

STATEMENT OF

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JOINT HEARING ON

IRS CUSTOMER SERVICE CHALLENGES

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT OPERATIONS

AND

**SUBCOMMITTEE ON HEALTH CARE, BENEFITS AND ADMINISTRATIVE
RULES**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Chairmen Meadows and Jordan, Ranking Members Connolly and Krishnamoorthi, and Members of the Subcommittees:

Thank you for inviting me to submit this statement regarding customer service challenges at the Internal Revenue Service.¹

Last year, I and the Taxpayer Advocate Service (TAS) embarked on an extraordinary endeavor to actively engage with the taxpayers we serve. As announced in my 2015 Annual Report to Congress, in which we analyzed the IRS's "Future State vision," I traveled the country and held 12 Public Forums on Taxpayer Needs and Preferences.² Together with Members of Congress, including Chairman Meadows, I heard directly from taxpayers and their representatives about the challenges they face in complying with the tax laws and dealing with the IRS.³ TAS also held "Future State" focus groups of tax return preparers and practitioners at the IRS Tax Forums.⁴ And we engaged every TAS office in meetings about the Future State because TAS typically assists between 220,000 and 250,000 taxpayers a year in resolving their problems with the IRS, so our employees see first-hand the challenges taxpayers face.⁵

We also conducted a nationwide survey of U.S. taxpayers to hear directly what they need in the way of taxpayer service.⁶ Finally, my immediate staff identified significant

¹ The views expressed herein are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate is appointed by the Secretary of the Treasury and reports to the Commissioner of Internal Revenue. However, the National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget. Congressional testimony requested from the National Taxpayer Advocate is not submitted to the IRS, the Treasury Department, or the Office of Management and Budget for prior approval. However, we are providing courtesy copies of this statement to both the IRS and the Treasury Department.

² See National Taxpayer Advocate 2015 Annual Report to Congress xv. National Taxpayer Advocate Public Forums were held in the following locations: Washington, DC (Feb. 23, 2016); Glen Ellyn, IL (Mar. 9, 2016 with Congressman Roskam); Bronx, NY (Mar. 18, 2016 with Congressman Serrano); Hendersonville, NC (Apr. 4, 2016 with Congressman Meadows); Harrisburg, PA (Apr. 8, 2016); Red Oak, IA (May 5, 2016 with Senator Grassley); Baltimore, MD (May 13, 2016 with Senator Cardin); Washington, DC (May 17, 2016); Parma, OH (Aug. 16, 2016 with Congressman Renacci); Portland, OR (Aug. 18, 2016); Los Angeles, CA (Aug. 22, 2016 with Congressman Becerra); and San Antonio, TX (Aug. 30, 2016 with Congressman Doggett).

³ For information about and full transcripts from the National Taxpayer Advocate Public Forums, see <https://taxpayeradvocate.irs.gov/public-forums> (last visited on Mar. 4, 2017).

⁴ TAS Communications and Liaison, *2016 IRS Nationwide Tax Forums TAS Focus Group Report: Preparers' Thoughts About IRS's Proposed Future State* (Oct. 2016), https://taxpayeradvocate.irs.gov/Media/Default/Documents/ResearchStudies/2016_TaxForum_FutureState_FocusGroup_Report.pdf.

⁵ For the results of the discussions with TAS employees, see <https://taxpayeradvocate.irs.gov/public-forums> (last visited on Mar. 4, 2017).

⁶ See National Taxpayer Advocate 2016 Annual Report to Congress, vol. 2, at 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*).

research on topics that have relevance for tax administration, including approaches to voluntary compliance, worldwide taxpayer service, alternative dispute resolution, taxpayer rights, fraud detection, online accounts, and the impact of geographic presence and focus. We expanded our searches beyond the tax literature, to psychology, behavioral economics, organizational theory, network theory, marketing, and other disciplines. These literature reviews are published in volume 3 of the National Taxpayer Advocate's 2016 Annual Report to Congress.

Last year's "learning tour" culminated in a Special Focus section of my most recent Annual Report to Congress, in which I set forth my observations and recommendations to turn the IRS into a taxpayer-centric 21st century tax administration.⁷ The Special Focus is appended in its entirety to this testimony, but I summarize some of my findings and recommendations below.

