

**TAXPAYER ADVOCATE REPORT AND LOW-INCOME  
TAXPAYER CLINICS**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT  
OF THE  
COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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**TAXPAYER ADVOCATE REPORT AND  
LOW-INCOME TAXPAYER CLINICS**

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**THURSDAY, JULY 12, 2001**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON OVERSIGHT,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 6:05 p.m., in room 1100 Longworth House Office Building, Hon. Amo Houghton (Chairman of the Subcommittee) presiding.

[The advisory and revised advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE  
July 3, 2001  
No. OV-4

CONTACT: (202) 225-7601

### Houghton Announces Hearing on Taxpayer Advocate Report and Low-Income Taxpayer Clinics

Congressman Amo Houghton (R-NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the Taxpayer Advocate report and the Low-Income Taxpayer Clinic program. **The hearing will take place on Thursday, July 12, 2001, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m.**

Oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

#### **BACKGROUND:**

The position of Taxpayer Advocate was established by the 1996 Taxpayer Bill of Rights, replacing the original Taxpayer Ombudsman that had been created by the Internal Revenue Service (IRS) in 1979. Taxpayers suffering significant hardships or long delays can appeal to the Taxpayer Advocate Service for assistance. The Taxpayer Advocate must submit a report each year to the Committee on Ways and Means and identify its objectives for the coming fiscal year.

Section 3601 of the IRS Restructuring and Reform Act of 1998 established a program to grant up to \$6 million to low-income taxpayer clinics. This program arose from a 1997 recommendation by the National Commission on Restructuring the IRS that the IRS provide financial assistance to these clinics. No clinic can receive more than \$100,000 per year; the funds must be matched by private money and each clinic must re-apply for a grant after three years.

In announcing the hearing, Chairman Houghton stated, "The Taxpayer Advocate Service is already showing great strength in providing an independent voice for taxpayers. In addition, a true success story of the IRS Restructuring Act is the funding for low-income taxpayer clinics, which provide valuable assistance to taxpayers having problems with the IRS."

#### **FOCUS OF THE HEARING:**

Congress will review the Taxpayer Advocate report in order to assess the mission and priorities for the upcoming year. The hearing will also address the functioning and funding of the Low-Income Taxpayer Clinic program.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label*, by the close of business on Thursday, July 26, 2001, to Allison Giles, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Oversight office,

room 1136 Longworth House Office Building, by close of business the day before the hearing.

**FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "[http://www.house.gov/ways\\_means/](http://www.house.gov/ways_means/)".

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

**NOTICE—CHANGE IN TIME**

**ADVISORY**

**FROM THE COMMITTEE ON WAYS AND MEANS**

**SUBCOMMITTEE ON OVERSIGHT**

FOR IMMEDIATE RELEASE  
July 9, 2001  
No. OV-4-Revised

CONTACT: (202) 225-7601

## **Change in Time for Subcommittee Hearing on Taxpayer Advocate Report and Low-Income Taxpayer Clinics**

Congressman Amo Houghton, (R-NY), Chairman of the Ways and Means Subcommittee on Oversight, today announced that the Subcommittee hearing on the Taxpayer Advocate Report and Low-Income Taxpayer Clinics, previously scheduled for Thursday, July 12, 2001, at 2:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building, **will be held instead at 4:00 p.m.**

All other details for the hearing remain the same. (See Subcommittee Advisory No. OV-4 released on July 3, 2001.)

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Chairman HOUGHTON. Ladies and gentlemen, this is rather abrupt, but I think we would like to start the hearing on the Report of the Taxpayer Advocate of the Oversight Committee.

So would you all come up here. And, frankly, if it is all right with you, Mr. Coyne, maybe we could all come up in terms of the panel—Ms. Olson but also Professor Book and Professor Spragens, Professor Rich and Professor Cohen and Mr. Heavner and Mr. Gold. I don't know if you can all sit at that table, but if you can, it would be great.

Again, I apologize very much. It was all Mr. Coyne's fault. And we are going to start this thing and end it promptly.

What I would appreciate you doing, if you could, is if there is anybody who has to leave early—I know Mr. Coyne has to leave—that we will just put you right on after Ms. Olson.

So if that is OK, then why don't we just start. I have just got a couple of comments to make.

I am delighted you all are here. I thank you for your patience. These are important hearings. Particularly we are going to review the report of the Taxpayer Advocate, who is doing an absolutely outstanding job, Nina Olson. You all know her. You know her reputation. She has done a great job.

Then, following Ms. Olson, we are going to have representatives of low-income taxpayer clinics.

You probably know, if not, let me say that in 1998 Congress recognized the need to provide assistance to taxpayers who are not able to afford proper assistance when faced with significant Internal Revenue Service (IRS) problems. So why don't we go into our testimony; and, Ms. Olson, if you could begin we sure would appreciate—oh, wait a minute, wait a minute. I am sorry. Mr. Coyne has got a statement.

[The opening statement of Chairman Houghton follows:]

### **Opening Statement of Hon. Amo Houghton, M.C., New York, and Chairman, Subcommittee on Oversight**

Good afternoon. Our hearing today will review the report of the Taxpayer Advocate and receive the views of individuals who run clinics that assist low-income taxpayers. While these are two distinct programs within the Internal Revenue Service, they share the common goal of assisting taxpayers with the maze of laws, regulations and procedures of our income tax system.

Our first witness, the Taxpayer Advocate, Nina Olson, also provides a unique bridge between the activities of the Taxpayer Advocate Service and the performance of Low-Income Taxpayer Clinics. Ms. Olson was a leader in the low-income tax world, having established the first clinic some nine years ago.



We value the mission of the Taxpayer Advocate Service—that of advocacy on behalf of taxpayers. While working within the IRS structure, we expect Taxpayer Advocates to be a strong voice for the little guy. And we expect the IRS Commissioner and the other functional units in the IRS to listen to the recommendations of the Taxpayer Advocate.

Your key goals, advocating changes in tax law or procedures that reduce taxpayer burden, and assisting taxpayers in resolving problems with the IRS, are ones that we in Congress, on a bipartisan basis, strongly support. We look forward to working with you in achieving your mission.

Our second panel today is comprised of representatives of Low-Income Taxpayer Clinics. In 1998, Congress recognized the need to provide assistance to taxpayers who are not able to afford proper assistance when faced with significant IRS problems.

The low-income taxpayer clinic program provides grants to law, business, or accounting schools, or to nonprofit groups providing tax assistance. This funding, a total of only \$6 million from the IRS budget, and limited to matching private funds up to \$100,000 per clinic per year, enables low-income taxpayers to receive appropriate representation when faced with disputes with the IRS. In addition, the clinics provide important tax information to individuals for whom English is a second language.

I'm very pleased that one of our witnesses today is Professor Allen Cohen, representing the Ithaca College Low-Income Taxpayer Clinic. This clinic serves many taxpayers in my district in New York, and I appreciate your important work.

Many of our hearings and the daily stories in the papers focus on problems with the Internal Revenue Service. The IRS does have problems, but today we are pleased to talk about two successes—the Taxpayer Advocate Service and Low-Income Taxpayer Clinics.

I am pleased to yield to our ranking Democrat, Mr. Coyne.

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Mr. COYNE. Mr. Chairman, I just would like to submit a statement for the record so we can move along with the hearing.

Chairman HOUGHTON. OK. Fine.

[The opening statement of Mr. Coyne follows:]

**Opening Statement of Hon. William J. Coyne, M.C., Pennsylvania**

As Ranking Member of the Subcommittee on Oversight, I want to welcome Ms. Nina Olson to today's hearing. Ms. Olson is the Internal Revenue Service's new Taxpayer Advocate and an articulate spokesperson for taxpayers in need of assistance. It is particularly appropriate that her testimony is followed by distinguished representatives of low-income tax clinics throughout the country. Ms. Olson is one of the country's best known advocates of low-income taxpayer assistance and an excellent choice to head the IRS National Taxpayer Advocate's Office.

As a Member of the IRS Restructuring Commission, I remember well our discussions about how fairness dictates that all taxpayers have access to professional assistance in resolving their tax controversies with the IRS. Too often simple IRS notices or minor amounts of taxes due can turn into complicated and expensive tax problems. Many taxpayers do not know how to navigate the multi-faceted IRS system. This is particularly true for those who cannot afford to hire accountants or are not proficient in English. This is why I urged the IRS Commission and the Ways and Means Committee, in adopting the 1998 IRS Restructuring and Reform Act, to include special matching funds for tax clinics to serve those in need.

The tax clinic program has been in place now for three years and, by all reports, it has been a great success. The grants for low-income clinics have grown each year and, for fiscal year 2001, are funding over 102 clinics at a total cost of \$6 million. This is a program that deserves our support.

I am personally proud that two universities located in Pittsburgh, Pennsylvania, are operating low-income tax clinics. The University of Pittsburgh School of Law and the Duquesne University School of Law are recipients of low-income tax clinic grants, and they are doing a great job. I want to personally welcome Mr. Dixon Rich, from the Pittsburgh Law School clinic. Professor Rich and Clinic Director Martha Mannix have been instrumental in providing my constituents with top-rate assistance in handling IRS tax problems.

I also want to thank Subcommittee Chairman Houghton for arranging this hearing. Oversight of IRS programs is one of the most important things this Sub-

committee does. There is much we can learn from our hearing witnesses today. In reviewing operation of the tax clinic program, I look forward to our discussion of: how the program can be improved, what low-income tax clinic taxpayers find most difficult in complying with our tax laws, and which tax code provisions could be simplified to reduce complexity, taxpayer confusion, and unnecessary dealings with the IRS.

This information will be particularly helpful during the Subcommittee's joint hearing next week on tax simplification.

Thank you.

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Chairman HOUGHTON. Would anybody else like to—would you like to say something?

OK. Good. So what I would like to do is if I could call on Ms. Olson first, and then I will go right to Alan Cohen. All right. Thank you very much.

**STATEMENT OF NINA E. OLSON, NATIONAL TAXPAYER  
ADVOCATE, INTERNAL REVENUE SERVICE**

Ms. OLSON. Mr. Chairman and Members of the Committee, thank you for inviting me here today to discuss the Taxpayer Advocate Service's (TAS) plans for fiscal year 2002.

First, I would like to thank you for your support and guidance that the Subcommittee has given me personally and the Taxpayer Advocate Service collectively. Your interest encourages us to meet our goals as defined by the Restructuring Act.

What is the Taxpayer Advocate Service's mission? section 7803 sets out four objectives. Only one of those objectives addresses direct casework. The other three involve advocacy about systemic problems.

TAS, as we call the Taxpayer Advocate Service, is first charged with helping taxpayers resolve their problems with the IRS. I find it very interesting that Congress does not direct TAS to actually do the problem solving. That is the difference from the former problem resolution program, where problem resolution officers actually made decisions on cases, pursuant to the district director's authority.

With the independent reporting structure of TAS under the National Taxpayer Advocate, TAS employees derive their authority from the statute and from the National Taxpayer Advocate.

What powers—or authorities—do the Taxpayer Advocate Service employees have to accomplish its mission?

First, we have the ability to issue Taxpayer Assistance Orders. Under 7811 we can order the IRS to cease an action or to take an action. As best as I can determine, these actions are limited to procedural provisions. That is, a TAS employee can stop a levy if it will create a significant hardship, but he or she cannot order a revenue officer to accept a particular offer in compromise or require a revenue agent to reach a specific result in an audit. We can only ask them to review the case and consider our recommendations.

In addition to our statutory authority, the Commissioner has determined that it makes good sense for TAS employees to actually resolve simple repetitive or routine cases. I believe that this combination of statutory and what we call delegated authorities en-

ables TAS to help taxpayers resolve their tax problems without turning the Taxpayer Advocate Service into a shadow IRS.

I must stop here, however, to acknowledge that there is a missing link in the tax system. There are cases where the IRS cannot correct its errors or mistakes because the laws prevent us from doing so. This happens in all legal systems; and where the remedy at law fails or is insufficient, equity steps in. Such a remedy would be unique in a tax administration system. I believe, however, that Congress should vest the Commissioner with that authority to render equitable relief in instances of hardship where the IRS has committed a wrong that shocks the conscience of all taxpayers if it went uncorrected. It may also be appropriate to authorize the National Taxpayer Advocate to recommend such relief to the Commissioner and to investigate the proposed possible hardship. We are working on this proposal and hope to include it in our December report to you all.

The pressures on TAS to assume more and more responsibility for actually deciding taxpayer cases is illustrated by our recent inventory study. This study demonstrates that for fiscal year 2000 and year to date 2001 over 80 percent of the cases that came to TAS during that period arrived because of the Service's failure to timely act or because of some other systemic failure. It is stunning to me that so much of our inventory consists of essentially overflow from the Service's operating divisions.

There are many reasons for this predicament. First and foremost is the issue of resources. Our study indicates that when IRS examination or collection employees are pulled away from their regular duties, as they have been in the last few filing seasons when they fill in on phones or walk-in sites, cases back up in operating divisions and ultimately end up in TAS. With the stable initiative, we expect the situation to improve.

