



Putting Service Back into the Internal Revenue Service: NAEA's Recommendations on IRS Reforms

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The IRS mission is to "provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and applying the law with integrity and fairness to all."

The National Association of Enrolled Agents (NAEA) represents the interests of nearly 60,000 enrolled agents (EAs) worldwide. EAs are tax experts, licensed by the Department of Treasury. They must pass a series of federally administered exams covering the Internal Revenue Code. Additionally, EAs are subject to background checks and ongoing continuing education/ethics requirements.

The Internal Revenue Service touches more U.S. citizens than any other federal department or agency. It is the face of the federal government for most citizens. Increasingly, EAs are expressing the view that the quality of taxpayer and practitioner service within the IRS has deteriorated to an unacceptable level. As frontline representatives of taxpayers at every level of the tax administrative system, EAs have a unique window into the enormous challenges facing the IRS.

The data made available to the public from the last several years backs up our members' assessment. For instance, a National Taxpayer Advocate Annual Report from 2019 details that in 2017 and 2018 the IRS only answered 34% and 35% of calls respectively. In 2019, the percentage of total number of calls answered fell to 29%. Recent data from the 2021 National Taxpayer Advocate Annual Report to Congress, which was released in January of 2022, states that during fiscal year 2021, the IRS received a record 282 million calls. Only **11%**, or a total of 32 million calls, were answered.

NAEA believes a transformation and modernization effort is needed to truly address the challenges facing the IRS. Such an effort begins with the acknowledgement that taxpayer service encompasses nearly all the agency's external-facing functions. As a result, pre-filing issues (*e.g.*, tax ID numbers, withholding and estimated tax payment forms and instructions, walk-in service, access to prior year tax information); filing issues (*e.g.*, electronic filing, math error adjustments, ID theft); and post-filing issues (*e.g.*, compliance notices, audits—both office and correspondence—and collections) are included. Too often, policymakers and IRS create a false choice between providing service and assuring compliance. From a taxpayer's perspective, any interaction with the IRS is essentially compelled.

Because taxpayers are often fearful, and the agency is so powerful, the IRS and Congress must ensure the agency remains relentlessly focused on service grounded in fairness, accuracy, and timeliness at all points of the tax administration process.

The IRS should have a strategic mission that is shared by its many stakeholders—employees, congressional overseers, and tax professionals alike. To help sustain this shared mission, Congress must consider governance, management, personnel, and budget. Only through this comprehensive approach do we believe the agency can be successful in its mission, which is to provide top quality service.

With this in mind, we propose the following:

IRS Oversight, Governance, and Management Reform

The Report of the National Commission on Restructuring the IRS (the Commission) in 1997 highlighted an issue that once again plagues the agency: its inability to set and maintain consistent long-term strategy, develop, and execute focused plans for improvement, and ensure its budget, staffing, and technology are aligned with organizational success. The Commission recommended comprehensive changes to IRS oversight and governance. Most have been set aside or ignored over the last five to ten years. NAEA urges Congress to reassess these recommendations and make changes where necessary.

- Reduce the IRS Oversight Board size to five private sector members—representing technology and business process modernization, customer service, and accounts management. The members would be appointed by the President to 5-year terms as under current law and would not be subject to Senate approval.
- Increase the power of the board to review and approve all agency operational plans and any modifications to those plans.
- Require the IRS Commissioner to certify annually to the Board that IRS **does not** use any enforcement or approval criteria based on political, religious or racial standards.
- Empower the Board to direct TIGTA (U.S. Treasury Inspector General for Tax Administration) to investigate systemic issues involving customer service, enforcement resources and modernization.
- Allow the Board to hold senior executives accountable through the award of executive bonuses, censure, reprimand, suspension, and termination.

Workforce Reform

An organization's culture produces its results. The wrong culture produces the wrong results while the right culture can produce the right results. The power of an organization's culture is pervasive.

The agency needs to have a dialogue centered on its values and its approach to providing service to the public. While we believe the Taxpayer Bill of Rights is an excellent starting point, we also believe clear and consistent training is an essential element in moving the IRS towards a service orientation.