I. Simplify the Internal Revenue Code

At the outset I note the need for comprehensive tax reform, including provisions relating to the taxation of individuals. The compliance burdens the current tax code imposes are overwhelming for taxpayers and the IRS alike. My staff analyzed IRS data for 2015 and determined that individuals and businesses spend about six billion hours a year complying with the code's filing requirements – not including the millions of additional hours they spend responding to IRS audits or notices. If tax compliance were an industry, it would be one of the largest in the United States. To consume six billion hours, the "tax industry" requires the equivalent of three million full-time workers.

The tax code, which runs several million words, contains more than 200 tax deductions, credits, exclusions, and similar tax breaks, known collectively as "tax expenditures." In combination, the Treasury Department has estimated that tax expenditures in Fiscal Year 2016 came to about \$1.4 trillion – more than the \$1.2 trillion Congress appropriated to fund the entire federal government. Put simply, Congress now spends more money each year through the tax code than it spends through the appropriations process.⁸

⁷ National Taxpayer Advocate 2016 Annual Report to Congress 1-41 (*Special Focus: IRS Future State: The National Taxpayer Advocate's Vision for a Taxpayer-Centric 21 Century Tax Administration*), https://taxpayeradvocate.irs.gov/Media/Default/Documents/2016-ARC/ARC16_Volume1_SpecialFocus.pdf.

⁸ For prior discussions of tax compliance burdens and recommendations for tax reform, see National Taxpayer Advocate 2012 Annual Report to Congress 3-23 (*Most Serious Problem: The Complexity of the Tax Code*); National Taxpayer Advocate 2010 Annual Report to Congress 3-14 (*Most Serious Problem: The Time for Tax Reform Is Now*); National Taxpayer Advocate 2010 Annual Report to Congress 365-372 (*Legislative Recommendation: Enact Tax Reform Now*); National Taxpayer Advocate 2005 Annual Report to Congress 375-380 (*Key Legislative Recommendation: A Taxpayer-Centric Approach to Tax Reform*); *Fundamental Tax Reform: Hearing Before the H. Comm. on Ways and Means*, 112th Cong. 6-38 (2011) (statement of Nina E. Olson, National Taxpayer Advocate), <https://www.gpo.gov/fdsys/pkg/CHRG-112hhrg70869/pdf/CHRG-112hhrg70869.pdf>; *Public Meeting of the President's Advisory Panel on*

As the National Taxpayer Advocate, I believe the most effective and comprehensive way to reduce taxpayer burden is for Congress to vastly simplify the Internal Revenue Code.

II. Establish Competency Standards for Federal Tax Return Preparers

Despite the complexity of the current tax code, anyone may hold himself or herself out as a tax return preparer. Two studies conducted by the Government Accountability Office (GAO) illustrate the consequent inaccuracy of tax returns.⁹ In both studies, GAO auditors posed as taxpayers and had 19 returns prepared, and also in both studies, 17 out of the 19 preparers computed the wrong tax liability. In most cases, the preparers caused taxpayers to underpay (subjecting them to audit adjustments later), while in other cases, the preparers caused taxpayers to overpay. High-quality return preparation is critical because the majority of taxpayers pay preparers to complete their returns for them, and the consequences of filing inaccurate tax returns can be significant.

In the past, legislation requiring tax return preparers to pass a minimum competency test and keep up on tax-law changes through continuing education was approved by the Senate on a voice vote,¹⁰ and has been introduced by Republicans and Democrats in the House.¹¹ I recommend Congress pass this legislation so that, as long as the tax code remains so complicated, taxpayers will be better served by the tax return preparation industry.¹²

Federal Tax Reform (Mar. 3, 2005) (statement of Nina E. Olson, National Taxpayer Advocate), <http://govinfo.library.unt.edu/taxreformpanel/meetings/meeting-03032005.html>.

⁹ See GAO, GAO-14-467T, *Paid Tax Return Preparers: In a Limited Study, Preparers Made Significant Errors* (2014), <http://www.gao.gov/assets/670/662356.pdf>; GAO, GAO-06-563T, *Paid Tax Return Preparers: In a Limited Study, Chain Preparers Made Serious Errors* (2006), <http://www.gao.gov/assets/120/113330.pdf>. See also Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2008-40-171, *Most Tax Returns Prepared by a Limited Sample of Unenrolled Preparers Contained Significant Errors* (Sept. 3, 2008).

¹⁰ Tax Administration Good Government Act, H.R. 1528 (incorporating S. 882), 108th Cong. (2004) (approved by the Senate by unanimous consent on May 19, 2004).