A second reason for the overflow is a historical lack of attention to planning around normal business cycles. It is my opinion that in the past planning for examination and collection initiatives occurred in somewhat of a vacuum. For example, the Service might plan to send out deficiency notices on December 29th. This notice gives the taxpayer 90 days to file in Tax Court to protest a proposed assessment. The taxpayer can call the IRS during the 90-day period to attempt to resolve the case. But the 90-day period occurs during filing season when our phone traffic is greatest. So the taxpayer is unable to reach the IRS, doesn't file in Tax Court because they are scared and ultimately ends up in TAS after the 90 days. This situation could be avoided with more careful IRS planning.

I am pleased to report that TAS has gotten the attention of the IRS on this issue. TAS representatives are now regularly included in task forces, compliance initiatives and employee meetings. For example, we are active participants in the recent offer in compromise designed task force and are participating in the exam re-engineering design team.

The TAS inventory study enables us to present the operating and functional divisions with concrete information that they can incorporate in their planning processes.

Recently, we provided Wage and Investment with inventory figures on a particular area called uncontrolled correspondence. Tax-

payer correspondence is controlled when we receive it at the IRS and enter it on our document retrieval system. When an item is entered on that system taxpayers can call the IRS and we can tell where it is and check on the processing of that document, where it is in the IRS. If correspondence is uncontrolled, we can only tell that it has been received and we can't answer any taxpayer questions. These cases fall out to TAS.

As a result of us showing the Wage and Investment Division what was happening with TAS receipts in response to their uncontrolled correspondence, Wage and Investment improved their controlled correspondence by 15 percent through the first 6 months of the fiscal year. We were then able to see a 10-percent decline in TAS uncontrolled correspondence cases. This direct correlation came from our working off of our inventory study.

We are currently providing monthly inventory updates to the operating divisions and will continue to use that data to encourage them to handle their cases better and prevent them from coming to TAS.

I believe that the Taxpayer Advocate Service needs to better articulate the nature of its advocacy. We are often the first people in the IRS to hear the taxpayer out in full. We can help the taxpayer work through the maze of IRS procedures and functions; we can assess the merits of the case and make a recommendation about the disposition of the case. If we feel the IRS is not responding appropriately to the taxpayer situation, we can keep advocating, raising the issue up through the Service to highest levels; and, most importantly, if we and the rest of the Service are unable to offer the taxpayer relief because of an administrative or legislative impediment, we can advocate to the IRS or to you in Congress for administrative or legislative change.

These tasks require discipline, vision and dedication. I believe that the employees of the Taxpayer Advocate Service possess all three qualities.

Thank you.

Chairman HOUGHTON. Thank you very much.

[The prepared statement of Ms. Olson follows:]

**Statement of Nina E. Olson, National Taxpayer Advocate, Internal Revenue Service**

**THE NATIONAL TAXPAYER ADVOCATE'S FISCAL YEAR 2002  
OBJECTIVES REPORT TO CONGRESS**

**BACKGROUND**

The Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206, "RRA 98") requires the National Taxpayer Advocate to submit semiannual reports to the House Ways and Means Committee and the Senate Finance Committee. The reports must be submitted directly to the Committees without any prior comment from the Internal Revenue Commissioner, the Secretary of the Treasury, any other Treasury officer, or the Office of Management and Budget. The first report, to be submitted by June 30 of each year, must identify the objectives of the Taxpayer Advocate Service for the fiscal year beginning in that calendar year. This report is submitted in accordance with Internal Revenue Code (IRC) Section 7803(c)(2)(B)(i); it details the activities and objectives planned by the Office of the National Taxpayer Advocate for Fiscal Year 2002.

**INTRODUCTION**

In his Fiscal Year 2001 Objectives Report to Congress, National Taxpayer Advocate W. Val Oveson identified six major objectives for the Taxpayer Advocate Service

(TAS). These objectives encompass a broad array of activities. The objectives derive from TAS' Congressional charge, found in IRC Section 7803(c)(2), to assist taxpayers in resolving problems with the Internal Revenue Service (IRS), and to identify and propose administrative or legislative solutions to those problems arising from taxpayer dealings with the IRS. These objectives are set forth in Appendix I.

Since assuming the position of National Taxpayer Advocate on March 1, 2001, I have worked to refine TAS' strategic goals in order to implement the objectives described above. The Taxpayer Advocate Service identified several major strategies, operational priorities, and improvement projects for fiscal years 2002 and 2003 as part of the Service's strategic planning process. TAS' four major strategies for fiscal years 2002 and 2003 are as follows:

- Advocate changes in tax law or procedures that reduce taxpayer burden and improve IRS effectiveness;
- Identify significant sources of TAS casework and work with the Operating Divisions on strategies to reduce inappropriate TAS workload;
- Improve TAS' ability to identify and respond to taxpayer concerns; and
- Ensure that the human resources component of the Taxpayer Advocate Service is adequate to meet its workload demands.

I submit for your review and comment, in the pages following, reports of various TAS operational areas and programs that address these major strategies. I include descriptions of our current and future plans for case processing (including the delegation and implementation of additional case resolution authorities); systemic advocacy (including the Annual Report to Congress); human resources (staffing and training); toll-free telephone access to TAS caseworkers; communications and liaison (internal and external outreach and publicity); and citizen advocacy panels.

I believe these activities present a clear picture of the nature and scope of the Taxpayer Advocate Service's efforts to assist taxpayers resolve tax problems, be they individual cases or systemic in nature. However, I have also identified several themes for fiscal year 2002 which bridge all of the Taxpayer Advocate Service's operations and which speak to its fundamental mission of advocacy on behalf of taxpayers. Each of these inquiries will assist the Taxpayer Advocate Service in developing a definition of advocacy, a code of practice for its employees, and an understanding of its underlying, or core, values.

Some of the issues we expect to explore during fiscal year 2002 and thereafter include:

***What does it mean to be a taxpayer advocate within the Internal Revenue Service?*** Congress charged the National Taxpayer Advocate and her employees with assisting taxpayers to resolve their tax problems. Under what circumstances may a taxpayer advocate refuse to accept a case or say "no" to a taxpayer? Should a TAS employee advance a taxpayer's position, regardless of its merits? At what point should a taxpayer advocate accept the Internal Revenue Service's determination in a given case and cease to advocate on behalf of the taxpayer?

***What is the extent of the National Taxpayer Advocate's (and her delegates') authority to resolve taxpayer problems?*** Are TAS employees merely facilitators or mediators between taxpayers and other IRS functions? Should they be authorized to render substantive determinations in taxpayer cases? What role should TAS play in taxpayer examinations that are open in other IRS operating divisions?

***What is the appropriate composition of TAS inventory according to hardship criteria?*** As a general rule, should TAS receipts reflect a predominance of financial hardship cases over those involving a delay of more than 30 days over normal processing time? In achieving the appropriate balance, what efforts should TAS undertake to reach out to taxpayers who have given up on their cases or who have fallen between the cracks of our tax administration system?

***What standards of practice should TAS employees be held to?*** Should we zealously advocate for a taxpayer's position or temper our representation with objectivity and independence? When should Local Taxpayer Advocates keep taxpayer contact or communications confidential from the rest of the Service? To whom do TAS employees owe a duty of care?

***What is the appropriate measure of the Taxpayer Advocate Service's performance and success?*** Should casework be measured by the number of cases closed, or the number of days it takes to complete a case, or the decline in the number of cases received? Should advocacy be measured by the number of Taxpayer Assistance Orders or Taxpayer Advocate Directives issued, or the number of advocacy projects started (or completed), or the number of legislative

recommendations adopted, or the inclusion of TAS representatives in IRS planning meetings, task forces, and other initiatives?

Fiscal Year 2002, then, will witness the beginning of the Taxpayer Advocate Service's exploration of its core values. We will conduct this inquiry using a number of methods including:

- internal dialog within the Taxpayer Advocate Service;
- discussions with other IRS employees, managers, executives, and the National Treasury Employees Union;
- presentations to and discussions with members of Congress and their staffs, and with taxpayers, tax practitioners, and other professionals;
- analysis of TAS' casework and methodologies; and
- examination of the standards of practice to which external taxpayer advocates adhere.

I do not expect that the Taxpayer Advocate Service will answer these questions during fiscal year 2002. I do, however, anticipate that TAS will undertake this inquiry and that we will be open to new approaches and models, even as we affirm old ones. The Taxpayer Advocate Service will evolve its own standards of practice, to which its employees can both aspire and adhere. I am honored to be a participant in this process, and I look forward to reporting to you in the future about our progress toward these goals. In the sections that follow, I believe you will see how the Taxpayer Advocate Service plans to establish a foundation for success in this exciting endeavor.

## **TAXPAYER ADVOCATE SERVICE CASEWORK**

### **Derivation of TAS Authority**

Prior to the creation of the Taxpayer Advocate Service as a separate and independent function within the Internal Revenue Service, cases involving significant taxpayer hardship were addressed through the Service's Problem Resolution Program (PRP). Problem Resolution personnel were located in each district, region, and service center, as well as in the National Office. Although in most instances the Taxpayer Assistance Order (TAO) authority provided in section 7811 of the Code was delegated to Problem Resolution caseworkers, in practice this authority was not the basis upon which the vast majority of taxpayer issues and problems were resolved.

Generally, Problem Resolution personnel were district or service center employees. They did not report to the Taxpayer Advocate or the Taxpayer Ombudsman but to the individual district or service center director for their post of duty. Since district directors were delegated broad authority to address, administer, and enforce the internal revenue laws, employees of the district (including Problem Resolution personnel) were able to resolve many taxpayer issues based on the authority delegated to the district or center director, irrespective of it being specifically related to a position description.

Many people, both within and outside the IRS, believe that Problem Resolution personnel exercised their authorities as a function of their positions as Problem Resolution caseworkers. In actuality, these authorities (except those described in IRC Section 7811) derived from the reporting relationship of the employee to the district or center director, and the director's authority to enforce and administer the internal revenue laws. The ability of a Problem Resolution caseworker to address substantive issues of the taxpayer or to take certain administrative actions not currently available to the Taxpayer Advocate Service (TAS) was unrelated to his or her PRP status, but rather a function of his or her status as a district or center employee.

Congress changed the Taxpayer Advocate Service's organizational reporting structure in RRA 98 in order to ensure an independent problem-solving function within the IRS. The prior IRS Problem Resolution Program was replaced by a system of local and area Taxpayer Advocates who report directly to the National Taxpayer Advocate—the Taxpayer Advocate Service.

Beginning in 1998, the structure of the entire IRS changed. Authorities that were delegated to the various field components of the Service responsible for administration and enforcement processes (district directors and service center directors) are now delegated to the Operating Division within the Service responsible for administering those issues (Wage and Investment, Tax Exempt/Government Entities, Small Business/Self Employed, and Large and Mid-Sized Business). Taxpayer Advocate Service employees are not included in this delegation chain, since Congress mandated that TAS employees report to the National Taxpayer Advocate.

### **The Taxpayer Advocate Service's Authority Today**

Under the new IRS reorganization, the National Taxpayer Advocate (NTA) possesses certain statutory authorities that enable her to assist taxpayers who are experiencing or are about to experience a significant hardship. These include the authority to issue a Taxpayer Assistance Order (TAO), either ordering the IRS to take an action or to cease an action (a "direct" TAO) or ordering the IRS to review a decision already or about to be made (a "review" TAO). TAOs may be issued by the NTA, taxpayer advocate area directors, and local taxpayer advocates. TAOs are reviewable by the Commissioner, Deputy Commissioner, and National Taxpayer Advocate.

The Commissioner has delegated to the National Taxpayer Advocate the authority to issue a Taxpayer Advocate Directive (TAD), addressing a system-wide administrative or procedural problem affecting many taxpayers. The TAD must address a process or procedure that creates undue burden, infringes upon the rights of taxpayers, or results in inequitable treatment of taxpayers. The National Taxpayer Advocate has the sole authority to issue a TAD. TADs are reviewable by the Commissioner and Deputy Commissioner of Internal Revenue.

Absent any other delegation of authorities from the Commissioner of Internal Revenue, the ability of the National Taxpayer Advocate or her employees to act on behalf of taxpayers is limited to those actions described in these statutory authorities. Since the establishment of the Taxpayer Advocate Service in RRA 98, the Commissioner has delegated to the National Taxpayer Advocate numerous authorities relating to procedural resolution of taxpayer problems. The NTA has, in turn, re-delegated them to TAS employees.

On January 17, 2001, the Commissioner delegated the accounts management authority of the Customer Service function to the National Taxpayer Advocate. The NTA will redelegate these authorities, contained in the Internal Revenue Manual, to TAS employees at the beginning of fiscal year 2002, following an intensive all-TAS training program during the late summer and early fall of 2001. These authorities enable TAS employees to perform many of the Customer Service related functions on routine cases that do not involve substantive determinations and thereby provide more efficient service to taxpayers.

It is a misnomer to describe the Taxpayer Advocate Service's authority to resolve taxpayer problems as "merely" procedural. While it is true that Taxpayer Advocate Service employees cannot and should not make substantive determinations in cases, they can still influence the outcome of a case. TAS employees can make sure that IRS employees making the substantive determination have all of the information necessary for making an informed decision. They can also make a recommendation of an appropriate resolution to the deciding employee. Finally, if the TAS employee believes that another function reached an incorrect result, the employee can continue to discuss the case with that function, including managers, and ultimately elevate it up to the National Taxpayer Advocate.

