March 13, 2002

Mr. Steve Nickles  
Chair, Committee on Personnel and Organization  
IRS Oversight Board  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Mr. Nickles,

Thank you for giving the Section of Taxation of the American Bar Association the opportunity to comment on the Taxpayer Advocate Service’s (TAS) organization and operation following the Restructuring and Reform Act of 1998 (RRA 98). I am writing this letter on behalf of the Section. This letter has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the Association.

Before offering specific suggestions, I would like to emphasize that the TAS has been a positive force in addressing taxpayer concerns in dealing with the Internal Revenue Service (IRS), including in particular the many concerns of our nation’s low income taxpayers. We would also like to commend the TAS, and especially the current National Taxpayer Advocate, for their systemic advocacy for administrative and legislative improvements to the tax law. The Advocate has made critical contributions to the tax simplification effort, particularly with respect to suggestions for reducing the complexity now encountered by low income taxpayers.

RRA 98 created a separate and independent TAS function, replacing the old Problem Resolution Program (PRP). Under the pre-RRA 98 regime, PRP personnel were located in each region, district and Service Center. PRP personnel were generally considered employees of the various offices in which they were posted. By contrast, the separate TAS structure fosters a sense, among both practitioners and TAS staff, that TAS employees are truly independent and committed to resolving taxpayer problems. The current structure makes sense and is to be applauded.
There has been some frustration among those working with TAS about its ability to ensure that the IRS resolves taxpayer problems in a timely manner. Most practitioners working with TAS contact and work with TAS caseworkers to resolve Operating Division delays.¹ Many contacts are made informally rather than by requesting Taxpayer Assistance Orders. There is often frustration that, because of Operating Division backlogs, in cases where there is not undue hardship, there is little that the TAS can do to expedite the resolution of certain matters.² This, however, is not truly a TAS problem, but an Operating Division issue. It does, however, affect how those working with TAS perceive its usefulness, and the increased ability of the Operating Divisions to provide timely quality service to taxpayers will no doubt reduce this frustration.

One problem identified by our members who are involved in low income tax clinics is that low income taxpayers often do not understand what the TAS employees function is with respect to individual case matters. For example, the TAS is not (and should not be) a substitute for regular IRS procedures. Low income taxpayers may be confused, however, about the role of TAS in the course of regular IRS examination activity. This is exacerbated by RRA 98’s requirement that the IRS place the phone number and address of the local TAS on 90-day letters.³ Notwithstanding this requirement, the TAS cannot represent taxpayers in Tax Court or before the IRS Appeals Office. While the TAS may help explain what a taxpayer may need to do to prove her case or protect her rights, some low income taxpayers mistakenly believe that contacting the TAS employee is a substitute for petitioning the Tax Court or meeting statutory deadlines. Moreover, TAS employees may not be the most appropriate people for working with taxpayers to develop facts and research the law applicable to taxpayers facing a possible IRS assessment. Correspondence between the IRS and taxpayers should clearly set forth the role of the TAS.

¹The NTA’s Fiscal Year 2002 Objectives Report to Congress likewise indicates that the vast majority of the TAS caseload pertains to systemic or procedural problems, including delay.

²Offers in compromise appear to generate some of the most frequent complaints; we understand that IRS is in the process of centralizing and modernizing its offer processing capabilities.

³26 USC 6212(a), added by RRA 98 1102(b).
Greater coordination of TAS and the Low Income Taxpayer Clinic (LITC) program could also help improve this situation. In this connection, we commend the National Taxpayer Advocate’s steps to publicize LITCs among local TAS employees and to encourage the posting of promotional LITC materials at TAS offices. The current organizational structure has the LITC program within the Wage and Investment Operating Division. An organizational change, under which the LITC program could be supervised by TAS or relate more closely to the TAS, likely would further the natural synergies between LITCs and TAS. That would also permit a greater exchange of ideas and information between and among groups that have the most direct contact with taxpayers who are in need of assistance, and perhaps allow for better oversight of the LITC program to ensure that it, too, is most effectively serving the nation’s low income taxpayers.

I hope these comments have been helpful.

Sincerely yours,

Richard M. Lipton
Chair

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