¹¹ See, e.g., Taxpayer Return Preparer Competency Act, H.R. 4141, 114th Cong. (2015) (sponsored by Congresswoman Diane Black); Taxpayer Rights Act, H.R. 4128, 114th Cong. § 202 (2015) (sponsored by Congressman Xavier Becerra).

¹² For prior discussions of preparer problems and recommendations for minimum standards, see National Taxpayer Advocate Fiscal Year 2015 Objectives Report to Congress 71-78; National Taxpayer Advocate 2013 Annual Report to Congress 61-74 (Most Serious Problem: *Regulation of Return Preparers: Taxpayers and Tax Administration Remains Vulnerable to Incompetent and Unscrupulous Return Preparers While the IRS Is Enjoined From Continuing Its Efforts to Effectively Regulate Unenrolled Preparers*); National Taxpayer Advocate 2009 Annual Report to Congress 41-69 (Most Serious Problem: *The IRS Lacks a Servicewide Return Preparer Strategy*); National Taxpayer Advocate 2006 Annual Report to Congress 197-221 (Most Serious Problem: *Oversight of Unenrolled Return Preparers*); National Taxpayer Advocate 2004 Annual Report to Congress 67-88 (Most Serious Problem: *Oversight of*

III. To Fairly, Effectively, and Efficiently Administer the Tax System, the IRS Needs More Funding, But It Also Should Orient Its Mission Around Taxpayer Service and Taxpayer Rights

To create an environment that encourages taxpayer trust and confidence, the IRS must change its culture from one that is enforcement-oriented to one that is service-oriented. Of the IRS's current appropriated budget of \$11.2 billion, 43 percent is allocated to enforcement, while less than six percent is allocated to taxpayer outreach and education activities.¹³ In 2014, the IRS ceased all tax return preparation in its Taxpayer Assistance Centers (TACs), sharply curtailed the scope of tax-law questions it would answer during the filing season on its telephone lines and in its TACs, and stopped answering any tax-law questions after April 15.

The TACs, which were previously known as "walk-in sites," moved to an "appointment only" system this year. I previously recommended the IRS offer appointments by request as an option. However, the IRS's new policy against accepting walk-in taxpayers has led to considerable taxpayer frustration and a failure to meet taxpayer needs. Many – if not most – taxpayers have no way of knowing the IRS is no longer accepting walk-ins, so some travel considerable distances only to be sent home. The IRS cites customer satisfaction surveys to suggest taxpayers are pleased with the appointment-only approach. But these surveys are misleading because they are only administered to taxpayers who have been served. They do not reflect the opinions of taxpayers who are turned away. The IRS has reduced the number of TACs from 401 to 376 since 2011.¹⁴ In addition, 22 TACs have no staff, while 95 have only one employee.¹⁵

Twelve states have no Appeals Officers stationed within their boundaries,¹⁶ and 14 states have no IRS liaisons to Small Business and Self-Employed taxpayers.¹⁷ In fact,

Unenrolled Return Preparers); National Taxpayer Advocate 2003 Annual Report to Congress 270-301 (Legislative Recommendation: *Federal Tax Return Preparers: Oversight and Compliance*); National Taxpayer Advocate 2002 Annual Report to Congress 216-30 (Legislative Recommendation: *Regulation of Federal Tax Return Preparers*).

¹³ Consolidated Appropriations Act, 2016, Pub. L. No. 114-113 (2015). An additional 33 percent of the IRS budget is allocated to the Operations Support account, which is used to support program activities. The balance of the budget is allocated mostly to returns processing and to the Business Systems Modernization account.

¹⁴ In 2011, the IRS operated 401 TACs. IRS response to TAS information request (Dec. 23, 2014). As of December 31, 2016, the IRS operated 376 TACs, a reduction of six percent. IRS response to TAS fact check (Dec. 20, 2016).

¹⁵ IRS response to TAS fact check (Dec. 20, 2016).