TAS employees have the ability and obligation to advocate on behalf of taxpayers, to the extent appropriate for each case. The Taxpayer Advocate Service will undertake a program-wide analysis of "advocacy" during fiscal year 2002. We will develop training materials and workshops that highlight advocacy, case preparation and presentation, conflict management, and negotiation skills.

The Taxpayer Advocate Service must not set itself up as a second IRS. We cannot, through our desire to resolve individual cases, become an accomplice to masking and sustaining systemic problems. Advocacy sometimes entails stepping back and taking a broader view of the situation and proposing a system-wide solution. The National Taxpayer Advocate believes that this approach is authorized by Congress in IRC Sections 7803 and 7811.

### **National Customer Service Agreements**

Taxpayers turn to the Taxpayer Advocate Service for relief when Internal Revenue Service processes and procedures do not work as intended. The National Taxpayer Advocate is committed to providing immediate assistance and to working with IRS Operating and Functional Divisions to improve service to taxpayers.

During fiscal year 2001, the Taxpayer Advocate Service developed a template for agreements that we propose to enter into with each of the divisions with regard to the processing of TAS cases by Operating and Functional Division employees. These National Customer Service Agreements will clearly define the roles and responsibilities of all individuals involved in TAS casework.

The Taxpayer Advocate Service expects that these agreements will help to ensure consistency with both taxpayer treatment and case processing. We also hope to establish uniform standards for the processing of work when TAS employees do not have the delegated authority to effect a complete resolution of the taxpayer's prob-

lem. We believe that the National Customer Service Agreements will enable us to measure our performance against defined expectations and standards. We plan to negotiate, execute, and implement these agreements during fiscal year 2002.

The Taxpayer Advocate Service is currently operating in an environment where there are numerous local agreements for processing cases but no *one* consistent vehicle to provide direction to all employees throughout the Internal Revenue Service. In crafting the National Customer Service Agreements, we plan to review the existing local agreements and determine the best practices for different types of cases and procedures. These best practices will be incorporated into the National Customer Service Agreements.

There may be instances when the National Customer Service Agreements do not meet the specific needs of local areas. In these cases, we will work with the local areas and the Operating and Functional Divisions to develop site-specific procedures. We will also continue to review the National Customer Service Agreements to ensure that we are handling taxpayer cases in the most expeditious and accurate manner possible.

#### **TAS ADVOCACY INITIATIVES**

Casework is only one aspect of the Taxpayer Advocate Service's activities. TAS is also charged with advocating for systemic changes that will help resolve taxpayer problems. Internal Revenue Code Section 7803 requires the Taxpayer Advocate Service to identify areas in which taxpayers experience problems with the IRS and to propose possible administrative and legislative changes that may mitigate such problems.

The Taxpayer Advocate Service's advocacy function, which culminates annually in the National Taxpayer Advocate's Activities Report to Congress, is not divorced from the TAS casework component. Our casework frequently helps us identify specific problems that affect a large number of taxpayers which can only be solved at the operating division or Service-wide level or through legislative changes. The TAS Inventory Study, discussed in this Report, is a valuable tool for advocacy as well as case and personnel management.

#### **Operating Division Taxpayer Advocates**

The TAS advocacy function is primarily conducted by advocacy analysts reporting to two Operating Division Taxpayer Advocates (ODTAs), who in turn report to the ODTA Executive. Each Operating Division Taxpayer Advocate is responsible for issues arising in two of the four Operating Divisions—Wage and Investment/Tax Exempt Government Entities and Small Business Self-Employed/Large and Mid-sized Businesses.

Operating Division Taxpayer Advocates are responsible for identifying and raising the awareness of systemic issues within IRS Operating and Functional Divisions that impact taxpayers. They work with the Operating and Functional Division managers to determine the best solutions for systemic problems and to build support for initiating changes in policies and procedures to resolve those problems.

Advocacy Analysts are located in various TAS offices throughout the nation. They work with the Operating and Functional Divisions to identify and analyze the root cause(s) of taxpayer problems. They also support joint advocacy projects and efforts. The advocacy analyst's ultimate objective is to prevent or reduce taxpayer burden, represent taxpayer interests during the decision-making processes, improve customer service, and address inequitable treatment of taxpayers.

All Taxpayer Advocate Service employees are encouraged to identify potential advocacy issues and submit advocacy suggestions to the appropriate Operating Division Taxpayer Advocate. The ODTA staff screens the suggestions for quality and currency; suggestions are then entered into a tracking database. Suggestions may be assigned to an advocacy analyst or referred to the appropriate Operating or Functional Division for further action. The ODTA staff monitors and reports on project activities in a variety of ways; examples include:

- Advocacy projects are tracked using the Service-Wide Action Plan (SWAP) database system. ODTA advocacy analysts use the system to establish project plans, update project information, and monitor project status. Advocacy analysts across the country can access the database.
- Advocacy analysts use the SWAP system data to prepare project status reports for the ODTA Directors and Executive Director and the National Taxpayer Advocate. ODTA Directors also use the system to submit quarterly updates as part of the Business Performance Review System (BPRS). The NTA briefs the Commissioner on the information included in BPRS reports.
- Taxpayer Advocate white papers, position papers involving administrative or legislative recommendations that address taxpayer problems, are issued inter-



mittently in response to issues arising outside the Annual Objectives Report cycle.

The Taxpayer Advocate Service also receives many legislative proposals from TAS and IRS employees as well as from taxpayers, the Citizen Advocacy Panels (CAPs), and the tax practitioner community. The team that prepares the Annual Activities Report to Congress reviews the proposed legislative recommendations and further develops suggestions that address tax law complexity, taxpayer equity, or taxpayer burden.

#### **Annual Activities Report to Congress**

The National Taxpayer Advocate is required to report to Congress at the end of each calendar year about its activities for the past year. Among other items, this report must contain a summary of the 20 most serious taxpayer problems and the 10 most litigated tax issues. This report also provides recommendations for resolving or mitigating those problems and compliance burdens through either administrative or legislative action. IRC Section 7803(c)(2)(B)(ii).

The 2001 Annual Activities Report to Congress will reflect some changes in approach from previous reports. For example, we will present two lists of the 20 most serious taxpayer problems. We will draw one list from the Taxpayer Advocate Management Information System (TAMIS) which will indicate the 20 issues (broadly defined) about which taxpayers most frequently request help from the Taxpayer Advocate Service. Our second “Top 20” list will be developed by a team of TAS advocacy and casework employees. This list will be drawn from the collective knowledge and experience of TAS employees.

We will report on our legislative and administrative recommendations in three ways. First, we will propose at least five recommendations that address issues of broad taxpayer impact. We will identify the number and categories of taxpayers affected and the paperwork, processing, and compliance burdens associated with those issues, both from the taxpayer and IRS perspectives. We will also identify any privacy or business systems implications of these issues. We will describe the operation and history (where appropriate) of each of these provisions. Finally, we will submit a proposal to eliminate or lessen the problem for taxpayers.

The second list of recommendations will include descriptions of proposals that are currently under consideration by the Taxpayer Advocate Service but are not yet developed to the level of a recommendation. We believe this list is valuable because it identifies issues that have already surfaced as problems but do not have a readily achievable solution as of report publication. The Taxpayer Advocate Service will continue to work on these issues. They may form the basis of legislative recommendations in future annual reports or in TAS white papers. We believe that by identifying the problems we will encourage informed discussion about them and speed resolution.

The final list of recommendations will consist of brief proposals that have been identified by TAS employees, IRS Operating or Functional Division employees, tax professionals, or taxpayers as problems requiring a legislative solution. The proposals included in this list will all need further development; however, we hope that their inclusion will stimulate interest and solicit additional information and solutions from the public and the IRS.

The Taxpayer Advocate Service employees who are working on the Annual Activities Report are approaching their work with one overriding question in mind—what is the particular perspective or piece of information that the Taxpayer Advocate Service can contribute to the discussion that is unique to TAS? Clearly, Congress felt that the Taxpayer Advocate Service could add something to Congress’ own analysis of taxpayer problems. Thus, we hope that the National Taxpayer Advocate’s 2001 Annual Report to Congress will not be a re-hash of old solutions but will provide fresh insight, information, and experience from the point of view of advocates who operate within the IRS.

### **TAXPAYER ADVOCATE SERVICE INVENTORY STUDY**

#### **Background**

Understanding the Taxpayer Advocate Service case inventory is an essential first step to accomplishing the Taxpayer Advocate Service’s strategic objectives. (See Appendix II.) During fiscal year 2001, we conducted a study to determine the major components of TAS caseload and the relationship between Operating Division inventories and TAS receipts. The study results provide the framework for our fiscal year 2002–2003 strategic plans. In fiscal year 2002, we will continue to update our study monthly to identify workload trends and emerging issues. We will share this analysis with the Operating Divisions and use the study to coordinate our approach to systemic problem solving.

### Inventory Study Methodology

During fiscal year 2001, the Taxpayer Advocate Service convened an inventory study task force. The task force members gathered report data from TAS and Operating Division management information systems. They captured TAS receipts by month for fiscal years 2000 and 2001. They then linked TAS receipts to Operating Division inventories for the same periods, using major issue codes. (Major issue codes are numeric codes utilized on the Taxpayer Advocate Management Information System (TAMIS) to indicate the major issue presented in each TAS case.) The task force used data from Operating Division reports to capture receipts, closures, and ending inventories. TAS focused on Operating Division ending inventories because we believed that, as ending inventories increase and age, taxpayers begin to turn to TAS for assistance.

The Taxpayer Advocate Service previously identified problems with major issue code accuracy. The data reviewed by the task force reflected these problems, and the team took steps to address the issues in our study. The study team sampled 850 cases to test the accuracy of the major issue codes assigned to the cases. In some instances, results from this sample led to the reassignment of cases by major issue code (for analysis purposes only).

We initially selected five program areas for review based on perceived inventory problems and level of TAS impact:

1. Accounts Management (Adjustment) Correspondence,
2. Automated Underreporter (AUR),
3. Earned Income Tax Credit (EITC),
4. Innocent Spouse, and Offers in Compromise (OIC).

We established a correlation between IRS Operating Division ending inventories and TAS receipts for fiscal year 2000. We wanted to see if we could predict TAS workload receipts in important program areas based on the inventory relationships.

We later expanded the study to address ten major categories of TAS receipts/Operating Division inventory using fiscal year 2001 receipts:

<i>Continued from Fiscal Year 2000</i>	<i>Added for Fiscal Year 2001</i>
1. Accounts Management (Adjustment) Correspondence	6. Audit Issues (Other than EITC)
2. Automated Underreporter (AUR)	7. Collection Issues, other than Offer In Compromise (OIC)
3. Earned Income Tax Credit (EITC)	8. Other (Miscellaneous)
4. Offer In Compromise (OIC)	9. Processing Returns
5. Innocent Spouse	10. Refunds (Lost/Stolen/Undeliverable)

We continue to make predictions as we update our inventory study data monthly. Using our current data, we are now able to identify workload trends. Some trends are attributable to the normal IRS workload shifts associated with filing season. Others reflect changes in Operating Division programs and shifting staffing allocations. We continue to refine our analyses as we gather additional data and observe these trends.

### Inventory Study Results

The results of the study provide data for TAS to use in achieving our strategic objectives.

**Identify Significant Sources of Taxpayer Advocate Casework.** Current data indicates that most taxpayer cases come to TAS as a result of systemic or procedural problems (including delay) and not as the result of significant hardship, threat of adverse action, irreparable harm, or significant cost concerns—the issues that TAS is uniquely designed to resolve. As illustrated in Figure 1, only 14 percent of cases meet significant hardship criteria, as defined by IRC Section 7811(a)(2)(A), (C), and (D). These cases are shown in Figure 1 as criteria codes one through four. Cases in which the IRS did not achieve intended results within expected periods comprise 80 percent of TAS receipts. These cases are shown in Figure 1 as criteria codes five through seven.