In short, the IRS should focus on culture and leadership through these avenues:

- Create and fund a dedicated training division within the IRS to increase competency and help create the appropriate culture.
- Streamline the IRS training process by partnering with industry partners in creating a feedback loop, ensuring that tax law and administrative policies be taught consistently throughout the country while also guaranteeing that experienced personnel will not have to be taken offline to train new employees.
- Research and adopt state-of-the-art tax administration techniques and best practices at the state, local and international levels and incorporate these approaches into education materials and the Internal Revenue Manual. Focus IRS training on early and fair resolution of tax disputes.
- Provide the agency hiring flexibility. Grant the IRS a reformed Streamlined Critical Pay Hiring Authority, stipulating the areas of expertise covered by the program.

IRS Budget Reform, Measures, and Electronic Filing

Funding for the IRS has not kept pace with the rapid expansion of its workload over the last several decades. In the last ten years alone, funding remains nearly 20 percent below its 2020 level after being adjusted for inflation. The IRS has largely met the constraints of a shrinking real budget through attrition and a reduced workforce. The agency has not been in control of much of its staffing for years and presently faces demographics that should concern all. NAEA proposes new measures and funding changes to help address IRS's budget challenges.

Congress should provide clear, measurable objectives for the IRS in taxpayer service, electronic filing, and enforcement, similarly to the 80 percent electronic filing goal established in the IRS Restructuring and Reform Act. As an example:

- By the 10th year, the Level of Service measures (encompassing all communications channels such as phones and secure messaging) for wait and response times, regulatory and procedural accuracy, professionalism, timeliness and customer service satisfaction shall be no lower than 90%;
 - By the 10th year, the net tax gap, as measured by the fraction of taxes due that are not reported and paid, should be reduced by at least 20%, as compared with the fraction estimated in the most recent IRS tax gap study; and
 - The IRS should within 6 months adopt the Electronic Tax Administration Advisory Committee recommendations for electronic filing as set out in their 2021 report to Congress, including resetting the 80 percent goal to make it applicable for every major category of tax and information return and meet those goals within 5 years of enactment of this Act.
- Congress should then provide funding necessary to meet these levels of service and compliance, or in the alternative, explain to the American people why these funding

levels were not provided. Special funding attention should be provided to improve timeliness and efficiency, for instance:

- Require IRS to communicate a decision within 30 days of a taxpayer response to an IRS notice or letter.
- Provide compliance staff greater authority to settle cases early (IRS should also evaluate settlements based on a singular focus on early and fair resolution of disputes).
- Congress should fund and the IRS deploy the appropriate staffing at the points of significant taxpayer contact (such as all call centers and TAC counters) and training at all levels.
- Congress should provide adequate funding when increasing the agency's workload (e.g., to implement new credits or temporary tax benefits).

Taxpayer Service/Dispute Resolution Reform

Both IRS and taxpayers are ill-served by delayed or protracted compliance activity. Taxpayers who are unable to promptly address positions taken on returns run the risk of compiling penalties on similar positions taken on subsequent returns. Further, taxpayers who enter the collection stream late are less likely to pay full balances due and the payments often cause greater hardship. NAEA recommends the following changes and new flexibilities to help address these issues:

- Allow for the e-filing of all prior year tax returns that are currently limited to paper filing (only).
- Provide ACS with the authority to assist a taxpayer or practitioner who calls in while their case is pending assignment (in queue) to a Field Officer. Currently, taxpayers “in queue” are essentially frozen out of resolution options until a case is assigned to a Field Officer and the process can take months.
- Provide collection staff wider guidance to reach early agreements on payment plans and provide training to help staff facilitate taxpayer payments by quickly resolving cases that deviate slightly from the financial standards by allowing them to approve proposed agreements within a set dollar amount of deviation.
- Require IRS to reevaluate the National Standards for Collection Information Statements, either by adjusting the allowable living expenses for regional or local cost of living variations, or by returning to use of a dollar range, based on gross monthly income.
- Increase the authority of and set higher standards for appeals personnel.
 - While we welcome and applaud IRS for the recent addition of video conferencing as a substitute for some in-person appeals hearings, we suggest additional provisions be implemented.

