Statement of Kathy Petronchak

Director – IRS Practice and Procedure

alliantgroup, LP

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Committee on Ways and Means

Subcommittee on Oversight

Hearing on

"IRS Reform: Resolving Taxpayer Disputes"

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Chairman Buchanan, Ranking Member Lewis, and Members of the Subcommittee:

Thank you for inviting me to testify today regarding the operations of the Internal Revenue Service. It is an honor to provide comments today for your hearing on IRS Reform: Resolving Taxpayer Disputes.

My name is Kathy Petronchak, and I am Director of IRS Practice and Procedure at alliantgroup, LP. I am a Certified Public Accountant and have been with the firm for almost four years. My experience prior to this, includes five years of work in a big 4 accounting firm in the tax controversy area and, I worked at the IRS for almost 29 years. My last position with the IRS was that of Commissioner, Small Business/Self Employed Division but during my public service career I also served in the Large & Mid-Size Business Division (now Large Business & International Division). I believe this experience gives me a unique perspective into how the examination process is currently being conducted for both small and mid-size businesses and allows me to be well positioned to speak to the issues you wish to discuss today.

The firm of which I am a part, alliantgroup, is a leading tax service consultant for small and medium sized businesses across the country. alliantgroup has over 700 professionals located nationwide, focused on assisting small and medium sized businesses to avail themselves of proper and available tax incentives, including tax credits, designed to create U.S. jobs, promote research and innovation, and otherwise help the United States remain the leader in the global economy. We also assist these businesses in tax controversy, and we represent them before the IRS and state tax regulators. In providing these services, we partner with the CPA firms of these businesses. We work with over three thousand CPA firms and thousands of businesses from all over the country in a remarkably diverse set of industries. Our work and daily interactions reveal that our CPA partners and clients share a common experience relating to their dealings with the IRS.

I speak today from the context of someone who was working at the IRS during the 1998 reforms and then in private practice with regards to ideas for rebuilding the IRS as stated in The Blueprint.[1] From

[1] A Better Way: Our Vision for a Confident America (June 24, 2016), *available at* https://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf.

my perspective the organizational changes that were implemented as part of the IRS Restructuring and Reform Act of 1998 were sound and are not in need of significant reorganization at this time. The premise then that operating units focused on particular taxpayer segments would provide better customer service and be competent in handling matters relevant to those taxpayers still rings true today. However, I believe there are issues that can and should be addressed to make the IRS more efficient and interactions with taxpayers much better without the disruptive effect of major changes to business units or the appeals function. I hope to address a couple of those issues in my testimony today. I also believe that some of the problems that exist today at the IRS stem or are exacerbated by the lack of adequate funding in recent years.

My testimony today focuses on the challenges taxpayers face when dealing with the IRS, and more specifically what the IRS can do to make the examination and Appeals process more fair, efficient, and transparent. The practices and procedures utilized by the IRS during examination and Appeals of small and mid-sized businesses would benefit from reform. We view the solutions to these issues as a benefit to taxpayers and the IRS. There are steps that can be taken by the IRS that will improve the examination and Appeals process for taxpayers while showing respect for taxpayer rights and improving the customer service provided.

We believe there is some inconsistent treatment of small versus large businesses by the IRS, as well as differing procedures being used in audits of these businesses. It is vitally important to remember that America's small businesses do indeed have needs, interests, and resources that may differ significantly from those of larger businesses. However, some of the procedures utilized in large business audits provide added transparency that would bring greater fairness to the small business examination. If these procedures were adopted for all taxpayers, the IRS can improve transparency in its examination of small businesses and better ensure they are treated fairly.

We strongly agree with The Blueprint basics that IRS employees should be held accountable to the Taxpayer Bill of Rights (TBOR). To that end we hope to address several specific provisions of the Taxpayer Bill of Rights including the right of all taxpayers to:

- Quality Service;
- Be Informed;
- Challenge the Positon of the IRS and Be Heard;
- Appeal a Decision of the IRS in an Independent Forum;
- Privacy;
- Confidentiality; and
- A Fair and Just Tax System.

