



Section of Taxation

10th Floor
740 15th Street, N.W.
Washington, DC 20005-1022
202-662-8670
FAX: 202-662-8682
E-mail: tax@abanet.org

OFFICERS

Chair

Stuart M. Lewis
Washington, DC

Chair-Elect

Charles H. Egerton
Orlando, FL

Vice Chairs

Administration

Fred T. Witt Jr.
Phoenix, AZ

Committee Operations

Peter J. Connors
New York, NY

Communications

Ellen P. Aprill
Los Angeles, CA

Government Relations

Helen M. Hubbard
Washington, DC

Professional Services

Emily A. Parker
Dallas, TX

Publications

Douglas M. Mancino
Los Angeles, CA

Secretary

Brian P. Trauman
New York, NY

Assistant Secretary

Bahar Schippel
Phoenix, AZ

COUNCIL

Section Delegates to the

House of Delegates

Paul J. Sax
San Francisco, CA

Richard M. Lipton
Chicago, IL

Last Retiring Chair

Vacant

Members

John P. Barrie
New York, NY

Peter H. Blessing
New York, NY

C. Wells Hall, III
Charlotte, NC

Kathryn Keneally
New York, NY

Christine A. Sloan
Washington, DC

Walter Burford
Atlanta, GA

Thomas J. Callahan
Cleveland, OH

William H. Caudill
Houston, TX

Leslie E. Grodd
Westport, CT

Thomas R. Hoecker
Phoenix, AZ

Alice G. Abreu
Philadelphia, PA

Kevin D. Anderson
Bethesda, MD

Joan C. Arnold
Philadelphia, PA

Andrew J. Dubroff
Washington, DC

Miriam L. Fisher
Washington, DC

LIAISONS

Board of Governors

Lee S. Kolczun
Sheffield Village, OH

Young Lawyers Division

Jackie J. Cook
Detroit, MI

Law Student Division

Nicholas M. Furtwengler
Chicago, IL

DIRECTOR

Christine A. Brunswick
Washington, DC

April 5, 2010

The Honorable José E. Serrano
Chairman
United States House of Representatives
Appropriations Subcommittee on
Financial Services and General Government
Room B-300 Rayburn House Office Bldg.
Washington, DC 20515

The Honorable Jo Ann Emerson
Ranking Member
United States House of Representatives
Appropriations Subcommittee on
Financial Services and General Government
2440 Rayburn House Office Bldg.
Washington, DC 20515

The Honorable Richard J. Durbin
Chairman
United States Senate
Appropriations Subcommittee on
Financial Services and General Government
309 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
United States Senate
Appropriations Subcommittee on
Financial Services and General Government
413 Dirksen Senate Office Bldg.
Washington, DC 20510

Re: Internal Revenue Service Funding

Dear Chairmen and Ranking Members:

On behalf of the American Bar Association, I respectfully request your assistance in ensuring that the Internal Revenue Service (the "Service") receives adequate funding for Fiscal Year 2011. The American Bar Association has consistently supported adequate funding of the Service to carry out its missions of taxpayer service and enforcement of federal tax laws. The American Bar Association has nearly 400,000 members and over 21,000 members who belong to the Section of Taxation.

We understand that the Administration's 2011 Budget includes a substantial increase in funding for the Service. Since Congress established the Internal Revenue Service Oversight Board in 1998, the Board consistently has recommended that any increased amounts appropriated to the Service be allocated in a balanced manner to support three strategic goals of the Service, improving taxpayer service, enhancing enforcement of the tax laws, and modernization. We urge you and your Committee to provide the Service with increased appropriations at least equal to the amount requested by the Administration.

We respectfully submit that the increase in funding is essential for the Service to be able to accomplish its mission, and to continue its efforts to address the "tax gap." Given the complexity of our tax laws, taxpayer services provided by the Service are critical to ensuring that taxpayers meet their obligations under the law, avoid unintentional mistakes, and obtain the benefits to which they are entitled. The Service assists taxpayers in a variety of ways, including outreach and educational programs, tax forms and publications, rulings and regulations, toll-free call centers, the Service's website, www.irs.gov, and taxpayer assistance centers. To ensure that the Service can continue to deliver prompt and effective taxpayer service, the Service requires adequate funding.