¹⁶ The 12 states that lack a permanent Appeals Officer are Alaska, Arkansas, Delaware, Idaho, Kansas, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont, and Wyoming. There is also no Appeals Office in the territory of Puerto Rico. IRS Office of Appeals response to TAS information request (June 6, 2016).

according to IRS data, the agency dedicates only 98 employees to conduct outreach and education to the roughly 57 million Small Business and Self-Employed taxpayers (*i.e.*, taxpayers who are self-employed or own small businesses), and only 376 employees to conduct outreach and education to the nearly 125 million Wage and Investment taxpayers (*i.e.*, taxpayers who are classified as “employees”). Meanwhile, the IRS has over 3,000 revenue officers (who conduct field collection activities) and over 8,800 revenue agents (who conduct field audit activities).¹⁸

Figure 1: Locations with Specified Employees in the Last Pay Period of the Fiscal Year

Number of Locations, Employees, or Visitors	2011	2012	2013	2014	2015	2016
IRS Offices (Cities)	541	523	510	499	479	470
Appeals Officers (AOs)	1,129	1,058	958	881	795	739
Revenue Officers (ROs)	4,402	4,035	3,703	3,441	3,191	3,072
Revenue Agents (RAs)	11,959	11,258	10,502	9,776	9,090	8,871
Stakeholder Liaison Outreach Employees	137	123	119	110	105	98
Stakeholder Partnerships, Education and Communication Outreach Employees	522	475	444	405	386	365
Taxpayer Assistance Centers (TACs)	401	401	398	382	378	376
TAC Service Reps	1,639	1,515	1,484	1,520	1,423	1,267

Despite this imbalance, the IRS budget request for FY 2017 sought an increase of 7.2 percent in enforcement funding, as compared with an increase of just 3.1 percent in taxpayer services funding.¹⁹ This proposal to increase enforcement funding by more than twice the rate of taxpayer services funding was made against a backdrop in which the agency has been unable to meet basic taxpayer needs. Among calls routed to its telephone assistors, the IRS was able to answer only 38 percent in FY 2015 and 53 percent in FY 2016, and taxpayers who managed to get through to the IRS were kept on hold for an average of 30 minutes and 18 minutes, respectively, in those years.²⁰

For calendar year 2017, although the IRS is showing a much higher level of service (LOS) on general assistor calls, it has only been able to answer 37 percent of the nearly

¹⁷ The 14 states are Alaska, Delaware, Hawaii, Kentucky, Mississippi, Montana, North Dakota, Nebraska, New Hampshire, South Dakota, Vermont, West Virginia, Wisconsin, and Wyoming. There also is no liaison in the District of Columbia. IRS response to TAS fact check (Dec. 15, 2016); IRS Human Resources Reporting Center, Report of Small Business/Self-Employed (SB/SE) Job Series 0526, Stakeholder Liaison Field Employees as of the week ending October 1, 2016 (Dec. 1, 2016).

¹⁸ IRS response to TAS fact check (Dec. 16, 2016).

¹⁹ IRS FY 2017 Budget-in-Brief, at 1, <https://www.irs.gov/PUP/newsroom/IRS%20FY%202017%20BIB.pdf>.

²⁰ IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (week ending Sept. 30, 2016) (showing both FY 2015 and FY 2016 toll-free telephone performance statistics).

1.4 million calls received on its Installment Agreement/Balance Due line.²¹ This is down 53 percent over the same period last year. The hold time for the taxpayers who actually get through on this line is up even more significantly – from ten minutes last year to 57 minutes this year.²² *To be clear: The 1.4 million taxpayer calls to this line generally reflect taxpayers who owe money to the IRS and are trying to make arrangements to resolve their delinquent tax debts. Yet the IRS is not accepting 63 percent of these calls, and it is making the other 37 percent of callers wait nearly one hour to get through.*

Much of this state of affairs has been brought about by sustained decreases in the IRS's annual appropriation over the last decade – about 19 percent on an inflation-adjusted basis.²³ Despite these cuts, the IRS must deliver a filing season in which it processes some 150 million individual tax returns and issues over 115 million refunds totaling over \$345 billion,²⁴ while guarding against between \$22 and \$24 billion in identity theft and refund fraud,²⁵ and implementing legislative changes that have averaged more than one a day since 2001.²⁶ Cuts of this magnitude ultimately hurt taxpayers. Each year, the IRS receives more than 100 million telephone calls, roughly five million taxpayer visits in its TACs, and some ten million pieces of correspondence from taxpayers responding to proposed tax adjustment notices.²⁷ Without sufficient staffing, the IRS cannot handle

²¹ See IRS, Joint Operations Center, *Snapshot Reports: Product Line Detail: Installment Agreement/Balance Due* (week ending Feb. 25, 2017).

²² IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot* (week ending Feb. 25, 2017) (showing calendar year 2017 year-to-date telephone performance statistics with a comparison to the corresponding period in 2016).

