Manual (IRM) requires the Service to make reasonable efforts to contact the taxpayer before filing a lien. However, the IRM defines "reasonable efforts" as issuing a statutory assessment notice and sending a balance due notice. IRM 5.12.2.3 (May 20, 2005). Personal contact, by a real human being rather than a collection notice, would allow the Service to obtain the taxpayer's current address and would also allow it to determine whether a levy is appropriate and whether collection alternatives are available. In this regard, ACS, with properly trained employees, could be used more as a customer service function than an enforcement function. A separate function could then be used, either from campuses or local offices, to undertake enforcement if appropriate.

The other needed reform is to revise the tenor and purposes of collection notices. As indicated, the Service relies heavily on notices to inform taxpayers that they have a balance due and the collections process. The Service has recently begun revising many of its notices in an effort to make them more understandable by taxpayers. This effort is to be applauded. However, in order for this effort to be successful, the Service must learn to draft a notice that does not appear to be threatening, something it has been unable or unwilling to do. Even the Reminder of Tax Due notices sent annually to delinquent taxpayers have language that demands payment, regardless of whether the taxpayer is in Currently Not Collectible status, where the Service clearly does not expect payment. The CP-504 notice is probably the worst example. This collection notice begins with the words "Notice of Intent to Levy," even though it is not a Notice of Intent to Levy within the meaning of section 6330 and the taxpayer has no right to a hearing with respect to this Notice. This choice of language causes needless confusion and angst. Given the stringent review Service notices receive, the language chosen cannot be an accident. Collection notices, like many of the notices and publications the Service drafts, should be designed to inform and educate, not threaten.

Customer service and increased revenue are not mutually exclusive; in fact the opposite is true. By using a combination of personal contacts, and helpful and informative notices, followed by effective and targeted enforcement actions, the Service will stop the pendulum swings between service and enforcement and will improve collections. ■

The IRS Is Not Adequately Funded to Serve Taxpayers and Collect Taxes

Section 7803 requires the National Taxpayer Advocate to prepare an Annual Report to Congress that includes, among other things, legislative recommendations to resolve problems encountered by taxpayers. In her 2011 Annual Report to Congress, the National Taxpayer Advocate, Nina E. Olson, describes the increasing workload of the Service along with its declining budget. In her report, the National Taxpayer Advocate compares this timeframe to that of 1998 when Congress reduced the Service's budget while seeking additional revenue and concludes that this same formula threatens taxpayer protections and prohibits the Service from maximizing revenue collection. Specifically, the increasing complexity of the Code, coupled with more automation and further budget reductions, prevents the Service from answering 30% of phone calls, failing to respond to correspondence for at least 45 days in 47% of taxpayer interactions (up from 11.5%), and losing the ability to collect revenue at a rate of $200 for every $1 appropriated to the Service. The Report proposes that Congress develop new budgeting procedures for the Service, remove it from discretionary budget freezes, and exempt it from spending ceilings or move it "off-budget."

In the fifth of an annual series, *NewsQuarterly* publishes excerpts of the Annual Report. *NewsQuarterly* encourages readers to submit responses or comments, which may be published in a subsequent issue.

— Christopher M. Pietruszkiewicz, Vice Chancellor for Business and Financial Affairs and J.Y. Sanders Professor of Law, LSU Law Center, Baton Rouge, LA

"Failure to fund the IRS sufficiently so that it can treat taxpayers properly . . . breaches the social contract with U.S. taxpayers upon which our voluntary tax compliance system was founded—and limits the IRS's ability to collect much-needed federal revenue."

[W]e elaborate on our concern that the IRS cannot keep pace with its workload in a declining budget environment without seriously eroding the taxpayer service that taxpayers deserve. Moreover, under pressure to "do more with less," we note that the IRS is in danger of implementing its enforcement and compliance initiatives in a manner that fails to provide taxpayers with adequate notice to enable them to understand what actions are being proposed and the basis for those actions—and an adequate opportunity to present their own information to show the IRS has made an error.

We have been here before. In the years before the landmark Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) [Pub. L. No. 105-206, 112 Stat. 685 (1998)], Congress significantly cut the IRS budget while increasing pressure on it to collect revenue. We know what happened during that time—IRS employees and taxpayers were at loggerheads, with each side distrustful of the other and the IRS taking enforcement actions to meet stated or unstated quotas and failing to listen to taxpayers, who viewed the IRS as an adversary. RRA 98 established many safeguards to prevent this breakdown from occurring again. In light of the IRS's indiscriminate use of automation to avoid personal contact with taxpayers and the sheer volume of work to be accomplished, however, the IRS is increasingly in danger of judging taxpayers as noncompliant when in fact they are not. Throughout this Report, we describe IRS practices and procedures that harm taxpayers by acting on assumptions of noncompliance arrived at by automated processes that do not solicit, encourage, or allow taxpayer response. We identify instances where the IRS, through automation, is imposing undue burden on taxpayers that it could eliminate through better use of its internal data (ironically, through automated processes).