- The knowledge, experience, and authority of the appeals personnel should meet a higher standard than the campus appeals technical employees, who may have little authority and may not grasp the intricacies of cases assigned to them.
- Incorporate a number of taxpayer rights changes from the National Taxpayer Advocate's 2022 Purple Book recommendations, including:
 - Require the IRS to work with Tax Software companies to incorporate scanning technology for individual income tax returns prepared electronically but filed on paper.
 - Authorize the IRS to establish minimum competency standards for federal tax return preparers.
 - Amend the Lookback Period for Allowing Tax Credits or Refunds Under IRC § 6511(b)(2)(A) to Include the Period of Any Postponement of Time for Filing a Return Under IRC § 7508A.
 - Expand the Tax Court's Jurisdiction to Hear Refund Cases and Assessable Penalties.
 - Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce the Improper Payments Rate.
 - Clarify That Supervisory Approval Is Required Under IRC § 6751(b) Before Proposing Penalties.
 - Require That Math Error Notices Describe the Reason(s) for the Adjustment With Specificity, Inform Taxpayers They May Request Abatement Within 60 Days, and Be Mailed by Certified or Registered Mail.
 - Amend IRC § 6330 to Provide That "an Opportunity to Dispute" an Underlying Liability Means an Opportunity to Dispute Such Liability in a Prepayment Judicial Forum.
 - Amend IRC § 6212 to Provide That the Assessment of Foreign Information Reporting Penalties Under IRC §§ 6038, 6038A, 6038B, 6038C, and 6038D Is Subject to Deficiency Procedures.

Online Solutions for Practitioners

The fastest and most efficient means of decreasing wait times on the Practitioner Priority Service phone line is to provide robust applications through the online Tax Pro Accounts. If the agency could provide three online solutions, we believe they could drive as much as 75 percent of the phone traffic to the internet.

- First, as mandated by Congress in the Taxpayer First Act, if the IRS would provide guidance on the use of private sector electronic signature options for Forms 2848 and 8821 for both authenticating and authorizing these important documents that would allow for near real time approval by using OCR technology and allowing practitioner, regardless of method, electronically signed 2848 and 8821, then much of the taxpayer transcript calls would cease immediately.

- Second, because of the inability of the agency to provide online business accounts, the IRS needs to allow small businesses with one owner to access business transcripts and authorize their tax practitioners using their own personal accounts.
- Third, the IRS need to establish minimum approval standards (similar to IVES) and infrastructure to support EA practitioner firm level accounts. Thereby allowing the firm to manage and secure taxpayer information and allow the IRS to have oversight on practitioner firms.
- Finally, the IRS needs to make available immediately an application within the Tax Pro Account for practitioners to send documents and otherwise communicate directly with IRS personnel. Failure to make this last application widely available forces practitioners to use the PPS lines and faxes, or even worse, the USPS.

IRS's perennial failure on providing these basic applications has trapped taxpayers and their representatives in an unacceptable level of service that would only nominally improve with the hiring of additional personnel.

Practitioner Reforms

Over half the time a tax return is filed, or a taxpayer responds to an IRS compliance, a tax professional is representing the taxpayer. Congress and the IRS need to recognize the importance to the tax administration system of having only competent and ethical professionals. For this reason, we recommend:

- IRS should create a dedicated, executive-level practitioner services unit that would centralize and modernize its approach to all practitioners. All administration and oversight of third-party stakeholders (e.g., Circular 230 practitioners; unenrolled preparers; tax software providers; e-filing; payroll providers) would be consolidated under the new executive.
- The Office of Professional Responsibility should be empowered to issue cease-and-desist letters to any person or corporation improperly using the enrolled agent credential—or using it in a fashion that could reasonably be construed as confusing—and granted authority to enforce the letter through the federal courts.
- Congress should provide IRS with the authority to establish minimum standards for unenrolled tax preparers. Congress should override *Loving v. IRS* and all subsequent cases relying on its holdings and provide specific authority for the IRS to require all non-credentialed paid tax preparers to meet minimum standards. Such standards should include passing a one-time competency exam administered under the auspices of the Department of Treasury, requiring tax compliance background checks, setting continuing education requirements, and requiring compliance with strict ethical standards.
- Congress should clarify that certified public accountants, enrolled agents and lawyers regulated under 31 USC § 330 who prepare a return may provide a statement verify any element of the return, such as adjusted gross income, for

purposes of qualifying for any federal program or benefit.

- IRS should provide practitioners with a robust practitioner priority hotline (or hotlines) with higher-skilled employees who have the experience and training to understand and address more complex technical and procedural issues.

Conclusion

Taxpayers have the right to quality service, the right to challenge the IRS' position and be heard, the right to finality, the right to appeal, and the right to representation.

The time to address our nation's tax administration system is now. Reform should encompass oversight; governance; management, workforce, and budget; taxpayer service/dispute resolution; future state; and practitioners. Above all, taxpayer rights and taxpayer service should drive the conversation.

We at the National Association of Enrolled Agents look forward to working with Congress to reform the Internal Revenue Service. We stand ready to assist with implementation of these important proposals.