In addition to the services provided directly by the Service, we also encourage you and your Committee to continue to support funding for initiatives that provide important assistance to low-income taxpayers. These include the Taxpayer Advocate Service (“TAS”) and the volunteer income tax assistance (“VITA”) grant, low-income taxpayer clinic (“LITC”) grant, and Tax Counseling for the Elderly (“TCE”) programs. The American Bar Association and its Section of Taxation have regularly supported these programs, through our volunteer efforts, CLE programs, and our Public Service Fellowship program. We know from first-hand experience the vital role that these programs play in ensuring that low-income taxpayers can meet their tax filing obligations and in resolving tax controversies that such taxpayers may encounter, often as a result of the complexities of the earned income tax credit and similar programs. The Administration’s 2011 Budget would reduce the funding for TAS and the VITA grant, LITC grant, and TCE programs by \$9 million from the 2010 enacted funding level. The Administration’s 2011 Budget would reallocate this \$9 million to “improve service performance by increasing the telephone level of service.”¹ We understand and support the important goal of increasing the level of telephone service for taxpayers. We enthusiastically support an increase in funding for that purpose. For the reasons discussed in the attached Comments, however, we urge you to reject the proposed reallocation of funds from TAS and the VITA grant, LITC grant, and TCE programs.

Taxpayer service goes hand in hand with enforcement efforts. Those who violate the law must be held accountable both to deter others who might be similarly inclined and to maintain an even playing field in respect of taxpayers who fully comply with their tax obligations. The Service’s enforcement efforts have strengthened in recent years, resulting in increases in the number of examinations conducted and the amounts of enforcement revenue collected. Adequate funding, provided on a predictable basis, is key to sustaining these efforts.

Much concern has been expressed in recent years about the tax gap. The Service is attempting to address the tax gap through increased taxpayer services, investments in information technology, enhanced and smarter enforcement activities, and more effective administration. Additional research on compliance issues also would increase the Service’s ability to narrow the tax gap without increasing taxpayer burden. All of these efforts, however, require funding.

Moreover, we believe a critical aspect of the Service’s efforts to combat the tax gap is its ability to attract and retain personnel with the skills and experience necessary to support those efforts. In recent years, we have seen a significant number of seasoned personnel leave the Service. We encourage you and your Committee to ensure that the Service has the resources it needs to recruit and retain the best and the brightest that it can attract.

Regarding modernization, we understand that improvements in information technology can assist the Service in improving its effectiveness in ensuring taxpayer compliance. However, as you know, given the significant amount of sensitive and personal information contained in tax returns, the disclosure of which can result in identity theft and similar concerns, we encourage you and your Committee to provide the Service with sufficient funding so that it can take appropriate steps to safeguard that information.

Under the current legislative budgeting process, the Service must compete for funding with other parts of the federal government. As the Taxpayer Advocate noted in her 2006 Annual Report to Congress, however, determining the appropriate level of funding for the Service presents different considerations than for other agencies. The Service budget can have the

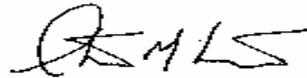
¹ FY 2011 Congressional Justification, Internal Revenue Service, IRS-2, *available at* <http://www.treas.gov/offices/management/budget/budget-documents/cj/2011/IRS%20CJ%20508.pdf>.

opposite impact on the overall federal budget than the budgets of other federal agencies because appropriate and absorbable increases in the budget of the Service can result in increased overall revenue. Thus, we believe consideration should be given to adopting a budgeting process for the Service that takes its unique role into account.

We understand that the Service is estimating the costs of fulfilling the additional responsibilities that the Service will bear under the recently enacted health care legislation. We urge you and your Committee to provide adequate funding for these and any other additional responsibilities placed upon the Service to avoid diversion of resources from the Service's key functions.

We believe that adequate funding of the Service is vital. Accordingly, we urge you and your Committee to fund the Service at a level no lower than the level requested by the Administration. We would be pleased to provide any assistance that you or your staff would find helpful in considering this matter. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "SML", is centered below the text "Sincerely,".