As indicated, a number of issues that we will discuss today may be impacted by the funding problem that has plagued the IRS for a number of years now. We urge you to support adequate funding for the IRS including allowing the IRS to upgrade its IT systems, train its employees to ensure competence in handling tax issues, provide timely guidance to taxpayers, and ensure better service for American taxpayers as well as a fair administration of the Tax Code.

Today we would like to focus on the following issues: 1) decreased use of alternative dispute resolution processes; 2) emerging issues in an independent Appeals process; 3) lack of transparency; 4) third party contacts; 5) IRS education and outreach efforts; and 6) Taxpayer Bill of Rights.

1. The IRS is Decreasing its Use of Alternative Dispute Resolution

The IRS has a number of alternative dispute resolution tools at its disposal. Several of these such as Arbitration, Post Appeals Mediation and Early Referral seem more appropriate for large business taxpayers who have the experts and other resources to pursue these options.

Our focus for today is on the IRS Fast Track Settlement (FTS) program that was officially established in 2003.[2] It was created as an expedited dispute resolution option available for taxpayers who want to mediate their disputes during an examination with an Appeals Official acting as a neutral party or mediator. The purpose is to bring the examination team together with the taxpayer, so the two parties can discuss their positions and come to an agreement to settle an issue or the entire case at the earliest possible stage in an examination, without having to go through the formal administrative Appeals process or to court. Although the original adoption of the program in 2003 covered only large and mid-size businesses, it was expanded with Announcement 2011-5 to enable small businesses under examination to more quickly settle their differences with the IRS. With Revenue Procedure 2017-25, the FTS program was formally established for Small Business/Self Employed (SB/SE) Division taxpayers and made permanent. [3] For years FTS has been accepted as a powerful tool for taxpayers, allowing them to iron out their differences with the exam team on one or more contentious issues and reach a mutual agreement to close the case, allowing both parties to move on with their lives particularly since the goal is to resolve SB/SE cases within 60 days.[4]

However, in recent years, our experience has been that small and mid-sized businesses are less likely to be accepted into the FTS process. FTS must be agreed to by both the taxpayer and the revenue agent and in recent experience, revenue agents and managers seem more reluctant to utilize this dispute resolution tool.[5] This statement is based on two observations. First, statistics that were shared by IRS Appeals in a March 2016 presentation at a Federal Bar Association Tax Law Conference stated the number of fast track settlement cases for small businesses decreased from 230 in fiscal year 2014 to 177 in fiscal year 2015. Second, in our own anecdotal experience at alliantgroup, we have seen the number of fast track settlement cases drop from a peak of several per month to the current rate of roughly two per *year*. Causes for this could be reduced resource levels in examination and appeals that may be driving the reluctance to use the process or that the requirements from the IRS regarding those eligible to participate in FTS have become too stringent. We tend to think it is the latter cause that has led to this decrease.[6]

The use of FTS has the potential to be a highly effective tool in alternative dispute resolution when both parties come to the table willing to reach an agreement. Taxpayers and their representatives welcome the opportunity to resolve as many issues as possible at the lowest possible level in a cooperative

[2] Rev. Proc. 2003-40, LMSB/Appeals Fast Track Settlement Procedure.
[3] Rev. Proc. 2017-25, Formal Establishment of Small Business/Self Employed Fast Track Settlement Program.
[4] Collections cases are handled in a process called Fast Track Mediation. Rev. Proc. 2003-41 SB/SE – Appeals Fast Track Mediation Procedure.
[5] *See* the discussion at the Federal Bar Association Tax Law Conference, Practice and Procedure Symposium, Recent Developments at Appeals Panel (March 4, 2016).
[6] IRS internal procedures regarding SB/SE FTS can be found in IRM 4.10.7.5.5 (March 3, 2015).

manner. This same sense of urgency should be felt by the IRS. Small and mid-sized businesses need to focus on their business at hand and having a disagreement with the tax authorities weighing on them for a long period of time distracts from their business needs and operation. Obtaining resolution earlier increases compliance of those taxpayers and allows the IRS to focus resources on other taxpayers and issues.