It has been 13½ years since we have had major taxpayer rights legislation. Our laws have not kept pace with our notions of procedural fairness in 21st century tax administration, particularly given the tax system's expanded and diverse taxpayer base and duties. We thus reiterate our call for Congress to pass a Taxpayer Bill of Rights, and we include in that recommendation many of the legislative proposals we have made in previous reports, some of which have been introduced in Congress, and all of which, we believe, will provide taxpayers with needed protections and instill greater confidence in the tax system. To treat taxpayers fairly and provide them with due process while collecting over 90 percent of the federal government's revenue and delivering economic and social programs to targeted populations—that is indeed the challenge facing the IRS. But Congress bears the responsibility here to fund the "accounts receivable" function of the federal government. Policymakers may disagree fervently about the appropriate level of taxation, but whatever the level is, the law must be enforced fairly and consistently. The IRS must communicate and engage taxpayers as it finds them, with all their diversity of characteristics. To accomplish its dual mission of tax collection and benefits administration, the IRS must be adequately funded. Failure to fund the IRS sufficiently so that it can treat taxpayers properly (which includes both service and enforcement) breaches the social contract with U.S. taxpayers upon which our voluntary tax compliance system was founded—and limits the IRS's ability to collect much-needed federal revenue.

Problem

The most serious problem facing U.S. taxpayers is the combination of the IRS's expanding workload and the limited resources available to the IRS to handle it.

Among the consequences:

1. The IRS is unable to adequately meet the service needs of the taxpaying public.
2. The IRS is unable to adequately detect and address noncompliance, requiring honest taxpayers to shoulder a disproportionately large share of the tax burden.
3. The IRS is unable to maximize revenue collection, contributing to the federal budget deficit.

Analysis

The workload of the IRS has expanded substantially in recent years due to a variety of factors, including the increasing complexity of the tax code and its frequent changes, the service needs of an increasingly diverse taxpayer population, a surge in refund fraud and tax-related identity theft, and the need to implement new third-party information reporting requirements. However, the IRS has not received sufficient resources to manage its expanding workload; in

fact, the IRS budget was reduced slightly from fiscal year (FY) 2010 to FY 2011, and it has been cut by an additional 2.5 percent in FY 2012.

These reductions are affecting the IRS's operations, particularly taxpayer service. Two key measures of taxpayer service are the IRS's ability to answer taxpayer telephone calls and its ability to respond to taxpayer correspondence. From FY 2004 to FY 2011, the percentage of calls the IRS answered from taxpayers seeking to speak with a telephone assistor dropped from 87 percent to 70 percent. Over the same period, the IRS's ability to process taxpayer correspondence in a timely manner also declined. The percentage of taxpayer correspondence in the tax adjustments inventory classified as "over-age" (generally, 45 days or older) increased from 11.5 percent at the end of FY 2004 to 47.0 percent at the end of FY 2011. Thus, the IRS is now unable to answer three out of every ten calls it receives, and nearly half of all taxpayers who write to the IRS must wait more than 6-1/2 weeks for a reply.

The IRS is the one agency of the federal government with which most Americans interact every year. To a significant extent, the public's perception of the fairness and effectiveness of their government is shaped by their experience in dealing with the IRS. Few people enjoy paying taxes, but most recognize it is a necessary requirement to provide for a civilized society. Yet the public expects—and has a right to expect—that the government will make the process of paying taxes as painless as possible. If taxpayers experience unnecessary hassles in trying to do their civic duty, their cynicism about the competence and fairness of the government will increase. To maximize public confidence, the tax collector should be staffed at a level that enables it to meet the needs of all taxpayers.

With more resources, the IRS could also do more to improve tax compliance. This is important both to fund the operations of government and to ensure that compliant taxpayers are not ultimately required to pay more to subsidize noncompliance by others. Dividing the most recent tax gap estimate of $290 billion by the number of households in the United States suggests that the average household is being assessed an annual "surtax" of about $2,680 to enable the federal government to raise the same level of revenue it would collect if all taxpayers were to report their income and pay their taxes in full. That is not a burden we should expect our nation's taxpayers to bear lightly.

The IRS is effectively the Accounts Receivable Department of the federal government. It collects more than 90 percent of all federal revenue and therefore provides the funds that make all other federal spending possible. On a budget of about $12.1 billion, the IRS collected about $2.42 trillion in FY 2011. In other words, for every $1 that Congress appropriated for the IRS, the IRS collected about $200 in return.

If the federal government were a private company, its management would fund the Accounts Receivable Department at a level that it believed would maximize the company's bottom line. Since the IRS is not a private company, maximizing the bottom line is not—in and of itself—the only goal. But the public sector analogue should be to maximize tax compliance, especially voluntary compliance, with due regard for protecting taxpayer rights and minimizing taxpayer burden. Studies show that if given more resources, the IRS could better meet taxpayer needs *and* collect substantially more revenue.

Recommendation

In light of the IRS's unique role as the federal government's accounts receivable department, the National Taxpayer Advocate recommends that Congress develop new budget procedures to ensure that the IRS is funded at whatever level will maximize tax compliance, with due regard for protecting taxpayer rights and minimizing taxpayer burden. In the short run, this approach should include carving out the IRS from discretionary budget freezes intended to reduce the budget deficit, as cuts to the IRS budget are likely to increase the deficit. Over the longer term, this approach may include exempting the IRS from spending ceilings or even taking the IRS off-budget. ■