²³ In FY 2010, the agency's appropriated budget stood at \$12.1 billion. For FY 2016, its budget was \$11.2 billion, a reduction of nearly eight percent over the six-year period. Inflation over the same period is estimated at nearly 11 percent. See Office of Management and Budget, *Fiscal Year 2016 Budget of the U.S. Government, Historical Tables* (230-31), Table 10.1, <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hist.pdf> (showing Gross Domestic Product (GDP) and year-to-year increases in the GDP). In addition, the IRS was required to implement the statutory requirements of the Patient Protection and Affordable Care Act and the Foreign Account Tax Compliance Act during this time, causing a further drain on its resources.

²⁴ IRS Pub. 558, *IRS Data Book 2015* (Mar. 2016), Tables 2, 7 and 8. Figures are for FY 2015.

²⁵ Treasury Inspector General for Tax Administration, Ref. 2015-40-026, *Efforts Are Resulting in the Improved Identification of Fraudulent Tax Returns Involving Identity Theft 2* (Apr. 24, 2015).

²⁶ Unpublished data provided by Wolters Kluwer Tax & Accounting to TAS (Dec. 8, 2016). Wolters Kluwer notes there is some subjectivity in computing these numbers because the counts are tied to how legislation is written. In general, an "Act Finding List" lists every Act section (or portion thereof) in a given Public Law and the corresponding amendment(s) it makes to the Internal Revenue Code. For example, assume an Act adds three new sections to the Internal Revenue Code. If the Act contains three sections that each adds one Code section, Wolters Kluwer would count three Code changes. But if the Act contains one section that adds a new Part to the Internal Revenue Code and that Part, in turn, contains the same three new Code sections, Wolters Kluwer would count one Code change.

²⁷ IRS, Joint Operations Center, *Snapshot Reports: Enterprise Snapshot, IRS Enterprise Total* (final week of each fiscal year for FY 2008 through FY 2016) (showing telephone call volumes exceeding 100 million in every year); IRS Wage & Investment Division, *Business Performance Review 7* (1st Quarter – FY 2017,

this volume of traffic quickly and accurately. In addition, cuts in enforcement funding require the IRS to rely more heavily on automated notices, which are often unclear and sometimes inaccurate, and then taxpayers often cannot reach an employee to obtain clarification or resolve the matter.

In this funding environment, the IRS has to make hard choices. Taxpayer service is a likely target for reductions, because it is difficult (but not impossible) to measure the return-on-investment of such activities. While the IRS can compute that every dollar spent on collection activities bring in \$9.60,²⁸ the IRS has no such measure for revenue brought in by answering tax-law questions on the phones or providing free tax return preparation service for low income, disabled or elderly taxpayers in the TACs.

Notwithstanding these funding challenges, the IRS in a variety of ways signals to its employees that it disproportionately values enforcement. For example, the IRS every year posts annual “Enforcement and Service Results” on its website.²⁹ This generally consists of five or six pages of enforcement data (including audit rates for individuals and business entities, enforcement dollars assessed, enforcement dollars collected, liens filed, levies issued, and criminal indictments and convictions), with a single page of taxpayer service data tacked on at the end. There is a lot of truth to the well-known adage, “you get what you measure.” The fact that the word “Enforcement” comes first and is much more heavily emphasized makes a statement to the public – and to the IRS’s own employees – about agency priorities.

Congress has previously expressed concern about the IRS’s focus on enforcement at the expense of service. In the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress directed the IRS to “restate its mission to place a greater emphasis on serving the public and meeting taxpayers’ needs.”³⁰ In response, the IRS adopted the following mission statement: “Provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and *by applying the tax law* with integrity and fairness to all.”³¹ (Emphasis added.) In 2009 – with no public discussion or notice to Congress – the IRS quietly changed its mission statement to read: “Provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and *enforce the tax law* with integrity and fairness to all.”³² (Emphasis

Feb. 9, 2017) (showing 5.6 million visits in FY 2015 and 4.5 million visits in FY 2016); IRS, Joint Operations Center, *Adjustments Inventory Reports: July-September Fiscal Year Comparison* (FY 2007 through FY 2016) (showing annual taxpayer correspondence volumes regarding potential adjustments has ranged from a low of 7.3 million letters to a high of 11.8 million letters and has averaged around ten million per year).

²⁸ IRS FY 2017 Budget-in-Brief, at 10, <https://www.irs.gov/PUP/newsroom/IRS%20FY%202017%20BIB.pdf>.

²⁹ IRS, *Fiscal Year 2015 Enforcement and Service Results*, <https://www.irs.gov/uac/newsroom/fiscal-year-2015-enforcement-and-service-results>.