The fast track settlement process is authorized for all taxpayers and we strongly encourage its increased use by the Service. While we do not support a mandate to require the use of fast track on issues not otherwise excluded by the Revenue Procedures we do believe that IRS leadership can be more supportive and proactive in ensuring that this tool is used for efficient tax administration.

Experience has taught us that when unwilling players come to the table for a mediation type event there is a high likelihood there will not be a successful outcome. In considering changes to make the FTS program more effective we believe the establishment of any type mandate would need careful consideration based on the concern just noted. We do believe there is an opportunity for improvement to the process by authorizing the use of an outside mediator alongside the Appeals mediator. Just as the use of an outside mediator is an option for taxpayers in Post Appeals Mediation we support the idea of allowing taxpayers to make this election for the fast track process with the hope that it may lead to more agreements in this process. These changes would support the taxpayer's Right to Challenge the Positon of the IRS and Be Heard and the Right to a Fair and Just Tax System.

2. Emerging Turbulence in the Appeals Process

Before heading to court, the final administrative step a taxpayer can take to contest an adverse determination by a revenue agent is through IRS Appeals. The IRS Office of Appeals is "separate from and independent of the IRS office that proposed the adjustment. Issues should be fully developed by compliance functions before an administrative appeal."[7] Taxpayers can present their arguments and negotiate an administrative settlement with an IRS Appeals Officer. We appreciate the vital and important work of Appeals and want to state how important IRS Appeals is for so many businesses seeking a fair review of their tax issues without having to incur additional costs and go to court.

While the role of IRS Appeals is greatly appreciated by those seeking an administrative resolution there are improvements that taxpayers would like to see. First, the length of time it takes Appeals to resolve a case has steadily increased over the past few years. Again, due to budget cuts, Appeals Officers have incredibly large caseloads, may not be located in the geographic area of the taxpayer, and may be unable to hear cases for months or even up to a year. Even after a case is heard, it may take months thereafter for a settlement offer to be made. This means that the taxpayer's tax returns and status with the IRS is in a sort of purgatory, as it has to wait on the Appeals Officer to hear and then decide its case. While our small and mid-sized business owners are most appreciative of the opportunity to attend the conference and have a frank discussion with Appeals they are not as thrilled about the time it takes to reach a final resolution nor the recent change made to the Internal Revenue Manual (IRM) indicating that they may not be granted an in-person meeting.

One solution the IRS appears to have implemented to address the problem of too few appeals officers is to make telephone and virtual conferences first options for an appeal, only granting in-person

[7] IRM 1.2.17.2 (Nov. 4, 1998): Policy Statement 8-1.

conferences in limited circumstances. We whole-heartedly believe that not granting business owners an opportunity to have an in-person meeting would be highly prejudicial to taxpayers, restrict the ability of Appeals Officers to adequately judge the credibility of witnesses, and make the conference more difficult in situations where the appeal is of highly technical and highly evidentiary focused cases. The National Taxpayer Advocate Nina Olson, made this same argument to the Senate Committee on Appropriations in her July 26, 2017 testimony, in which she stated "it would be impossible for an Appeals Officer to judge the credibility of a witness without an in-person conference, and 'circuit riding' does not happen often, requiring taxpayers to wait months, or even a year or more, to obtain a face-to-face hearing."[8]

