbers presented in the National Taxpayer Advocate report are neither the most accurate nor most recent figures. Today, the IRS is running ahead of tax return processing compared to a year ago. The IRS continues to make substantial progress on the inventory, and this effort is helped by a combination of significant new hiring - having recently received Direct Hiring Authority - as well as adding new contractor support, shifting existing staff, providing mandatory employee overtime and developing efficiency improvements.

In general, the IRS respects the important role the National Taxpayer Advocate plays for taxpayers and tax administration, and we will closely be reviewing the midyear report."

Backlog of Unprocessed Tax Returns

The NTA points out in the Objectives Report that of the almost 139 million individual tax returns filed with the IRS this past filing season, 96 percent were filed electronically. For those individuals that filed their tax returns by paper, however, huge delays in processing have been experienced, resulting in (among other things) taxpayers entitled to refunds not receiving those refunds in a timely manner.

The report states that millions of business tax returns and amended returns of both businesses and individuals filed by paper are also stuck in the IRS's processing backlog. Adding to the processing problem, the millions of taxpayers will likely be filing returns during the extended filing season in September and October. So, unless action is taken, the backlog could increase.

On the critical side of the equation, in the Objectives Report, the NTA claims that the IRS is not making adequate progress to eliminate the processing backlog from the prior tax filing season. In fact, the TAS asserts that the overall backlog has increased by 7 percent during the past year.

The TAS does, however, credit the IRS for its recent efforts to reduce the processing backlog, but points out that the Service missed opportunities to act sooner. The NTA states:

"The IRS's paper processing delays were evident more than a year ago, and the IRS could have addressed them more aggressively at that time."

The NTA suggests in the Objectives Report that the IRS should have: (i) taken steps a year ago to reassign current employees to processing functions, (ii) hired additional processing staff, and (iii) implemented 2-D barcoding, optical character recognition or similar technology in time for this past tax return filing season, all of which the NTA claims could have occurred due to recent Congressional funding increases the IRS received.

Correspondence Processing Delays

The IRS issued millions of written notices to taxpayers during the 2022 filing season. The notices typically deal with mathematical return errors, underreporting of income, requests for identity verification, requests for examination and collection matters. In most cases, a taxpayer response is required. If the IRS does not receive a timely response from the taxpayer, the IRS's automated processes will, in many cases, take adverse actions against the taxpayer.

According to the Objectives Report, through May 21, 2022, the IRS processed five million taxpayer responses to proposed adjustments, but it took an average of 251 days to do so, or more than triple the processing time that it took in the year preceding the COVID-19 pandemic. As a consequence, when a taxpayer receives a notice from the IRS relating to a paper-filed tax return, the combined return processing delay and the correspondence processing delay could result in the taxpayer experiencing a delay exceeding a year to get the matter resolved and/or receive a refund.

The NTA summed it up in the Objectives Report when she said:

"This is yet another area in which the IRS must improve and reduce the timeframe to resolve these problems. Taxpayers cannot afford to experience similar challenges in future filing seasons. Taxpayers deserve better; the IRS must figure out a way to issue timely tax refunds and process taxpayer correspondence."

Answering Telephone Inquiries

Many taxpayers whose tax returns are among the returns in the backlog or whose written notice responses are part of the response delays have called the IRS seeking assistance. The Objectives Report indicates that fewer than 20 percent of the callers got through to an IRS representative. Of those that got an IRS representative on the telephone, the NTA indicates that they had to wait on hold for an average of 29 minutes. The NTA stated:

"The IRS needs to provide better service to these taxpayers..."

Conclusion

While the precise statistics may be subject to debate, the Objectives Report reflects an undebatable point - significant taxpayer customer service issues exist within the IRS. There is no doubt, however, the COVID-19 pandemic is the predominant contributor to the issues. As a result of the pandemic, the Service was hit with staffing shortages, immediate diversion of human resources to pandemic relief efforts and stay-at-home orders, resulting in drastic changes to its workforce. There is no uncertainty that IRS officials are exerting strong efforts to alleviate the problems reflected in the Objectives Report, but those efforts will not remedy the problems immediately. Hopefully, the IRS, taxpayers and tax advisers recognize these hurdles, and will work together to get past them as soon and as painlessly as possible.

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