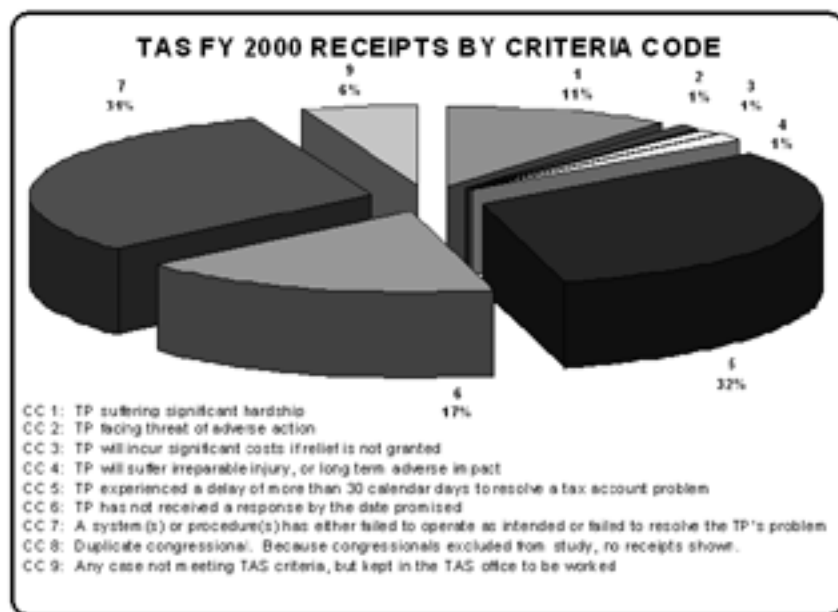
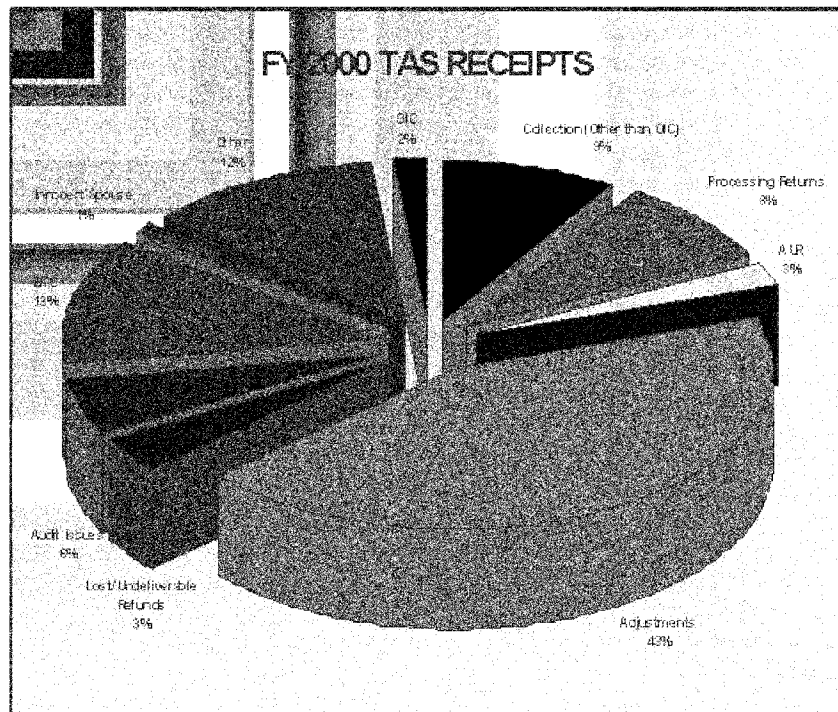


FIGURE 1

Major sources of TAS Inventory are shown in the Figure 2. We identified a strong relationship between Operating Division workload delays and TAS receipts in the fiscal year 2000 inventory study. First, we found that the percentage of taxpayers likely to contact TAS for assistance is much higher in cases in which taxpayer refunds are delayed. Second, as inventories in the Operating Divisions increase and/or age, there is a similar increase in TAS receipts.



**KEY**  
 AUR—Automated Under Reporter  
 EITC—Earned Income Tax Credit  
 OIC—Offer in Compromise

FIGURE 2

The relationship between TAS receipts and adjustment inventories is shown in Figure 3. As the inventory builds in the Operating Divisions, TAS receipts build as well.

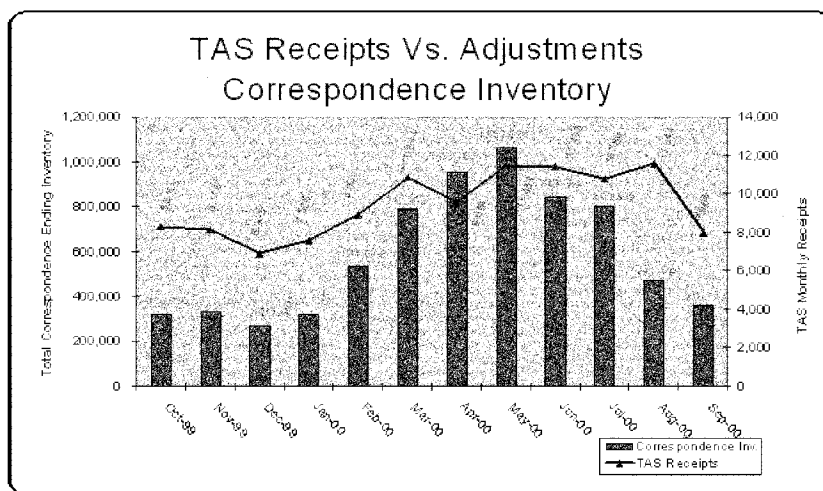


FIGURE 3

Operations' improvements in service led to corresponding reductions in TAS inventory receipts. The Wage and Investment Operating Division achieved a 15 percent improvement in controlling taxpayer correspondence in Adjustments for the first half of fiscal year 2001. "Controlled" correspondence is written taxpayer communication that is received by the IRS, and entered onto the Integrated Data Retrieval System (IDRS). Once an item is entered on IDRS, all employees with IDRS access can identify that the correspondence has been received and is in the queue for being worked. TAS experienced a corresponding 10 percent reduction in Adjustments inventory receipts, even as Service-wide total adjustments inventories increased. By entering taxpayer correspondence into the IDRS database sooner, Wage and Investment is able to respond directly to taxpayer follow-up inquiries instead of referring the case to the Taxpayer Advocate Service.

The Wage and Investment Operating Division also achieved a significant improvement in IRC Section 6015 ("Innocent Spouse") case processing by consolidating the program, strengthening work communication with taxpayers, and streamlining work processes. Innocent spouse claim processing periods are lengthy in order to protect the rights of both parties filing a joint return, therefore, program improvements are not reflected quickly in TAS inventories. Even so, the Taxpayer Advocate Service is already experiencing a 16 percent decrease in case receipts.

**Work with IRS to Improve Service; Advocate Changes in Tax Law or Procedures.** TAS inventories are due, in part, to staffing shortages in the Operating Divisions. As Operations workload ages due to staffing shortfalls, taxpayers are negatively impacted.

The inventory study points to areas in which service can be improved, whether through streamlining work processes, adjusting the workload mix to minimize the impact of seasonal workload pressures on taxpayers, or making legislative recommendations to improve program administration. *We are discussing the study with the Operating Divisions and are exploring with them ways to improve service. In fiscal year 2002, TAS will be able to identify each case's point of origin by business unit (e.g. Wage and Investment or Appeals).* The ultimate goal is to provide better service to the public at the first point of contact with the IRS thereby reducing the need for taxpayers to come to the Taxpayer Advocate Service.

One area of mutual concern is the growing Earned Income Tax Credit (EITC) inventory. This program, more than most, affects taxpayers whose refunds are delayed. As the Operating Divisions continue to focus on improving compliance in the EITC population, we expect a dramatic increase in TAS receipts. Based on current fiscal year 2001 receipts and aging inventories in the Operating Divisions, we predict a 50 percent increase in TAS EITC receipts. TAS and the Wage and Investment

Operating Division have agreed to work together to improve EITC audit processes and procedures.

We have not assessed the potential impact of recent changes in tax law in the EITC program, or changes recommended in the National Taxpayer Advocate's Fiscal Year 2000 Annual Activities Report to Congress, on future EITC inventories.

***Ensure TAS Employees Can Meet Workload Demands; Improve Ability to Respond to Taxpayer Concerns.*** The National Taxpayer Advocate believes that current TAS staffing levels should be maintained during fiscal years 2001 and 2002. I derive this conclusion from the TAS casework levels projected in the inventory study. The projected levels were based on our analysis of past receipts and adjusted for changes in programs within the Operating Divisions.

While we do not expect the total numbers of receipts to change significantly, we believe there may be a shift in the inventory mix and in workload locations. As IRS consolidates programs such as Offers in Compromise and EITC to specific sites, we may need to change the TAS offices assigned to resolve the cases. We will analyze inventory and predict workload shifts based on the Operating Divisions' program strategies and workload consolidation plans.

Understanding the workload mix and the ways in which it is expected to change will be useful in recruitment and training decisions. As the workload shifts, training plans will be adjusted to fill knowledge and skill gaps. Managers may need to recruit employees with the necessary skills to meet new workload demands. Throughout fiscal year 2002 and thereafter, TAS managers, executives, and Strategic Human Resources staff, in partnership with the National Treasury Employees Union (NTEU), can utilize the inventory analysis and predictions of workload shifts to plan for employee recruitment and development.

#### **Summary**

This study suggests that the Taxpayer Advocate Service should continue to monitor receipts by category to identify trends in Operating Division inventories. Using this data, TAS will work with the Operating Divisions throughout fiscal year 2002 to improve service, which should ultimately reduce the number of cases that are transferred to TAS due to service delays, or system or procedural problems. We will continue to provide updates of the inventory study to TAS leadership, interested Operating Division Commissioners, and NTEU.

### **TAS EMPLOYEE TRAINING INITIATIVES**

#### **Introduction**

A highly skilled, well-trained workforce is key to the accomplishment of the Taxpayer Advocate Service's mission. During fiscal year 2002, we will focus on the development and execution of a corporate approach to training and education. This effort, which will incorporate both strategic and tactical initiatives, will ensure that TAS employees are provided the skills and abilities they need to perform their jobs and will also promote their professional development and career progression within both TAS and the IRS.

#### **Development of A Strategic—Multi-Year Training Plan**

With the assistance of a contractor experienced in strategic planning, we will design the first ever TAS four-year strategic training plan. The plan will enable the Taxpayer Advocate Service to develop employees in response to evolving customer and casework bases. The plan will also allow us to recruit and retain those employees, by demonstrating the organizational commitment to their professional and personal development.

The multi-year training plan will include an annual TAS-wide training meeting that will offer beginning and advanced training programs for TAS employees. Session topics may include technical skills, conflict management, case management, management techniques, communications skills, ethics, stress management, Taxpayer Advocate Management Information System (TAMIS), and the legislative process. The TAS-wide program will be complemented by training sessions held at local offices designed to address issues specific to those locales. TAS will also coordinate with the other Operating and Functional Divisions so that TAS employees can attend training programs offered by other divisions.

The Taxpayer Advocate Service recently established a TAS training advisory board with our collective bargaining partner, the National Treasury Employees Union (NTEU). This board will assist in the review and monitoring of the TAS training effort, the evaluation of training priorities, and the crafting of training recommendations to the National Taxpayer Advocate. Customer needs will be garnered from a number of sources, including employee and customer satisfaction surveys, input from taxpayers, and discussions with other Operating and Functional Divi-

sions. TAS Strategic Human Resources will review the information and develop and deliver training effectively and efficiently.

The TAS four-year strategic plan will:

- Use computer technology to develop and maintain a well-informed and trained workforce (E-learning). This IRS corporate strategy aims to leverage technology to deliver 70 percent of skills and competencies through E-learning by fiscal year 2007.
- Monitor the creative, no-cost method for promoting employee computer training piloted by the United States Postal Service.
- Leverage limited TAS resources by combining our training efforts with those of other IRS Operating and Functional Divisions.
- Explore the availability of out-service training offered by both governmental (United States Department of Agriculture) and private sector entities, and by professional associations (e.g., Attorneys, CPAs and Enrolled Agents).
- Design and conduct training initiatives to address the 20 most serious problems encountered by taxpayers, as identified in the National Taxpayer Advocate's Annual Activities Report to Congress.
- Build plan flexibility so that TAS can be responsive to our external customers, the taxpayers. For example, TAS may need to pursue a multilingual initiative in order to improve access to services for taxpayers with limited English proficiency. We may need to develop and deliver training for IRS and TAS employees so that they can better understand and respond to taxpayer issues and questions. In addition, TAS employees may require specific communications training to assist in taxpayer outreach.
- Coordinate with other divisions to crosstrain TAS and Operating and Functional Division employees during formal training sessions and Continuing Professional Education (CPE) sessions.

#### **Tactical Annual Training Plan**

The Taxpayer Advocate Service will closely coordinate its tactical annual training plan with the four year strategic training plan. The annual plan will address current organizational and employee needs, such as those involving technical components (e.g., IRC Section 6413) and automation components (Taxpayer Advocate Management Information System (TAMIS) and Integrated Case Processing (ICP) training), and those necessary to accomplish our casework (the Executive Correspondence Management System (ECMS) and core leadership skills).

Through its annual plan, TAS can assess the organization's ability to address existing technical and programmatic training needs. The Taxpayer Advocate Service will respond to current needs in TAS or in other divisions, such as those evidenced around the delegation of authorities training, and also be proactive with our customers, internal as well as external.

In addition to incorporating component specific interests (e. g. innocent spouse), the plan will:

- Utilize available outservicing training in order to free up internal training development resources.
- Expand the process of informing and educating the public about their right to seek assistance through the Taxpayer Advocate Service.
- Continue the integration efforts with our Citizen Advocacy Panels (CAPs).
- Coordinate with Operating and Functional Divisions to crosstrain TAS and Operating Division employees in the development and delivery of training.
- Develop and deliver training in response to congressional legislation and/or executive direction.
- Continue implementation of an employee training tracking system so that every TAS employee's training and development remains an organizational priority and is advanced.