While in our practice we have seen Appeals Officers flexible in granting in-person conferences, we believe that requesting in-person conferences and the back and forth with the Appeals Officer immediately on a purely procedural matter starts the process off on the wrong foot and potentially undermines the taxpayer's relationship with the Appeals Officer. We believe that taxpayers, if willing to incur the time and cost, should have a fundamental right to meet Appeals face to face. Conducting in-person conferences should not have a material effect on the time it takes Appeals to hear a case – our experience in a case where an in-person conference was denied was that the conference still took hours to complete. Moving to virtual conferences as a default is not the answer to ensuring that a taxpayer's Right to Challenge the Position of the IRS and Be Heard is not violated.[9] Policy Statement 8-1[10] states that IRS is committed to the Appeals administrative dispute resolution process and follows certain principles including that Taxpayers are generally entitled to appeal disputes and to have a timely conference and resolution of their dispute. From a taxpayer perspective this in person conference may be the only way to believe there is an impartial resolution with a full understanding of the facts involved.

A second issue emerging in Appeals is the increased involvement of IRS Compliance (also referred to as Exam) and/or Counsel Employees at appeals meetings. The recent focus by Appeals to make it known that they have the discretion to invite Counsel and Compliance to the conference has created a perception for some taxpayers that they are not getting an independent hearing and decision.

As stated above, Appeals is an independent function of the IRS and should remain autonomous and separate from Exam. This concept is clear in IRM 8.10.1.3 where it states "Appeals is charged with providing an independent dispute resolution function with IRS. Appeals employees must make fully informed, independent judgments regarding:

-Strengths and weaknesses of respective positions of both the taxpayer and the government

-Application of law, regulations, and IRS policies and procedures based on the facts and circumstances of the case

-Evaluation of hazards of litigation."

During an examination, the Exam team has an opportunity to build its case fully, make a determination on the facts and applicable law, and to seek agreement from a taxpayer. It is well

[8] Written Statement of Nina E. Olson National Taxpayer Advocate, Hearing on Internal Revenue Service FY 2018 Budget Request Before the Subcommittee on Financial Services and General Government, July 26, 2017, *available at* https://www.irs.gov/pub/foia/ig/tas/nta_written_testimony_hearing_irs_fy2018_budgetreq_7_26_2017.pdf.
[9] *See* IRM 8.6.1.4.1 (Oct. 01, 2016).
[10] IRM 1.2.17.2 (Nov. 4, 1998): Policy Statement 8-1.

understood that issues should be fully developed by compliance functions before an administrative appeal is offered to the taxpayer when a case is not agreed. Appeals has procedures for returning a case to Exam if it is considered a premature referral, not sufficiently developed for their consideration by Exam, or the taxpayer provides new information that was not considered by the Exam team. In any event it seems clear that Appeals expects that all fact finding and submission of relevant information took place before they are asked to consider the case.

Since it is solely Appeals decision as to whether Exam and Counsel are invited to a conference we believe the only involvement Exam should have at Appeals, is in a preconference meeting. In this situation the originating function, Exam for instance, can attend an Appeals Conference to present their views on the issues, the taxpayer's protest and assessment of litigating hazards in accordance with ex parte communication rules. While in the preconference setting Exam may have left after their presentation,[11] as of late, rather than leaving the conference after it presents its case, Exam has been invited to stay at the Appeals Officer's discretion for the taxpayer's presentation.[12] While we agree that a presentation to the Appeals Officer of key points from each party provides an opportunity for them to ask relevant questions in making an informed decision, this occurs with a preconference meeting. When exam stays, the entire Appeals atmosphere is altered and there are opportunities for this to turn into an extension of the examination process for a taxpayer.

Specifically, it is troubling when Exam has a second chance to build its case by directly engaging with the taxpayer by asking both factual and legal questions that may have been overlooked in the exam process. We believe that the mission of Appeals, specifically its independent function, is hindered when Exam plays too great of a role in the Appeals process and the Appeals Officer does not stop the exchange. There is also a concern that Exam may take this as an opportunity to add more information to the file when they realize potential weaknesses in their position. A representative recently described a situation where in a recent preconference it became clear that Exam had not addressed a position that the taxpayer had presented in its document request responses and in its protest. After hearing the taxpayer orally present their position at the Appeals meeting and seeming to get agreement from the Appeals Officer, the Exam team followed up with another submission to Appeals to attempt further support for their position on the issue taking another approach. It seems patently unfair to this taxpayer that the Exam team attempts to continue their process when the case is assigned to an independent forum to make a decision on what was obviously a contentious exam.