³⁰ IRS Restructuring and Reform Act, Pub. L. No. 105-206, Title I, § 1002, 112 Stat. 685, 690 (1998).

³¹ IRM 1.1.1.1 (Mar. 1, 2006).

³² IRM 1.1.1.2 (June 2, 2015).

added.) This shift in tone and emphasis – from *applying* the law to *enforcing* the law – suggests the IRS leadership disagreed with the Congressional directive and decided to place greater emphasis on “enforcement” in its mission statement.

Perhaps the most important point I am trying to make is that service and enforcement should not be treated as an “either/or” proposition. The IRS, like any tax administrator, should have one overriding goal – to increase tax compliance, and particularly voluntary tax compliance. That means, for example, that part of every compliance touch should involve talking to the taxpayer and making sure the taxpayer understands what he or she did wrong so he or she is less likely to do it again. Indeed, if the IRS engages with taxpayers in this way, it might even learn where it is wrong itself – as it often is. Regardless, there is substantial research and documentary evidence that show a service-oriented approach toward tax administration is effective and efficient, and maximizes *long-term* voluntary compliance. Moreover, the Taxpayer Bill of Rights provides U.S. taxpayers with, among other things, the right to challenge the IRS’s position *and be heard*.³³ The last part of that right is critical. It is not enough simply for taxpayers to be able to object; the IRS must *listen*. This right is fundamental to procedural due process.

All this is not to say that IRS employees don’t care about taxpayer service, nor am I saying the IRS is “just” focused on enforcement. But I do believe that IRS employees and the taxpaying public often see things quite differently. Often, the IRS doesn’t clearly see how it is presenting itself to the public. For example, as part of the process of developing the IRS’s Future State vision, each of the four IRS Business Operating Divisions (or BODs) began by developing its own Concept of Operations (CONOPS) and an accompanying “taxpayer vignette” to illustrate how its vision of the Future State will work. Notably, each BOD’s vignette shows the IRS contacting a taxpayer to conduct an audit or otherwise challenge a taxpayer’s return, and in every case, the vignette shows the taxpayer ultimately conceding the IRS is correct and consenting to the IRS’s proposed adjustment. At best, these vignettes reveal a lack of sensitivity as to how external stakeholders (such as taxpayers) will perceive them. At worst, they suggest to the taxpaying public that the IRS believes it is always right and the taxpayer is always wrong.³⁴

³³ See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are codified in the Internal Revenue Code. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

³⁴ “I find it funny that in both scenarios, there’s more taxes. I think that reflects the idea that this model is about the IRS finding new ways to use technology for their benefit, and not for taxpayer purposes.” Statement of Audience Member, National Taxpayer Advocate Public Forum 39 (Aug. 18, 2016), https://taxpayeradvocate.irs.gov/Media/Default/Documents/PublicForums/PortlandOR_Transcript_081816.pdf. “I’m a CPA, and I’ve been practicing for 35 years... [T]he examples here – both end up resolving in more tax being owed – is like, ‘We were right, you were wrong, pay us the money.’” *Id.* at 55-56.

Accordingly, I recommend that the IRS:

- Revise its mission statement to re-emphasize a non-coercive approach to tax administration and explicitly affirm the role of the Taxpayer Bill of Rights as the guiding principle for tax administration.³⁵

IV. Greater Congressional Oversight Over the IRS's Strategic and Operational Plans Would Help Restore Trust in the Tax System

Congress has a significant role to play in ensuring that the IRS has adequate resources to do its job and that it allocates those resources wisely. Appropriate oversight and greater transparency increase taxpayer trust in the tax agency and the tax system. As part of the reorganization mandated by Congress in RRA 98, Congress held joint annual hearings, over five years, to review the IRS strategic plan.³⁶ The hearing participants included three members (two majority and one minority) from each of the congressional committees with jurisdiction over the IRS – Senate Finance, Appropriations, and Governmental Affairs, and House Ways and Means, Appropriations, and Governmental Reform and Oversight. The hearings were to cover the following topics:

- (1) IRS progress in meeting its objectives under its strategic and business plans;
- (2) IRS progress in improving taxpayers service and compliance;
- (3) IRS progress on technology modernization; and
- (4) The annual filing season.³⁷

By reinstituting these joint oversight hearings, Congress can provide the IRS with the opportunity to articulate, with specificity, its need for additional resources and its plans for applying them. Hearing from both the IRS and outside experts – including tax professional organizations, business representatives, Low Income Taxpayer Clinics, and behavioral scientists – Congress will better understand the challenges that both the IRS and taxpayers face. It can then make informed decisions about the level and general application of resources necessary for the IRS to provide U.S. taxpayers with a 21st century tax administration that they can trust and admire.