The Taxpayer Advocate Service must provide its employees with the requisite tools to accurately identify and respond to taxpayer concerns. By setting training priorities, which reflect both corporate goals and the needs of TAS employees and customers, the Taxpayer Advocate Service will maintain a capable and informed workforce. These TAS training initiatives are expected to yield improved business results and better customer and employee satisfaction.

#### **Nation taxpayer advocate TOLL-FREE line**

##### **NTA Toll-Free Line (1-877-777-4778)**

In his Fiscal Year 2001 Objectives Report to Congress, the National Taxpayer Advocate reported the expansion of the National Taxpayer Advocate (NTA) Toll-free line. The NTA Toll-free line provides cost free access to the Taxpayer Advocate Serv-

ice for issues that have not been resolved through the IRS' normal channels. The service is available to taxpayers 24 hours a day, seven days a week.

Each call to the NTA Toll-Free line is screened by a customer service representative to determine if the taxpayer's inquiry meets Taxpayer Advocate Service criteria. If the call does not meet TAS criteria, the call is transferred to an IRS employee with the appropriate skills and training to answer the call. When the call does meet TAS criteria, NTA Toll-Free customer service representatives try to resolve the issue while the taxpayer is on-line. If they are unable to resolve the case on-line, the call is transferred to the appropriate local TAS office for resolution.

In fiscal year 2000, NTA Toll-Free customer service representatives answered more than 295,000 calls. From October 1, 2000, through May 5, 2001, more than 243,000 calls have been answered. We continue to market the program and educate taxpayers as to when it is appropriate to seek assistance from the Taxpayer Advocate Service. Thus, we expect increased NTA Toll-Free traffic during fiscal year 2002.

The NTA Toll-Free line continues to be staffed and managed by the Wage and Investment and Small Business/Self-Employed Operating Divisions. We gratefully acknowledge the Operating Divisions' ongoing support for this service to taxpayers and the excellent work of the customer service representatives who answer the calls. These employees often provide the first meaningful step toward case resolution.

#### **Toll-Free Access to individual TAS Caseworkers**

##### **Background**

Customers of the Problem Resolution Program who were interviewed in 1994 using focus group interview techniques identified the following customer expectations with respect to communications:

- To be given the name of the contact person, and the direct telephone number of that person. "A single point of contact was considered "the single most important element in providing high quality service.
- To be kept advised of unexpected delays, recognizing that the complexity or seriousness of the issue determines the frequency of contacts

Our analysis of the focus group data indicated that taxpayers with complex cases expect frequent updates, but that they recognize the cost of employing people to place calls may be prohibitive. In addition, the focus group data indicate that while taxpayers may be willing to initiate an inquiry about the status of the problem, the cost of the telephone call could be a factor in their decision to make such calls.

Taxpayers do not care if their problem is worked by a caseworker in another city, as long as the resolution meets their expectations

**"Most of the respondents said they prefer toll-free access to the case worker, citing lengthy telephone calls and being placed on hold as reasons."**

In 1999, the Taxpayer Advocate Service established and began marketing a dedicated toll-free telephone number for taxpayers who need assistance (the NTA Toll-free line). This number enables taxpayers to *initiate* cost-free contact with TAS on issues or problems that meet TAS' program criteria. In the current environment, once a taxpayer's issue is accepted as a TAS case and a caseworker is assigned to resolve it, the taxpayer must then pay for any subsequent telephone calls to the caseworker.

Providing toll-free service to individual TAS caseworkers is a logical extension of the services already offered by the Taxpayer Advocate Service to help taxpayers to resolve their problems where standard IRS procedures have failed or proven inadequate. Toll-free access to assigned caseworkers is an especially critical factor in the more complex cases, or when initial time estimates for case resolution are inaccurate, leaving the taxpayer in the uncertain state of not knowing what, if anything, is being done to resolve his or her situation. The taxpayer will be less anxious if he or she can reach the caseworker directly to provide additional information or to obtain a case update. If a taxpayer is reticent to call the caseworker because of long distance telephone charges, it impedes both communications and taxpayer confidence in the process.

During the second half of fiscal year 2001, the Taxpayer Advocate Service will begin a two month test in four offices to provide taxpayers with toll-free access to the Taxpayer Advocate Service caseworker assigned to their case. This service will relieve taxpayers of the financial burden of making toll calls to resolve their tax problems. The test will be completed in September 2001, and the results evaluated relative to operational issues as well as the operational costs and benefits, to determine whether toll-free service should be extended to all TAS offices and customers.



This project is included in the Taxpayer Advocate Service's strategic plan for fiscal years 2002–2003.

#### **Projected Benefits of Providing Toll-Free Service to TAS Customers**

The implementation of this proposal is projected to:

- Remove a potential barrier to case resolution by providing an additional, cost-free avenue of access for taxpayers to their caseworker.
- Reduce burden placed on taxpayers who incur long distance telephone toll charges in the current environment.
- Provide free access for customers who have no telephone service and who would otherwise experience hardship in contacting their caseworker.
- Enhance both communications and the perceived "relationship" between the two parties and thereby facilitate the resolution of the issue being worked.
- Streamline the service process by more efficiently connecting the taxpayer requiring assistance with the IRS employee who provides the assistance.
- Relieve NTA toll-free assistants of the responsibility for transferring taxpayers entering the current NTA toll-free line to their caseworker thus reducing the perception among NTA assistants that they serve as long-distance operators.

#### **Test Objectives**

The Taxpayer Advocate Service hopes to extend toll-free access to TAS caseworkers in one-half of its field offices during fiscal year 2002. However, before we implement this program, we must address some issues relating to costs and risks. We plan to resolve two specific concerns through the fiscal year 2001 toll-free access pilot program:

- ***Estimate overall costs of nationwide implementation; identify hidden costs.*** An initial assumption of this test is that the IRS is presently paying for long-distance phone service when TAS customers ask caseworkers to call them back (to avoid toll charges) or when the NTA toll-free call site transfers callers to their caseworkers. Providing toll-free service would reduce these 'workarounds' and the telephone/personnel costs associated with them would offset the cost of establishing toll-free service. The test will attempt to quantify the extent to which the costs incurred in the current environment help to offset the cost of providing toll-free service.
- ***Identify risks and operational issues associated with providing this service to TAS customers.*** Providing toll-free access to caseworkers could result in negative outcomes. For example, customers may take advantage of this service to present issues unrelated to the TAS case. Such unintended outcomes, if occurring with significant frequency, could consume caseworker time, which could be spent on resolving other, more pressing taxpayer issues. The test will therefore develop and evaluate procedures that redirect taxpayers with closed TAS cases back into the mainstream IRS functions.

#### **Costs of Providing Toll-Free Service**

If the test results indicate that there are net operational benefits to providing toll-free service to caseworkers without any significant offsetting problems, the National Taxpayer Advocate will expand this service to all local TAS offices during fiscal years 2002 and 2003. As noted above, it is anticipated that offsetting savings from reducing 'workaround' situations (including eliminating unproductive staff time and associated telephone charges) should significantly reduce the cost of implementing a toll-free service.

#### **Customer Service**

Toll-free numbers for caseworkers will certainly increase taxpayer access to the Taxpayer Advocate Service. However, toll-free access does not eliminate TAS employees' obligation to provide their client-taxpayers with regular updates and status reports on case progress. During fiscal year 2002, the Taxpayer Advocate Service will continue its review of TAS case processing and instructional materials to ensure that employees are clearly instructed to contact taxpayers at appropriate intervals during the case resolution process.

#### **TAS COMMUNICATIONS STRATEGY**

The Taxpayer Advocate Service's initial marketing campaign, following the enactment of RRA 98, was primarily created to inform individuals of our evolution from the former Problem Resolution Program to the newly modernized Taxpayer Advocate Service. Implemented in March 2000, the initial campaign achieved "brand recognition" of the new organization with both IRS employees and taxpayers. The Taxpayer Advocate Service is also easily recognized within both the practitioner and congressional communities.

In fiscal year 2000, The Taxpayer Advocate Service expanded its outreach activities to the general public. Local Taxpayer Advocates were required to develop outreach plans using demographic information developed by internal research that identified potentially underrepresented taxpayer populations.

The Taxpayer Advocate Service continues to search for the most efficient and cost effective methods of reaching taxpayers who are most in need of our services. Over the next two fiscal years, the Taxpayer Advocate Service will undertake several initiatives that will heighten public awareness of our services and offer them to the appropriate individuals. We will also continue to analyze the impact of the IRS' modernized organizational structure on TAS outreach strategies both within and outside the IRS. A few of our initiatives are discussed below:

- During fiscal year 2002, the Taxpayer Advocate Service will conduct formal research to determine markets where taxpayers are potentially under-represented and most in need of our services. We will build upon our fiscal year 2000 internal research efforts and conduct external research with an independent marketing firm. The resulting data, along with updated demographic information, will be used to refine our current marketing campaign.
- The Taxpayer Advocate Service will develop an intensive communications plan using various communications vehicles, including television, radio, and print media. TAS will also build a focused outreach strategy, both nationally and locally. We will research the needs of our audience and tailor our education and marketing campaigns accordingly. We will develop specific communications plans for taxpayers who speak little or no English or who have low literacy levels.
- The Taxpayer Advocate Service will continue to increase awareness among its internal and external partners of its advocacy role. We will achieve this by communicating our advocacy projects and successes through a variety of methods including Congressional testimony, the Annual Reports to Congress, collaboration with local Strategic Relationship Management councils, and other IRS partners.
- We plan to share, both internally and externally, the actions taken to address the 20 most serious problems facing taxpayers as identified in the National Taxpayer Advocate's Annual Report to Congress. The Taxpayer Advocate Service will place updated information on the IRS Web page, publish our strategic assessment, and conduct liaison meetings informing stakeholders of actions, successes, and challenges. By doing so, we will demonstrate and communicate the value of each individual's input and role in the effective administration of the tax system.
- During fiscal year 2002, the Taxpayer Advocate Service will continue to partner with the IRS Operating and Functional Division Commissioners to enhance and promote problem-solving initiatives. We will support current efforts to educate IRS employees about the Taxpayer Advocate Service's mission and case criteria, through formal training, informal meetings, and participation in various task forces.

As National Taxpayer Advocate, I will continue my practice of appearing at meetings of Operating and Functional Division employees, participating in panel discussions, and holding town hall meetings with both TAS and other IRS employees. I will also continue to appear at programs sponsored by practitioner groups as well as at Citizen Advocacy Panel meetings. I will continue to make myself available to the media so that I can communicate the Taxpayer Advocate Service's mission as well as discuss specific issues we may be facing. Finally, I will continue to meet with members of Congress to discuss matters of concern to them or to taxpayers.

The Taxpayer Advocate Service believes its communications strategy—of open access, outreach, and partnership—will ensure that taxpayers who require our services will know where to find them. This strategy should also result in appropriate referrals being forwarded to our organization. We will strive to clearly define and communicate our mission to taxpayers, to other IRS employees, to TAS employees, and to tax practitioners.

#### **TAXPAYER ADVOCATE SERVICE MANAGEMENT INFORMATION SYSTEM (TAMIS)**

The Taxpayer Advocate Management Information System (TAMIS) is a nationwide database designed to automate controlling and processing Taxpayer Advocate Service cases. Taxpayer cases that meet TAS criteria, as well as Congressional contact cases, are controlled on TAMIS. Once a case is input, a taxpayer can call the National Taxpayer Advocate toll-free number, or any of the local TAS offices, and be given the current status of his or her case. All cases, both open and closed, are stored on the database.

Employees can document cases on-line, which reduces the need to keep paper copies of case histories. Employees can also indicate the Next-Action-Date for a case. This function helps caseworkers deliver customer service and aids inventory management.

TAS management officials use TAMIS to actively manage the case inventory, to generate reports of program statistics (e.g., the number of closed cases within a window of time), and to monitor TAS casework balanced measures. TAMIS data is used to identify trends in casework and is critical to our continuing TAS Inventory Study. Case-related trends also help the Taxpayer Advocate Service identify advocacy issues as well as technical training needs. Additionally, we use TAMIS data as one tool in the identification of the 20 most serious taxpayer problems included in the National Taxpayer Advocate's Annual Activities Report to Congress.

Given the numerous uses for TAMIS information, it is absolutely vital that TAMIS data be accurate. TAMIS' interface must be user-friendly and the system must be designed so that it will capture the appropriate data. We believe that our proposed fiscal year 2002 TAMIS improvements will achieve these objectives.

#### **Fiscal Year 2002 TAMIS Improvements**

The TAMIS database is enhanced on an ongoing basis, often in response to suggestions from our employees. We recently added new fields in response to the changing structure of the Internal Revenue Service. These new fields will track the Business Operating Division point of case origin and the level of case complexity.

In fiscal year 2001, the Taxpayer Advocate Service convened a team to improve the TAMIS data input instructions for our employees. The instructions will be incorporated into the next revision of the Taxpayer Advocate Handbook, Internal Revenue Manual (IRM) 13. In addition to providing input instructions, we will give improved directions regarding various major issue codes. We plan to develop and conduct a training course during fiscal year 2002 that will focus on key input fields and TAMIS instructions in IRM 13. Our training will emphasize the importance of TAMIS data accuracy.