As a matter of process, if the taxpayer is not given a say in any decision regarding IRS employees' participation in appeals conferences, then a solution to this dilemma may be clear guidance in the Internal Revenue Manual on acceptable procedures/protocol for Exam during an Appeals conference. We do not agree with the Appeals policy of having unilateral decision making over Exam's participation in an Appeals conference as it changes the nature of the appeals process. If Appeals continues to take this approach, procedures and actions are necessary to ensure that the conversation is limited to original positions taken by Exam and not asking further questions of a taxpayer to develop new facts and positions in what should be an independent process.

[11] *See* Rev. Proc 2012-18: Ex Parte Communications between Appeals and Other Internal Revenue Service Employees

[12] IRM 8.6.1.4.4 (Oct. 01, 2016).

The goal for these new procedures should be to limit the role of Exam during Appeals. Taxpayers who feel as if they have already been through a grueling process with Exam, should be able to have the peace of mind that their case is being given a fresh look by Appeals, and that Appeals is not more of the same.

In conclusion on this issue, we do not believe it is necessary to create a new dispute resolution function for taxpayers. By staying true to the original vison that Appeals offices are separate from and independent of the IRS office that proposed the adjustment, resolution should continue to be reached in a majority of cases. Changes may be needed to strengthen the independence of Appeals and to improve its accessibility for all taxpayers but a new small claims court function as outlined in The Blueprint is not needed in our opinion. These changes would further the taxpayer's Right to Challenge the Positon of the IRS and Be Heard and the Right to Appeal a Decision of the IRS in an Independent Forum.

3. Lack of Transparency during the Exam Process

An important aspect of an IRS examination is the information document request process. The IRS issues to taxpayers information document requests, or "IDRs," requesting books and records and email communications, as well as requesting supporting documentation and explanations of various items on their tax returns. The documents taxpayers provide in response to the IDRs give the revenue agent the information needed to determine whether a taxpayer has taken a correct or reasonable position on its tax return. The process is often lengthy and can take a taxpayer hours upon hours to gather, organize, and explain documents. And while it is important for the IRS to conduct fact finding in an examination, it is also vital for the IRS to understand that a small business does not have the resources that the Fortune 1000 have to deal with voluminous document requests. Additionally, the taxpayer can find an audit by the IRS intimidating since they do not have frequent interactions with the IRS.

The IRS' Large Business & International Division (LB&I) has refined the examination process with a goal to make it more transparent and efficient – worthy goals for any examination of a taxpayer, whether large or small, from the perspective of both the IRS and the taxpayer. LB&I agents are now required to ensure that IDRs are issue focused, have been discussed with the taxpayer before being issued in final form, and contain a response date that has been discussed with the taxpayer. Publication 5125, issued in February 2016, has required agents examining the tax returns of large and mid-size companies to open up communications with companies and to work closely with them. While neither perfect in design nor implementation, this process is intended to lead to increased transparency in the examination process with issues being clearly identified by the IRS and taxpayers receiving timely feedback on the responses that have been provided. We believe the IDR process in LB&I has improved as a result of this focus.

Small business examinations do not have similar procedures in place. Rather, there are only loose guidelines on issuing IDRs. The Internal Revenue Manual provides guidance on the use of "lead sheets" and work paper organization but provides little focus on how to work transparently and collaboratively, where possible, with taxpayers. It is our experience that these procedures can lead to IDRs that cover a number of issues within one request and with what seems short response times for a voluminous amount of documents.