³⁵ See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the Internal Revenue Code. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

³⁶ Pub. L. No. 105-206, § 4001 (enacting IRC § 8021(f)) and § 4002 (amending IRC § 8022), 112 Stat. 685, 783-784 (1998).

³⁷ H.R. Rep. No. 105-364, at 84-85 (1997). The IRS Restructuring Commission earlier recommended that Congress create a joint committee on IRS administration, which would conduct joint hearings on similar topics. National Commission on Restructuring the IRS, *A Vision for a New IRS* 11 (June 25, 1997).

Accordingly, I recommend that Congress:

- Reinststate the joint review of the IRS strategic plans and budget provided for under IRC §§ 8021(f) and 8022;
- Require the IRS to submit a comprehensive “Future State” plan that describes in detail its vision for a 21st century IRS, including an explanation of how this vision meets the needs and preferences of different U.S. taxpayer segments as well as a description of the challenges and obstacles the IRS faces in achieving this “Future State;” and
- Provide funding for IRS initiatives that enhance and maintain voluntary compliance and that align with the needs and preferences of taxpayers as they attempt to comply with the tax laws.

V. The IRS Must Better Understand the Needs and Preferences of Its Diverse Taxpayer Population to Increase Long-Term Voluntary Tax Compliance

With respect to the IRS’s plans for its Future State, I have previously written about my concerns in the National Taxpayer Advocate’s 2015 Annual Report to Congress.³⁸ In addition to calling attention to the IRS’s lack of transparency with taxpayers and Congress about the specifics of its plans, I expressed concerns about the IRS’s move away from person-to-person assistance and compliance contacts in favor of impersonal electronic “self-service” and greater reliance on private third parties to provide for-fee services previously provided by the IRS for free, thereby increasing taxpayers’ costs for the “privilege” of paying their taxes.

While the IRS has partially addressed my concerns about transparency³⁹ and the Commissioner has made clear that the IRS does not intend to eliminate phone or in-person assistance,⁴⁰ I remain unconvinced that the IRS Future State vision addresses the diverse needs and preferences of the diverse U.S. taxpayer population. At the heart of the Future State vision is the IRS online account. I myself previously have advocated for an online account,⁴¹ because for many taxpayers and many types of activities, it can be convenient and informative. Indeed, I applaud the IRS for developing an online

³⁸ National Taxpayer Advocate 2015 Annual Report to Congress 3-13 (Most Serious Problem: *Taxpayer Service: The IRS Has Developed a Comprehensive “Future State” Plan That Aims to Transform the Way It Interacts with Taxpayers, But Its Plan May Leave Critical Taxpayer Needs and Preferences Unmet*).

³⁹ See IRS, <https://www.irs.gov/uac/newsroom/irs-future-state> (last visited on Mar. 4, 2017).

⁴⁰ See, e.g., *Tax Return Filing Season: Hearing Before the H. Subcomm. On Oversight, Comm. on Ways and Means*, 114th Cong. (Apr. 19, 2016) (written statement of John Koskinen, Commissioner, Internal Revenue Service).

⁴¹ See, e.g., National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2, at 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*).

account option that seems simple, clear, and effective for taxpayers in accomplishing certain basic tasks. However, as we heard repeatedly in our Public Forums and our TAS employee focus groups, digital interaction is not appropriate for certain taxpayer populations, nor is it suitable for taxpayers with intensely factual and specific matters (which is what all but the most simple tax transactions are).

For example, over 46 percent of individual taxpayers filing returns in 2016 are low income taxpayers, having incomes at or below 250 percent of the federal poverty level.⁴² These taxpayers can ill afford to pay more for tax return preparation and assistance. Moreover, TAS survey research shows that 33 million U.S. taxpayers have no broadband access at home, including 14 million U.S. taxpayers who have no home Internet access at all.⁴³ Thus, for a significant portion of the taxpaying population, the IRS Future State, with its heavy emphasis on an online account and online “self-correction,” will leave them out in the cold.