The Taxpayer Advocate Service's long-range goal is to change the software application which runs TAMIS. Currently, we use a UNIX based program. TAMIS will be moving to Oracle by December 2002. A redesign team is currently meeting to develop the database. When this conversion is completed, TAMIS will operate in a user friendly Windows environment and have expanded data collection capabilities.

#### **TAS-NTEU NATIONAL PARTNERING COUNCIL**

The Taxpayer Advocate Service and the National Treasury Employees Union (NTEU) have established a National Partnering Council (NPC) to provide advice to TAS senior management about programs and decisions that directly affect employees. The National Partnering Council is co-chaired by the Deputy National Taxpayer Advocate and NTEU's Assistant Counsel for Negotiations. The Council includes TAS Directors and NTEU representatives.

The National Partnering Council's mission is to serve as an integrative decision-making body for the Taxpayer Advocate Service. Although management retains its right to make decisions, and NTEU retains its right to bargain and negotiate, the National Partnering Council affords TAS leadership and NTEU representatives with an opportunity to discuss employee concerns at the earliest stages of decision-making. We expect that if used appropriately, there will be fewer issues to bargain and that when bargaining is required, the parties will be better prepared to discuss issues and negotiate agreement. The National Partnering Council also provides ideas and suggestions for the TAS Strategic Planning and Business Performance Review process. In this way, the Council links partnering efforts with TAS performance improvement.

At its first meeting in January 2001, the National Partnering Council established three working groups, which address NTEU/Manager partnering relationships; TAS technology needs; and employee satisfaction coordination (i.e., SURVEY 2001, an IRS survey document used to monitor and address employee satisfaction issues throughout the Service, the employee suggestion program, training needs, and other initiatives to support employee satisfaction). More recently, the National Partnering Council addressed the TAS strategic plan, TAS oversight of the President's Quality Award (PQA) assessment process, and delegations of authority to TAS employees.

The National Partnering Council meets six times a year. During fiscal year 2002, the TAS-NTEU National Partnering Council will continue to explore ideas and initiatives for improvement of Taxpayer Advocate Service operations. Scheduled topics include the National Partnering Council's role in the IRS Strategic Assessment Process; establishing a direct communications link to the National Partnering Council so that employees and managers can suggest ideas and receive information; de-

veloping unique and innovative ways to serve our customers and our employees; and oversight of TAS-wide improvement initiatives.

#### **CITIZEN ADVOCACY PANELS (CAP)**

The Citizen Advocacy Panels were established beginning in June 1998. They have proven to be a valuable partner, providing a forum for direct citizen input into IRS decision making. Meeting schedules for the CAPs vary, however, each panel meets at least quarterly and the meetings are open to the public. During fiscal year 2001, the Department of the Treasury, in response to CAP member suggestions, expanded the geographic boundaries of three of the four CAPs.

The South Florida CAP changed its name to Florida CAP and now includes all 64 counties in the state of Florida. Illinois joins the states of Wisconsin, Iowa and Nebraska to form the Midwest CAP. The Brooklyn CAP changed its name to the New York Metro CAP, which includes the five boroughs plus Nassau and Suffolk counties. Washington, Oregon, Alaska, and Hawaii continue to comprise the Pacific Northwest CAP.

When the initial commitment of each CAP member expired in March 2001, half of the panel members agreed to extend their terms for one year to provide continuity to the panel and allow for staggered terms. Treasury and the IRS developed a new recruitment model. The 2001 recruitment process incorporated lessons learned from the 1998 pilot, and focused on the underrepresented geographic areas.

The CAPs kicked off a new marketing campaign in May 2001. The new marketing material was developed to reach more and underrepresented taxpayers. In fiscal year 2002, the CAPs will expand their outreach activities. The CAPs will continue to serve as focus groups for the IRS in the areas of: notice re-design, penalty and interest administration, filing season walk-in site locations, nationwide roll-out of tax kiosks, and implementation of new Employer Identification Number (EIN) processes.

The Taxpayer Advocate Service provides staff and research support to the panels, sponsors their recommendations within the IRS, and guides the recommendations through the appropriate channels. Annual Reports are submitted to the Secretary of the Treasury and the IRS Commissioner. Copies of all reports, events, meeting agenda's and minutes, and success stories can be found on their website at [www.improveirs.org](http://www.improveirs.org).

#### **BALANCED MEASURES**

TAS developed ten balanced measures focused on customer satisfaction, employee satisfaction, and business results as part of our modernization efforts. During fiscal year 2001, we implemented nine of the measures and are collecting data to establish baselines for our organization. Our tenth measure addresses internal customer satisfaction and will provide an assessment of TAS work products and business relationships from the perspective of the other IRS Operating and Functional Divisions. We will work jointly with the IRS Operating and Functional Divisions to further analyze the best means to implement and monitor this assessment as well as to establish National Customer Service Agreements. This measure is particularly sensitive since we must work effectively within the IRS while providing the service expected to our most important customers, taxpayers. Our balanced measures are set forth in Appendix III.

In one effort to engage front-line managers in our balanced measures program, we are currently expanding our balanced measures to include local level goals. During fiscal year 2001, local goal setting will be limited to quality business results since we are still baselining many of our balanced measures. We selected two quality business results measures (casework quality index and case cycle time) for local level goals and are making refinements as a result of the Strategic Assessment process. In Fiscal Year 2002, we will evaluate the initial results and plan to expand local level goals to more of our balanced measures.

During fiscal year 2002 we will monitor our balanced measures, strategic objectives, and program goals and make improvements in partnership with the National Treasury Employees Union. We will verify that our measures help us deliver the unique mission of the Taxpayer Advocate Service:

***“We help taxpayers resolve problems with the IRS and recommend changes that will prevent the problems.”***

#### **Conclusion**

In this report, I have set forth an aggressive program for fiscal year 2002 and identified our essential areas of focus. The dedicated employees in the Taxpayer Advocate Service continue to face challenges related to our independence and modernization; however, the Taxpayer Advocate Service is poised to undertake the chal-

lenging and interesting work ahead. I look forward to building on this foundation and exploring the profession of advocacy within the Internal Revenue Service. Thank you for the opportunity to report on my fiscal year 2002 objectives.

#### Appendix I

#### **TAXPAYER ADVOCATE SERVICE FISCAL YEAR 2001 OBJECTIVES**

1. Assist taxpayers in resolving problems with the IRS.
2. Identify and address systemic and procedural problems through analysis of the underlying cause of the problem in order to take corrective action.
3. Identify and address operational issues that affect taxpayers.
4. Represent taxpayers' interests in the formulation of policies and procedures.
5. Identify and develop legislative proposals to simplify the tax code and reduce taxpayer burden.
6. Expand Taxpayer Advocate Services' outreach opportunities to assist and educate external customers.

#### Appendix II

#### **FISCAL YEAR 2002–2003 STRATEGIC OBJECTIVES**

<b>Major Strategies</b>	<b>Operational Priorities</b>	<b>Operational Priorities and Improvement Projects</b>
1. Advocate changes in tax law or procedures that reduce taxpayer burden and improve IRS effectiveness	<ul style="list-style-type: none"> <li>• Report to Congress the most serious problems facing taxpayers</li> <li>• Develop and recommend legislative proposals to address tax law complexity, equity, and taxpayer burden</li> <li>• Advise Congress' Joint Committee on Taxation on the complexity of legislation being considered</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to work with Operating Divisions and Members of Congress to achieve a less burdensome process in key areas of the tax law; assist in simplifying forms and instructions.</li> <li>• Partner with Research and W&amp;I on a study of the most significant errors on individual income tax returns.</li> <li>• Systematically analyze the inventory of advocacy projects to improve overall IRS service to taxpayers and reduce the number of cases coming to TAS.</li> </ul>
2. Improve TAS' ability to identify and respond to taxpayer concerns	<ul style="list-style-type: none"> <li>• Train staff on the Taxpayer Advocate Management Information System (TAMIS) and Intelligent Query</li> <li>• Seek resource support through Research to develop an improved process for gathering and analyzing data to report to Congress on the top 20 taxpayer concerns</li> <li>• Increase public awareness of TAS</li> <li>• Ensure that TAS employees have the authorities necessary to resolve taxpayer problems</li> </ul>	<ul style="list-style-type: none"> <li>• Review/revise case criteria guidelines to ensure that TAS workload is focused on taxpayers with hardships.</li> <li>• Develop supporting information for legislative recommendations that address underlying causes of workload.</li> <li>• Conduct focus groups and surveys.</li> <li>• Conduct focused outreach to practitioners and community liaisons.</li> <li>• Conduct a quality assessment of center campus casework to determine why the Casework Quality Index scores of the campuses are so much lower than other offices.</li> </ul>

Major Strategies	Operational Priorities	Operational Priorities and Improvement Projects
		<b>Improvement Projects:</b> <ul style="list-style-type: none"> <li>• Redesign and upgrade TAMIS to improve trend analysis and to capture relational data for root cause analysis.</li> <li>• Examine the feasibility of providing taxpayers with toll-free telephone access to TAS caseworkers.</li> </ul>
3. Identify significant sources of TAS casework and work with Operating Divisions on strategies to reduce inappropriate TAS workload.	<ul style="list-style-type: none"> <li>• Plan/implement outreach efforts to taxpayers</li> <li>• Propose content for Operating Division procedures manuals and training that leverages TAS experience</li> <li>• Examine the sources of TAS casework to determine whether work being performed is in accord with TAS' legislative mandate</li> </ul>	<ul style="list-style-type: none"> <li>• Joint educational outreach efforts with Small Business/Self-Employed to address rising trend of unreported income by sole proprietors.</li> <li>• Conduct ongoing TAS inventory Study and consult regularly with the Operating Divisions to analyze underlying causes of taxpayer problems and identify changes to mitigate those problems.</li> </ul>
4. Ensure that the human resources component of the Taxpayer Advocate Service is adequate to meet its workload demands	<ul style="list-style-type: none"> <li>• Assure that the human resources component of the TAS organization is adequately sized, trained and supported</li> </ul>	<ul style="list-style-type: none"> <li>• Revisit the staffing model study.</li> <li>• Complete the hiring process to ensure that TAS is able to adequately address taxpayer problems and systemic issues.</li> <li>• Design and implement a comprehensive, multi-year training program for TAS.</li> <li>• Coordinate with Operating Divisions to cross-train TAS and OD employees during formal training sessions and CPE.</li> </ul>

## Appendix III

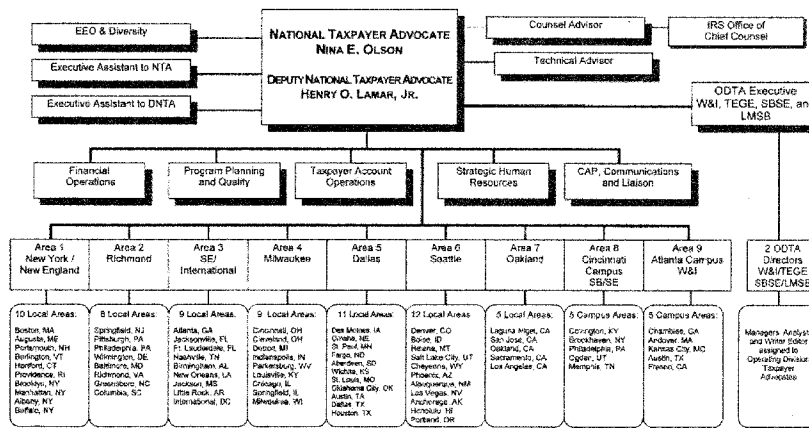
**TAXPAYER ADVOCATE SERVICE BALANCED MEASURES**

CATEGORY	BALANCED MEASURE	DEFINITION
<b>Employee Satisfaction</b>	<b>Employee satisfaction score</b>	<b>The average level of employee satisfaction, determined through the use of surveys.</b>
<b>Customer Satisfaction</b>	External customer satisfaction	The average level of customer satisfaction determined through the use of vendor conducted transactional surveys.
	Internal customer satisfaction	Being developed.
<b>Business Results (Quantity)</b>	Closed cases	A count of closed TAS cases. This measure does not include non-criteria cases, such as duplicate controlled correspondence cases.
	Outreach resources spent versus plan	A comparison of planned versus actual outreach hours spent as outlined in local TAS outreach plans.
	Outreach effectiveness	The percentage of cases that come to TAS through direct taxpayer contact versus case referrals from Operating Division employees.

CATEGORY	BALANCED MEASURE	DEFINITION
	Immediate advocacy interventions	The number of actions taken expeditiously to correct a systemic problem when there is not enough time for the normal corrective process.
<b>Business Results(Quality)</b>	Case cycle time	The average time (TAS received date to TAS closed date) to resolve all regular cases worked in TAS. This measure does not include non-criteria cases, such as duplicate controlled correspondence cases.
	Casework quality index	A measure of TAS effectiveness in meeting customer expectations based on a random sample of cases reviewed and scored against customer service standards of timeliness, accuracy, and communication.
	Long-term advocacy proposals	The number of substantive initiatives being worked by the Operating Division Taxpayer Advocate Staff to improve IRS processes and procedures.

Appendix IV

TAXPAYER ADVOCATE SERVICE ORGANIZATION



Chairman HOUGHTON. Mr. Coyne, would you like to ask questions?