The two processes described here have created a difference in treatment of large and small businesses in IRS examinations. While LB&I appears to be pushing for clarity and efficiency during the audit process, small businesses are generally left to the decisions of the individual revenue agents. However, there are no real procedures in place in SB/SE to encourage more discussion concerning the

course of an examination. This has only worsened as budgets have declined. We also would mention that one of the byproducts of this issue that we are experiencing is that in some examinations, the first clear indication of the primary issue of an examination is when a 30 day letter is received by the taxpayer. At this point the taxpayer needs to agree with the IRS or decide to file a protest with Appeals to have an impartial hearing on the issue. This is remarkably too late in the process to be having this discussion.

In our view, having a straightforward upfront meeting between the taxpayer and the IRS that lays out what the issues are, what the roadmap is going forward for documents and interviews, as well as expected timelines, is to everyone's benefit. The taxpayer understands the concerns of the IRS and can be better responsive to IRS questions and requests for documents. Thus, we believe that SB/SE should adopt many of the LB&I transparency measures.

In an IRS audit, the revenue agent has traditionally been the point of contact for the taxpayer and is supposed to be the individual that manages the audit and makes the ultimate determination. There are instances when specialists are needed for an examination and the IRS has a formal process for agents to request assistance from specialists such as engineers, appraisers, and computer audit specialists. However, we have experienced instances where some SB/SE agents hand cases off to specialists when valuation or highly technical issues are being addressed. While this assistance is necessary, the process is often mysterious and the taxpayer is left in the dark regarding who is conducting and deciding their examination and what the timeline for a decision may be.

We have advised a number of small and mid-sized businesses where this happened to them. For example, a revenue agent who lacks expertise or experience may simply hand the case over to an IRS engineer or technical expert and have them make the ultimate decision that is written up in an examination file. In the best case scenario the specialist/expert is involved in the case and openly advising on document requests and participating in discussions with the taxpayer. However, this is another area in which budget cuts have had a pernicious impact on the process. The specialists may not have adequate time to do a quality job. For example, in some of our cases revenue agents have only "consultations" with specialists/experts on a case rather than an accepted referral where detailed examination of the records takes place. Having only hours and not weeks to work an issue related to a specific taxpayer may not lend itself to a specialist being fully informed of the facts in a particular case. Moreover, in some of these cases, the taxpayer is not aware that this has occurred or has not had an opportunity to discuss technical conclusions that have been made.

Another experience with SB/SE agents creates a greater concern in the exam process for small businesses and whether they are being treated fairly. Recently we have been advised by revenue agents that there is an approval process for their final reports on certain technical issues by a "technical specialist." Agents may not specify who is reviewing their lead sheets and work papers prior to discussion and issuance to the taxpayer of a report. They have indicated that the specialists are looking at the cases and that their hands are tied in determining the proposed adjustment for those taxpayers. This is particularly troublesome if the specialist is making the ultimate decision when they are not intimately familiar with the facts of the taxpayer. To the extent this is happening, it is the antithesis of the transparency that should occur in an examination. We are even told by agents that they may agree with a taxpayer's position but have no authority over their own examination outcomes.

We see these actions as a violation of the taxpayer's Right to be Informed and the Right to a Fair and Just Tax System. When decision makers are involved in a taxpayer's case it should be transparent to a taxpayer who those persons are and the rationale for any decisions that are made.

4. Third Party Contact Procedures Are Prejudicial to Taxpayers

The IRS often reaches out to third parties that are not under audit, but may have information and documents relevant to a taxpayer that is under audit. Such contacts are permissible in certain circumstances, but the IRS must give the taxpayer under audit "reasonable notice in advance" of such a contact.[13] While these contacts are often times justified as necessary to corroborate a taxpayer's records/testimony or to obtain otherwise unavailable data, we are seeing increased use of the contacts in a fashion that warrants concern.