Even among taxpayers who are able to go online, there are significant concerns about being able to pass authentication screens, sharing financial information over the Internet, and sharing personal information with the government. After the IRS established its current online account in the fall of 2016 with three-factor security authentication, only about 30 percent of the taxpayers who attempted to create an online account were able to do so.⁴⁴ Thus, the necessity to protect the integrity of taxpayer data creates a barrier to access. I am not suggesting we should reduce our security. To the contrary, I believe protecting the security of taxpayer information is absolutely essential. But we must recognize that providing this security has implications for how many taxpayers will be able to access their accounts electronically and how many will need to contact the IRS by telephone or in TACs.

According to a recent TAS nationwide survey of U.S. taxpayers, more than half of the Low Income, Senior, and Disabled respondents said they do not feel secure sharing personal financial information over the Internet. Indeed, even among the Not Low Income population, over 43 percent of taxpayers said they do not feel secure sharing their personal financial information over the Internet. And significant percentages of all taxpayer segments said they do not feel secure sharing personal information with a government agency. In fact, only 33 percent of the Not Low Income population, 19

⁴² Of the 135.8 million individual taxpayers who had filed Tax Year 2015 individual income tax returns through October 2016, nearly 63 million taxpayers (46.2%) had Total Positive Income at or below 250 percent of the federal poverty level. These numbers exclude filers who are claimed as a dependent on another tax return. IRS Compliance Data Warehouse, Individual Returns Transaction File for Tax Year 2015 (returns processed through October 31, 2016).

⁴³ See National Taxpayer Advocate 2016 Annual Report to Congress, vol. 2, at 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*).

⁴⁴ IRS response to TAS fact check (Dec. 20, 2016) (providing data through Dec. 18, 2016). The IRS declined to provide us with an updated pass rate and has said it will no longer make the rate available. Email from IRS Identity Assurance Executive to National Taxpayer Advocate (Mar. 4, 2017).

percent of the Low Income, 16 percent of the Seniors, and 18 percent of Disabled taxpayers said they are comfortable sharing personal information with the government. These findings have profound implications for taxpayers' willingness to interact with the IRS online in all but the most rudimentary of actions.⁴⁵

Accordingly, I recommend that the IRS, in collaboration with my office, undertake a comprehensive study of taxpayer needs and preferences by taxpayer segment, using telephone, online, and mail surveys, focus groups, town halls, public forums, and research studies. These initiatives should be designed to determine *taxpayer* needs and preferences, and not be biased by the IRS's own desired direction. I also recommend that Congress direct the IRS and the National Taxpayer Advocate to jointly report on the results of this comprehensive study.

VI. Conclusion

The sharp reduction in IRS funding since FY 2010 has left the IRS with fewer resources with which to meet taxpayer needs. Without sufficient resources, there is simply no way the IRS can effectively serve the 100 million taxpayers who call, the ten million taxpayers who write, and the five million taxpayers who visit the IRS each year.

However, I believe the IRS's culture is also a source of its customer service challenges. Historically, I think it is clear the IRS has viewed itself as an "enforcement first" agency rather than a "service first" agency. In my conversations with IRS leaders, they do not agree with my assessment, but I think that disagreement highlights that there is a significant difference between how the IRS views itself and how taxpayers view it. There are many examples of this, and in this statement I have cited several – a budget that provides considerably more funding for Enforcement than for Taxpayer Services, particularly outreach and education; the 2009 change in the IRS mission statement from "applying" the law to "enforcing" the law; the dearth of IRS employees assigned to perform outreach and education activities; and the vignettes in which the agency's four operating divisions illustrate their "Future State" through compliance examples where the IRS is always right and the taxpayer is always wrong – and no outreach and education is illustrated.

Several incidents over the last few years have reduced the confidence of many Members of Congress in the leadership of the IRS. Largely as a result of that reduced confidence, Congress has cut the IRS budget to the point where the agency is now struggling to meet taxpayer needs. For the sake of our country's roughly 150 million individual taxpayers and ten million business-entity taxpayers, I believe it is critical that Congress and the IRS work together to find a better way forward. The IRS should take steps to rebuild congressional trust, and Congress should respond by providing the IRS

⁴⁵ See National Taxpayer Advocate 2016 Annual Report to Congress, vol. 2, at 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*).

with the funding it needs to do its important work of helping taxpayers meet their tax obligations and collecting the revenue on which the rest of government depends. I have tried to offer some recommendations to help in this regard, and I believe the most important is for Congress to hold regular oversight hearings on core IRS work – taxpayer service, audits and collection activities – so it can be confident the funds it provides are being well spent.