Stuart M. Lewis
Chair, ABA Section of Taxation

Attachment

cc: Representative David R. Obey, Chair, House Appropriations Committee
Senator Daniel K. Inouye, Chair, Senate Appropriations Committee
Representative Jerry Lewis, Ranking Member, House Appropriations Committee
Senator Thad Cochran, Ranking Member, Senate Appropriations Committee
Honorable Timothy F. Geithner, Secretary, Department of the Treasury
Honorable Douglas H. Shulman, Commissioner, Internal Revenue Service
Honorable Michael F. Mundaca, Assistant Secretary (Tax Policy), Department of the Treasury
Mr. Paul Cherecwich, Jr., Chair, Internal Revenue Service Oversight Board
Ms. Nina Olson, National Taxpayer Advocate, Internal Revenue Service
Mr. John L. Buckley, Majority Chief Tax Counsel, House Ways and Means Committee
Mr. Russell Sullivan, Majority Staff Director, Senate Finance Committee
Mr. Jon Traub, Minority Chief of Staff, House Ways and Means Committee
Mr. Kolan Davis, Minority Staff Director, Senate Finance Committee
Mr. Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation

**AMERICAN BAR ASSOCIATION
COMMENTS ON PROPOSED FUNDING
FOR ASSISTANCE TO LOW-INCOME TAXPAYERS**

April 5, 2010

On behalf of the American Bar Association, the ABA Section of Taxation encourages funding for initiatives that provide important assistance to low-income taxpayers. These initiatives include the Taxpayer Advocate Service (“TAS”) and the volunteer income tax assistance (“VITA”) grant, low-income taxpayer clinic (“LITC”) grant, and Tax Counseling for the Elderly (“TCE”) programs.

The Administration’s 2011 Budget would reduce the funding for TAS and the VITA grant, LITC grant, and TCE programs by \$9 million from the 2010 enacted funding level. The Administration’s 2011 Budget would reallocate this \$9 million to “improve service performance by increasing the telephone level of service.”¹ We understand and support the important goal of increasing the level of telephone service for taxpayers. We would enthusiastically support an increase in funding for that purpose. However, we urge you to reject the proposed reallocation of funds from TAS and the VITA grant, LITC grant, and TCE programs.

The proposed 2011 reallocation would reverse a decision that was implemented in the 2010 enacted funding to increase funding for TAS, and the VITA grant, LITC grant, and TCE programs by \$9 million and would “realign the programs to the 2009 enacted level.”² We applaud the 2010 increase in funding for these programs. We believe that for the same reasons that the 2010 increase was necessary and appropriate, the proposed 2011 reallocation should be rejected.

We believe that the 2010 increase in funding for TAS and the VITA grant, LITC grant, and TCE programs was warranted by increased demand for taxpayer services and the benefits to the tax system provided by the availability of such services. Specifically, during the 2008 filing season (*i.e.*, calendar year 2009) the Service opened approximately 12,000 free tax preparation sites nationwide and prepared 3.5 million returns for low-income and elderly taxpayers at these free tax preparation sites, an increase of 33%.³ The Service also prepared over 575,000 returns at its Taxpayer Assistance Centers, a 42% increase over the prior year.⁴ We believe the demand for these taxpayer assistance services will continue to increase for many reasons, including the volume and scope of tax legislation being enacted. Much of the recently enacted legislation, including the American Recovery and Reinvestment Act of 2009,⁵ affects the taxpayers who are most dependent on the taxpayer services the proposed reallocations would necessarily reduce. The Making Work Pay Credit, the American Opportunity Credit, and the new election to defer the recognition of income from the discharge of indebtedness are but three examples.

¹ FY 2011 Congressional Justification, Internal Revenue Service, (hereafter, “Administration’s 2011 Budget”) IRS-2, available at <http://www.treas.gov/offices/management/budget/budget-documents/cj/2011/IRS%20CJ%20508.pdf>.

² See Administration’s 2011 Budget at IRS-20.