We would like to echo the findings made by the National Taxpayer Advocate, Ms. Olson, in her 2015 Annual Report to Congress.[14] First, the IRS is not always effective in providing notice to taxpayers, often times only providing them Publication 1, *Your Rights as a Taxpayer* or some similar general notice at the beginning of the exam and not at or anywhere near the date of a third party contact.[15] Such notice is useless and does not effectively apprise taxpayers that such contact will be made, to whom it will be made, or that the taxpayer can request a third party contact report from the IRS. Second, the Taxpayer Advocate found that the IRS did not first ask taxpayers for the information requested from third parties in 22.8 percent of examination cases.[16] This is unacceptable given the extraordinarily important taxpayer privacy protections that go out the window with third party contacts.

Ms. Olson also discussed other valid concerns: the disclosure of confidential taxpayer information protected under IRC § 6103;[17] that taxpayers are often not given the prior opportunity to volunteer information on their own; that third party contact requests can be vague;[18] and that the IRS does not automatically provide periodic third party contact reports.[19]

In our experience, it appears the IRS has seemingly been using these contacts on an increasing basis in general examinations, often times when the IRS already has the information they request from third parties, and other times when they haven't even requested the information from the taxpayer. Requesting the information from third parties in these situations is intrusive, burdensome and needless. It creates an unnecessary burden for small and mid-sized businesses, and the practice of issuing third party contacts should be modified to ensure notice and an opportunity to respond closer to the time a third party contact is to actually be initiated.

We encourage the Committee to consider what modifications can be made to the statute to ensure the IRS does not perfunctorily notify a taxpayer of these procedures at the beginning of the exam and only periodically provide a taxpayer with a list of third party contacts upon specific taxpayer request.

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[13] 26 USC § 7602(c).
[14] National Taxpayer Advocate 2015 Annual Report to Congress, *available at* https://taxpayeradvocate.irs.gov/reports/2015-annual-report-to-congress.
[15] *Id.* at 123.
[16] *Id.*
[17] *Id.* at 124.
[18] *Id.* at 126.
[19] *Id.* at 125.

The current IRS policy regarding third party contacts can be found in Internal Revenue Manual Section 25.27.1. General requirements state that it is their practice to obtain information directly from a taxpayer whenever possible and that reasonable notice should first be provided to the taxpayer before a third party request. However, this appears to be an area where the intent of the law and even the IRM is not honored. It appears the IRS takes the position that Publication 1 serves as the only "advance" notice. These changes would further the taxpayer's Right to Privacy, Confidentiality, and a Fair and Just Tax System.

5. IRS Needs Better Outreach and Taxpayer Education

Even with improvements to the Exam and Appeals process, the IRS can assist taxpayers and tax practitioners with education on the front end, to reduce tax compliance costs. In Ms. Olson's July 26, 2017 testimony, she stated that "Pre-filing outreach and education is particularly important for small businesses, which often need to learn and comply with complex rules that individual taxpayers do not encounter, such as rules governing eligible business expenses, equipment depreciation, and employment taxes. Yet the IRS has whittled down these outreach units to the point where they are barely functional." She went on to state that the IRS has only 98 outreach employees for the 62 million Small Business and Self-Employed taxpayers.

Due to budget constraints, taxpayers have difficulty getting answers from the IRS on tax matters and are often unaware of filing requirements and the substantive rules of the Internal Revenue Code that affect them. Proactive outreach by the IRS could go a long way in educating taxpayers on issues that the IRS is focusing on as well as new initiatives that are taking place. Such education efforts can reduce the compliance costs to both taxpayers and the Exam function.

In April 2017, alliantgroup signed onto a document with eight other tax practitioner organizations, outlining changes that the IRS can make to improve services provided to taxpayers and practitioners.[20] In the Statement of Purpose it was stated that "as tax practitioners, we advise millions of taxpayers on tax matters, assist them with compliance responsibilities, and represent them before the IRS. We understand what is working and not working with tax administration from both taxpayer and practitioner perspectives."