Mr. COYNE. Thank you, Mr. Chairman.

Ms. Olson, in your earlier role as the head of the first independent low-income tax clinic, what were the major reasons at that point that taxpayers sought clinic advice?

Ms. OLSON. Many of them were collection issues or earned income credit issues.

Mr. COYNE. Earned income credit?

Ms. OLSON. Earned income credit cases, and many of the earned income credit cases were in the collection arena. The taxpayers had not been able to represent themselves well in the examination audit side, and the decision just stood that they weren't entitled to it, and so we were dealing with collection issues at the same time as trying to prove that they were entitled to the earned income credit.

We also saw things like independent contractor employee classification people being treated as an independent contractor and not paying Social Security tax on their wages and owing tax because of that, but, again, we were in the collection mode there as well.

Mr. COYNE. As we move ahead in simplification of the Tax Code, do you have any recommendations today that the Committee ought to take into consideration?

Ms. OLSON. I do believe that the Joint Committee's complexity report and—simplification and complexity report—the uniform definition of a qualified child for the earned income credit, head of household, dependency exemption will go a long way toward simplifying the law for a large number of taxpayers. It will also simplify the administration of that provision, the earned income credit. Because by coming up with a uniform definition it will be easier for the IRS to test whether somebody meets that test. It is less complex, we're going to make less intrusive inquiries, and we can use third-party information to do it. So, in many instances, we wouldn't even have to contact the taxpayer before we could conclude, yes, they are entitled to it. So that would both administratively and for taxpayers reduce burden enormously.

Mr. COYNE. Well, thank you for your service as National Taxpayer Advocate; and thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you. Mr. Portman.

Mr. PORTMAN. Thank you, Mr. Chairman.

Ms. Olson, we appreciate your testimony today and, more importantly, the work you are doing as a Taxpayer Advocate. You jumped into this with a lot of great experience, including with some of your colleagues who are on the panel with you this afternoon, and a lot of energy and enthusiasm, and this report reflects that.

You have set out in this report some fairly ambitious objectives for the next fiscal year. You have also indicated some of these objectives may not be achieved in the next fiscal year and some of the questions may not be answered.

I guess I have two questions for you. One would be, do you feel as though the current focus on individual cases—the caseload is growing, and it is—one of the objectives you are going to do is to look into whether that is appropriate and how that might be changed over time, but do you feel as though you have adequate time to address some of the root causes of some of the complexity and some of the problem areas per Mr. Coyne's question, or do you feel as though you are just so overwhelmed with individual cases and managing that that you do not have time to back up and take a look at some of the root causes?

Ms. OLSON. I think that actually we have a very good balance right now in terms of being able to look at the larger issues and to give you information that you need and can use. The cases that I am concerned about us getting are what I call the overflow cases,



the ones that should have been resolved at the first point of contact, the operating divisions; and what is heartening to me is that I have been very vocal within the IRS about this happening.

Again, our inventory studies showing that 80 percent of our cases are made up of that, that is to me an unacceptable ratio and that we are going straight back to the operating divisions to find out why this is happening and how that can be changed. I feel that if we get that under control then the cases that we really are getting into, the Taxpayer Advocate Service, will be ones that are indicating either legislative or administrative problems, not just overflow problems, but things that need to be fixed in one of those two arenas and will point out things that then we should be working on on a policy or recommendation side. I am concerned that we are not getting as much information as we could because we are dealing with these overflow cases.

Mr. PORTMAN. So many of those cases are simply first impression cases, they haven't exhausted the normal procedures and therefore may or may not reflect some more serious problems with the system or laws as they stand or practices, procedures.

Ms. OLSON. Right.

Mr. PORTMAN. The other question I have is really one of a judgment call on your part. I again am impressed with the goals that you are undertaking over the next fiscal year and, as you say in this report, beyond, but I am also concerned that you may be taking on too much.

As the IRS goes through a very difficult time of compliance with some of the legislation passed in the IRS Restructuring and Reform Act 1998 (RRA) and some of the internal changes that actually began before RRA was enacted, including restructuring, including new performance measurements, including the modernization efforts, there are—and including figuring out how to deal with some of the new RRA restrictions on individual employees, it is a concern of mine that the Taxpayer Advocate continue to do its job in a steady and focused basis and not add to, frankly, some of the dislocation and confusion that is going on with the restructuring and reorienting of the IRS. Yet your questions that you anticipate looking at in the next fiscal year are very fundamental questions.

For instance, what is the role—what is the extent to which you should be resolving problems rather than kick them back into the normal system? What should the appropriate composition be of your inventory according to hardship criteria? What standard should you be held to? What is the appropriate measure of success, which is a difficult question again the larger entity is working through.

My only question to you is, is this the appropriate time for you to take on some more of these fundamental issues when through RRA we just went through this process in a sense looking at what happened in 1996, coming back in 1998, reviewing it, establishing more independence, establishing, frankly, some better pay so that we could attract and keep good people in the Taxpayer Advocate system. Is this the right time to be going back and looking at some of these fundamental problems when the caseload is high and the system itself is under quite a bit of stress?

Ms. OLSON. My employees—those questions came in large instances because my employees were asking them of me. The question about when can we say no to cases is very hot in their minds, and I felt that we needed to begin a discussion about it.

Mr. PORTMAN. Saying no to cases as they come from the Service or saying no because they think the taxpayer may not have a valid case?

Ms. OLSON. Saying that this is not yet a Taxpayer Advocate Service case. They were asking me that question, and I thought we needed to begin that dialog, not reach an answer necessarily because I think it is a very difficult question, but to ignore it would be putting them in a state of limbo.

Mr. PORTMAN. The simple answer would be in the overflow cases that it is not, because it would be again a case of first impression without going through the normal process.

Ms. OLSON. Right, and yet where is the rest of the IRS at the time? Can we send them back if there is nobody there to take them because they are dealing with something else? That is a difficult thing. The same kinds of questions. What does it mean to be an advocate?

To some extent, that was in response to many people that I heard from the practitioner community saying to me we had a case, the Taxpayer Advocate helped us take it to exam, and exam said the same answer that they have given us all along. And the Taxpayer Advocate said, well, this is what exam said; and they didn't push back, they didn't say, well, think about this again.

So we thought that there should be a beginning of a dialog about what is advocacy within the IRS, how is it different from being an advocate outside of the IRS. And my employees, when I started talking about that in townhall meetings, were very excited about that. I think it is helping them define for themselves what their role really should be, and I am looking at this as a discussion with them, and so far they have stepped up to the plate. It is not a burden for them.

Mr. PORTMAN. Without necessarily sort of turning the Taxpayer Advocate system upside down, as we have done with the IRS, for good reason, but without distracting folks from their primary mission.

Ms. OLSON. Right.

Mr. PORTMAN. Thank you, Mr. Chairman.

Chairman HOUGHTON. Mr. Pomeroy.

Mr. POMEROY. Well, considering the hour and other witnesses, Mr. Chairman, I will be very brief.

I would just first of all want to commend Ms. Olson.

The public perception of a tax collection system that operates with integrity and responsiveness is incredibly important. Often Congress I think, even while it is legitimately concerned about inequities in the Tax Code or operations of tax collection, end up scoring the cheap political hit of demonizing the IRS and in the end just bringing discredit upon this essential function of government. That really serves no constructive purpose, spreads broad constructive cynicism, and increases noncompliance.

Basically this Taxpayer Advocate function is a very important and appropriate way in which we try to listen very carefully to the

taxpayers, respond to them, make systems changes that the input brings us to. So as the person in charge of all that I really do commend you.

I would say that your work is not complete in that 12 States do not have clinics, and one of them is mine, and I would like to work with you on that. Certainly, the 102 tax clinics in the 38 States where you have reached already, pretty darn impressive, and let's get a 50-State representation, with North Dakota being the 39th.

Ms. OLSON. I agree.

Mr. POMEROY. I yield back, Mr. Chairman.

Chairman HOUGHTON. OK. Fine. I am not going to ask any questions because I will be able to talk to you personally here, but I want to thank you very much. If you want to stay, fine. You don't have to. What we will do is go right on to the other Members of the panel.

I have got three people who evidently have to get out of here fast—Alan Cohen, Dixon Rich. Is that right, Mr. Rich?

Mr. RICH. I have an 8 o'clock flight, so I am in no rush, I don't think.

Chairman HOUGHTON. Anyway, I am going to call on Mr. Cohen first.

**STATEMENT OF ALAN H. COHEN, DIRECTOR, LOW-INCOME TAXPAYER CLINIC, ITHACA COLLEGE, ITHACA, NEW YORK**

Mr. COHEN. Mr. Chairman and distinguished Members of the Subcommittee, I am pleased to appear before you today to address the Subcommittee on matters relating to funding and performance of low-income taxpayer clinics.

The Low-Income Taxpayer Clinic at Ithaca College.

Ithaca College is a fully accredited, independent institution of higher education offering bachelor's and master's degrees to approximately 6,000 students. Tompkins County, New York, has 98,000 residents. Nineteen percent of them are below the poverty level, and 11 percent represent English as a second language (ESL) communities.

This tax season, senior accounting majors had training in 6 credit hours of taxes and also passed the Volunteer Income Tax Assistance program (VITA) volunteer exam certification. Sixty-five ESL taxpayers, approximately 40 families, tax preparation was conducted at the ESL community sites because it is easier for ESL taxpayers to be more familiar with locations and translators. Returns were computerized and e-filed; and, in addition, 70 international students were assisted at more workshops in the preparation of 1040 NRs.

To insure quality control in the preparation of ESL tax returns, the clinic participated in a peer review of client tax workpapers. The accounting firm of Dannible & McKee CPAs of Syracuse, New York, conducted an on-site review of the clinic's 2000 tax practice.

At a meeting at the IRS Buffalo District in September, the IRS administrators confirmed that approximately only 2 percent of the taxpayers of Tompkins County were selected for a tax audit; and few, if any, were low-income taxpayers.

Given this information, advocacy services of an LITC in a less densely populated rural environment may have fewer clients to

serve. We recognize that the most controversial issue at this time is LITC compliance and that our area has one of the largest percentage of individuals below the poverty level. If the Service decides to initiate compliance testing with respect to LITCs, a partnership with LITCs could prove most advantageous.

Tax advocacy is surely needed, but is this the only solution to the low-income taxpayer problem? I think not. There are approximately 12 to 15 million taxpayers who would qualify as low-income taxpayers. It makes perfect sense that the issue of clearly understanding technical tax complexities are similar for low-income taxpayers as well as ESL clients. The bigger and as yet unmet need of low-income taxpayers is tax preparation.

This past tax season the Service prepared approximately 500,000 tax returns, primarily for low-income taxpayers. The returns were prepared by revenue agents, supervisors and other selected IRS technicians who were reassigned to the taxpayer assistance centers across the Nation. What is the cost of this service? What is the lost opportunity cost to the IRS? Is there a better way?

I and many others believe pilot programs are needed immediately to more fully address the needs of low-income taxpayer preparation, to work more closely with the IRS to increase compliance and accuracy for earned income tax credits (EITC) and other low-income taxpayer issues and, most importantly, to assist the IRS in shifting the unrealistic burden that it has undertaken as the tax preparer for one-half million taxpayers.

Business schools and accounting programs could also provide an excellent venue for low-income taxpayer preparation. Funding guidelines could be similar to the LITC grant application process. Resources could be used for training, computers, procedures for electronic filing.

In summary, the LITC grant project for academic institutions is an excellent example of scholarship of engagement. The LITC connectiveness of government, taxpayers, private/non-profit institutions and the classroom all combine to provide a truly needed service. Everyone benefits: The eligible taxpayer receives a very needed free professional service; the academic institution fulfills its community responsibilities for outreach; the government achieves compliance and increased electronic filing; and the classroom environment flourishes. The LITC at Ithaca College ranks as one of the most rigorous and rewarding college experiences for the student volunteers.

Mr. Chairman, thank you for this opportunity to come before this Subcommittee and discuss the impact LITCs are having on taxpayers.

[The prepared statement of Mr. Cohen follows:]

**Statement of Alan H. Cohen, Director, Low-Income Taxpayer Clinic, Ithaca College, Ithaca, New York**

Mr. Chairman and Distinguished Members of the Subcommittee:

I am pleased to appear before you today and to address the Subcommittee on matters relating to funding and performance of Low Income Taxpayer Clinics (LITCs).

*The LITC at Ithaca College, Tompkins County New York*

Ithaca College is a fully accredited, independent institution of higher education, offering bachelor's and master's degrees to approximately 6000 students (Fall 2000). The School of Business offers B.S. degrees in Accounting and Business Administra-

tion, as well as an MBA degree. Within the Business Administration degree are concentrations in Accounting, Electronic Commerce, Finance, Human Resource Management, International Business, Legal Studies, Marketing, and Management.