³ See FY 2010 Congressional Justification, Internal Revenue Service, (hereafter, “Administration’s 2010 Budget”) IRS-65 available at <http://www.treas.gov/offices/management/budget/budget-documents/cj/09/CJ%20FY09-IRS.pdf>.

⁴ See Administration’s 2010 Budget at IRS-65.

⁵ Pub. L. No. 111–5, 123 Stat. 115.

Funding levels for TAS and the VITA grant, LITC grant, and TCE programs have increased in recent years. We applaud these increases, which are consistent with the increased complexity of the tax laws and the resulting increased demand for taxpayer assistance. Even if other factors do not permit continued increases, at a minimum, we submit that current funding levels should be maintained. While the goal of increasing the level of telephone services provided by the Service is unassailable, achievement of that goal should not come at the cost of decreases in other levels of direct service for at least three reasons.

First, the type of direct service provided by programs such as VITA and LITC grants is highly cost effective. The 2007 Taxpayer Assistance Blueprint reveals that average cost per contact with the Service is lowest at a free tax preparation site, such as the sites that result from the VITA grant program. Specifically, the cost per contact with the Service at a Taxpayer Assistance Center is \$28.73 and by toll-free (assisted) telephone call the cost is \$19.46, but at a free tax preparation site, the cost is only \$12.01.⁶

Second, data from the Internal Revenue Service Oversight Board reveals that low-income taxpayers are most likely to call the Service for assistance.⁷ Therefore, it is reasonable to assume that as the availability of less costly direct services decreases, the volume of more costly telephone traffic will increase. In that event, the proposed reallocation would adversely affect overall taxpayer service.

Third, demand for services provided by LITCs continues to increase. The Service's October 22, 2009, Report to Congress, Progress on the Implementation of The Taxpayer Assistance Blueprint states:

During the 2008 grant year the LITC program assisted 30,648 taxpayers through controversy services and worked 37,391 issues, including 3,520 levy issues, 1,684 lien issues, 2,999 currently not collectible issues, and 1,791 installment agreement issues. The clinics opened 10,142 cases and submitted 1,804 cases to the U.S. Tax Court.

. . . . In 2008, the LITCs conducted 8,890 outreach and education events. These events reached 154,527 [taxpayers who speak English as a second language ("ESL taxpayers")]. Additionally, clinics provided one-on-one consultations with 29,342 ESL taxpayers.⁸

Although data for 2009 are not yet publicly available, Tax Section members familiar with the work of LITCs report an increase in caseloads in 2009 over 2008, which is consistent with increased, and appropriate, enforcement efforts. For example, in one clinic Tax Court cases increased 68% (43 to 70 cases) from 2007 to 2008, and 139% (43 to 103 cases) from 2007 to

⁶ Internal Revenue Service, 2007 Taxpayer Assistance Blueprint: Phase 2, p. 52, Figure 2-24, available at <http://www.irs.gov/pub/irs-pdf/p4579.pdf>. The cost comparison above excludes contacts that do not involve any interaction between the taxpayer and another person, including web visits (\$0.13), toll-free automated calls (\$0.71), and kiosks (\$2.67). *Id.* The most expensive contacts were by e-mail at \$52.51 per contact. *Id.*

⁷ IRS Oversight Board, Taxpayer Customer Service and Channel Preference Survey (Nov. 2006), available at http://www.treas.gov/irsob/reports/2006_channel_survey_report.pdf.

⁸ Internal Revenue Service, Report to Congress, Progress on the Implementation of The Taxpayer Assistance Blueprint 2008 - 2009, Appendix I, available at <http://www.irs.gov/pub/irs-pdf/p4701.pdf>.

2009. Reducing funding available for LITCs would necessarily curtail the level of services these clinics provide.

Services provided through the VITA grant, LITC grant, and TCE programs leverage the work of volunteers and students and enhance taxpayer compliance. TAS provides important services not only in monitoring, reporting, but otherwise in directly and indirectly enhancing taxpayer services. At a time when the demand for these services is increasing, the funds the Service needs to provide the services should not be reduced. We therefore urge you to reject the proposed reallocation of \$9 million away from TAS and the VITA grant, LITC grant, and TCE programs.