Although several issues were outlined in the document as a framework for ensuring a modern functioning IRS, we will focus on one specific recommendation today. This document recommended creating an executive level IRS Practitioner Service Unit. "A dedicated practitioner services unit would allow the IRS to rationalize, enhance, and place under common management the many current disparate practitioner impacting programs, processes, and tools." This Unit would have a high level executive lead for a centralized group similar to how identify theft efforts have been centralized at the IRS. The Unit would seek to coordinate and improve access of information to prevent unnecessary delays and inefficiencies. Included in this unit would be an online tax professional account, in which a tax professional could access all of their client's information and receive information and communications from the IRS in this single space. Practitioner priority hotlines with higher-skilled employees would allow practitioners to understand and discuss more complex technical and procedural issues that small and mid-sized businesses face and result in a quicker resolution of issues. Lastly, designated customer service

[20] Ensuring a Modern Functioning IRS for the 21st Century, April 3, 2017, pg. 1, *available at* https://www.aicpa.org/Advocacy/Tax/DownloadableDocuments/IRS-Service-Improvement-Practitioner-Report.pdf.

representatives for each geographic area would be helpful for issues that can't be solved through the priority hotline.

For those of us who signed the document it was noted that "we are committed to a service-oriented, modernized tax administration system that earns the respect and appreciation of all taxpayers and stakeholders." We believe that these changes would go far in increasing the likelihood of taxpayer and practitioner access and education, which could lead to fewer and less contentious interactions with the IRS. These changes are in line with the taxpayer's Right to Quality Service.

6. Taxpayer Bill of Rights

Although there currently exists a list of rights afforded to taxpayers,[21] referred to here as the Taxpayer Bill of Rights (TBOR), we believe more attention is needed by the IRS in ensuring that its employees understand and follow them. While taxpayers can clearly find information on the IRS website regarding their rights and understanding them it is unclear what training has been held for employees of the IRS. We raise this issue as recently in a case where a practitioner raised a concern as to taxpayer right's being violated he was informed by a revenue agent that she was not aware of them and did not believe she had violated anything.

Policy Statement 1-236 states in paragraph three that the tax law will be enforced with integrity and fairness.[22] It states specifically that "to ensure fairness to each taxpayer, we do our jobs with a focus on taxpayer rights, including due process and appeal rights. The Internal Revenue Code grants taxpayers' certain rights when working with the IRS, and these rights are embodied in Publication 1."

We would like to echo the findings made Ms. Olson in her 2016 Annual Report to Congress regarding these rights.[23] The perception of taxpayers is that IRS has not adequately incorporated the TBOR into its operations and this has negatively impacted taxpayers at times. It is unclear what options the taxpayer may have when this takes place. Ms. Olson addressed this in her May 19, 2017 testimony to this Committee stating that the practical impact of the TBOR provision was not clear and if a taxpayer were to assert that a right had been violated that it is not clear whether a court would "find the rights are legally cognizable."[24] I encourage this committee to take further action to ensure that taxpayer rights are clearly established and to review closely the recommendations laid out by the National Taxpayer Advocate in her testimony.

Conclusion

Thank you for affording me the opportunity to be here today to provide the Committee with this information. I look forward to your questions, and we would be happy to work with you in the coming months as you work on a more detailed plan to address the needs of taxpayers and practitioners.

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[21] 26 USC § 7803(a)(3).

[22] IRM 1.2.10.37 (Oct. 24, 2016): Policy Statement 1-236.

[23] National Taxpayer Advocate 2015 Annual Report to Congress, *available at* https://taxpayeradvocate.irs.gov/reports/2016-annual-report-to-congress.

[24] Written Statement of Nina E. Olson National Taxpayer Advocate, Hearing on IRS Reform: Perspectives from the National Taxpayer Advocate, Before the Subcommittee on Oversight, Committee on Ways and Means, US House of Representatives (May 19, 2017), *available at* https://www.irs.gov/pub/tas/nta_written_testimony_irs_reform_nta_perspectives_5_19_2017.pdf.