The College is located in Tompkins County, which has about 98,000 residents. In addition to the permanent residents and Ithaca College's student population, Cornell University enrolls nearly 18,000 students including 7,000 graduate students. Approximately 7.3% of the Town of Ithaca's population is of Asian origin, primarily Chinese, and there are sizeable Hispanic and Eastern European communities. In addition, a substantial number of Cornell students, especially graduate students, speak English as their second language (ESL). Tompkins County has one of the highest percentages in the state of individuals below the poverty level—18.9% of the county's population according to 1990 census data. In addition, most of the immediately surrounding counties are, like Tompkins, marked by farms and small villages with low average family incomes and limited resources for tax preparation and/or advocacy services. The IC LITC serves Tompkins County and the contiguous counties of Cayuga, Seneca, Schuyler, Cortland, Tioga and Chemung within a 50-mile radius of the City of Ithaca.

The Ithaca College LITC initial grant was approved on April 1, 2000, with an extension to December 31, 2000. The initial start-up phase occurred over the nine months from April 1 to December 31, 2000. From April 1, 2000, the LITC developed partnerships with a community network that began contact with target groups of ESL and low-income taxpayers. The start-up period was used to establish contracts and create a strong infrastructure for the 2000 tax year.

The clinic established an ongoing community action group to assist and advise ways to best contact target groups. Members included Ed Swayze of the Tompkins County Information and Referral Service, Ann Gifford of Cornell Cooperative Extension (which has broad, multi-county regional outreach), and Jeanne Henderson of RSVP. The group meets monthly.

During the nine-month grant period, a wide variety of community partners were enlisted and oriented.

#### Community Partners ESL/Low-Income

• BOCES (Board of Cooperative Educational Services)555 Warren Road, Ithaca, NY 14850.	ESL
• Literacy Volunteers of Tompkins County Inc. 124 W. Buffalo Street, Ithaca, NY 14850.	ESL
• Ithaca Housing Authority798 S. Plain Street, Ithaca, NY 14850	ESL
• Catholic Charities of the Southern Tier/Hispanic Community324 W. Buffalo Street, Ithaca, NY 14850.	ESL
• Cornell University UAW Union	ESLLow-Income
• Greater Ithaca Activities Center (GIAC)318 N. Albany Street, Ithaca, NY 14850.	Low-Income
• Southside Community Center, Inc.305 S. Plain Street, Ithaca, NY 14850.	Low-Income
• TCE/RSVP121 W. Court Street, Ithaca, NY 14850	Low-Income

In all of the above, there was a substantial and successful effort to make community network partners aware of ESL and advocacy services and to create an infrastructure for the 2000 tax season.

Publicity was extremely thorough and extensive, and will continue under second-year funding. Steps taken included:

- Letters to 67 Human Resources Directors of Corporate/Social Services Agencies (Letter, business card, brochure)
- Tompkins County Website—Informational and Referral Services (Human Services Conditional)
- Design/Production—Poster
- Design/Production—Brochure Distributed to Social Services brochure racks at 21 locations and distributed with program letters.
- Newspaper Announcements: Ithaca Journal, Pennysaver, Cortland Standard
- Radio: Public Service Announcements (Continued 2001 grant period)

*Tax Season Calendar 2000*

ESL—Targeted groups were not able to participate in the 1999 tax season due to the lateness of grant awards. Therefore, all efforts were directed towards Community Partnerships, ESL classes, and administrative setup to provide preparation for the 2000 tax season.

The 2000 tax season commenced February 1, 2001. Our clinic had twelve senior accounting majors as LITC Volunteers. Each student was required to take a 3 credit senior-level tax course (Fall 2000) and a 3 credit senior tax workshop course (Spring 2001). In addition to the traditional syllabus requirements, all tax volunteers completed the Volunteer/Income Tax Assistance (VITA) Workbook and Compliance Exam. Supplemental VITA tax material for resident and non-resident aliens was also provided by the IRS. Specific training regarding ESL taxpayers was also delivered by Community Partners experienced with ESL constituencies.

Prior to the tax preparation season, arrangements were made with Community Partners to conduct onsite tax preparations at their own locations. This allowed ESL tax clients easy access of location and familiarity with translators. Forty families were serviced at three different site locations.

All tax returns were computerized and all but one was electronically filed. The one exception was that of a family whose son had independently filed, therefore preventing the full utilization of a dependency exemption. The son's return needed to be amended and both parties filed manually. Another very rewarding experience concerned a Russian family, mother and daughter. The daughter spoke English and translated for the family. The tax return was eligible for the EIC and Child Credit. The taxpayer received a substantial refund and the mother and daughter were overwhelmed with joy.

Additionally, four separate workshops were provided to Ithaca College international students. Approximately 60 taxpayers participated in the hands-on tax preparation of their federal and New York State non-resident tax returns. At one of the workshops, an Ithaca College international student questioned an IRS deficiency letter regarding his 1999 federal non-resident return. Apparently, an income tax had been assessed on scholarship income. The student taxpayer, being unfamiliar with IRS tax correspondence, paid the tax deficiency of approximately \$2,100.00. After proper review, an amended tax return was filed and the student received a full refund.

To insure quality control in the preparation of ESL tax returns, the clinic participated in a peer review of client tax workpapers. The accounting firm of Dannible & McKee CPAs of Syracuse, New York, conducted an onsite review of the clinic's 2000 tax practice. An unqualified report was issued and no material exceptions were noted. For the record, on behalf of the LITC Volunteers and Ithaca College, a sincere thank you to Mr. Christopher Didio, partner, Bridget Reilly, staff assistant, and the firm of Dannible & McKee CPAs, for volunteering the critically needed independent quality control review.

*LITC Funding and Application Process*

The grant period 10/1/99–9/30/00, which was Ithaca College's first year, was not approved for funding until March 30, 2000. The administrative delay prevented ESL tax preparation for the 1999 tax season. Notwithstanding this event, the clinic commenced its start-up phase on April 1, 2000. The grant period then was administratively extended from 9/3/00 to 12/31/00, to allow for easier record-keeping and a better matching of academic and government calendars. This change to a calendar year grant was well received by grant recipients.

Competition for the 2001 LITC Grant was very keen. Increased applications and IRS competitive checklists made the selection process rigorous. Ithaca College received a grant in the amount of \$26,867. The Ithaca College administration and faculty are extremely proud to be part of the 2001 academic grant recipients, which represent many prominent academic institutions across the nation.

*The Partnership Between the LITC and the IRS*

Almost immediately, grant recipients urged the IRS to take an active role in promoting LITCs to eligible taxpayers. The clinics were in favor of "stuffers," announcements of LITCs, their services and locations. The stuffers would be added to the IRS mailings pertaining to audit, compliance inquiries (EITC), collection and other taxpayer correspondence. This is a very delicate and sensitive issue and currently the Service is working on a solution.

On September 7, 2000, I traveled to Buffalo, NY, for a meeting with Hanna Cohn, Director of the LITC at Volunteer Legal Services of Monroe County New York, the Buffalo District Director, and various IRS department administrators. At that meeting, many issues were discussed, two of which were significant. First was the prom-

ise of active participation from the IRS regarding stuffers and marketing. Second and more importantly was the issue of our local IRS office (Elmira-Binghamton, NY) contacting or referring low-income taxpayers who are currently being examined to the Ithaca College LITC. I was graciously allowed to ask questions regarding the total number of current audits, collection proceedings and EITC compliance letters. Without being specific, I was informed that the audit selection process covered approximately 2% of the taxpaying population and substantially all were not with low-income taxpayers. If this is correct, advocacy services of an LITC in a less densely populated rural environment may have fewer clients to serve. We recognize that the most controversial issue at this time is EITC compliance and that our area has one of the largest percentages of individuals below the poverty level—18.9%. If the Service decides to initiate compliance testing with respect to EITCs, a partnership with LITCs could prove most advantageous.

As part of the LITC grant, recipients were required to participate in an annual tax conference. In April 2001, the group met in Washington, DC, sponsored by the American Bar Association Section of Taxation. The first day was devoted to the IRS, grant procedures, and administrative audit requirements. The groups were separated into academic and non-profits. The second day was spent discussing advocacy and was expertly facilitated by the presentations of law school faculty. This was my first meeting at a LITC conference. In the future, more emphasis should be placed on ESL problems and solutions. The partnership between the IRS and LITC is new; it has to mature. Given the new climate at the IRS, I am confident the relationship will grow and be beneficial to the targeted taxpayers.

*Are LITC's Fulfilling all the Needs of Low Income Taxpayers and ESL Constituencies?*

The beginning years of the LITC grant program have had a successful record of increasing grant applications and increased funding. Academic and non-profit institutions have answered the call and are providing the advocacy for low-income taxpayers and professional tax services for ESL constituencies. A review of the 2001 grant recipients includes, among others, professionally qualified advocates from well-known law schools, universities, and established legal clinics. The remainder of grant recipients represent specific ESL contingencies. I am confident as applications increase further that additional funds will be made available by Congress to continue this outstanding program.

Tax advocacy is surely needed, but is this the only solution to the low-income taxpayer problem? I think not. There are approximately 12–15 million taxpayers who would qualify as low-income taxpayers. Nina Olson stated in her testimony to this committee on April 3, 2001, “—essentially taxpayers whose income is so low as to be eligible for the Earned Income Credit are a captive market for return preparers who are not very accurate or who are not making the proper inquiries for their clients in order to accurately complete returns.” Ms. Olson also remarks about the non-compliance problems of the EITC. It makes perfect sense that the issues of clearly understanding technical tax complexities are similar for low income taxpayers as well as ESL clients. The bigger, and as yet, *unmet need of low-income taxpayers is tax preparation.*

Recently the Internal Revenue Service reorganized; this great undertaking is an exciting administrative change. The Service's enlightened attitude towards taxpayers is refreshing. However, does the IRS also believe that tax preparation to low-income taxpayers is important? Absolutely! This past tax season, the Service prepared approximately 500,000 tax returns primarily for low-income taxpayers. The returns were prepared by Revenue Agents, supervisors, and other selected IRS technicians who were reassigned to Taxpayer Assistance Centers across the nation. What is the cost of this service? What is the lost opportunity cost to the IRS? Is there a better way?

Mr. Chairman, our own Congressional district has an unusually large number of citizens below the poverty level. When you apply the 250% of poverty level limit required by LITCs, the eligible taxpayers increase. In Tompkins County, which has approximately 98,000 people, possibly 20,000–25,000 could qualify as low-income taxpayers.

In Ithaca, taxpayer preparation for low-income taxpayers is provided by one TCE Clinic, RSVP, which services 1,200 taxpayers, and one VITA site at Ithaca College, which assists 200 taxpayers. Where do the remaining low-income taxpayers go? Is the tax preparation fee commensurate with the professional service performed? Are there hidden fees for processing and fast refunds?

I and many others believe pilot programs are needed immediately to more fully address the needs of low-income taxpayer preparation, to work more closely with the IRS to increase compliance and accuracy for EITCs and other low-income taxpayer

issues, and most importantly, to assist the IRS in shifting the unrealistic burden it has undertaken as the tax preparer for one-half million taxpayers.

One proposal already being considered in the Senate is funding for VITA programs. VITA sites now provide an excellent venue for low-income taxpayer preparation. Funding guidelines would be similar to the LITC grant application process. Resources could be used for training, computers and procedures for electronic filing. VITA programs can now process tax returns (computerized/e-filed) for approximately \$25. When you contrast this with the IRS's cost per tax return, VITA funding as a pilot project is worth exploring.

*Summary*

In summary, the LITC grant project for academic institutions is an excellent example of the Scholarship of Engagement. The LITC connectiveness of government, taxpayers, private/non-profit institutions and the classroom, all combine to provide a truly needed service. Everyone benefits: the eligible taxpayer receives a very needed free professional service; the academic institution fulfills its community responsibility for outreach; the government achieves compliance and increased electronic filing; and the classroom environment flourishes. If properly supervised, the classroom becomes a professional tax practice. This environment nurtures communication skills, training, computerization, tax work papers, quality control, electronic filing, and professionalism. The LITC at Ithaca College ranks as one of the most rigorous and rewarding college experiences for the student volunteers.

Mr. Chairman, thank you for this opportunity to come before this subcommittee and discuss the impact LITCs are having on taxpayers.

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Chairman HOUGHTON. Thanks a lot, Mr. Cohen. I really appreciate you being here representing our part of the country. You are great. If you have to leave, do so or at any time because we are going to go through the panel and then have some questions.

So what I would like to do is to ask Mr. Rich—Mr. Rich, would you like to testify? Why don't you just turn on the mike then.

**STATEMENT OF DIXON R. RICH, JR., ADJUNCT PROFESSOR,  
AND FACULTY MEMBER, LOW-INCOME TAXPAYER CLINIC,  
UNIVERSITY OF PITTSBURGH SCHOOL OF LAW, PITTSBURGH,  
PENNSYLVANIA**

Mr. RICH. Thank you. Good afternoon or at this point good evening, Mr. Chairman and Members of the Oversight Subcommittee; and I would particularly like to thank Congressman Coyne for inviting me personally down to explain the University of Pittsburgh's program to you.

Basically, I would like to discuss three aspects of the program—basically, our clients, our students and our cases—and then, second, like to take a look at a short review of what has worked good for us and what hasn't and then a recommendation, third.

Specifically, the University of Pittsburgh School of Law has a tax advocacy LITC. We don't prepare tax returns. We help people with problems with the IRS. We answer all calls, and we refer taxpayers that have preparation problems to the VITA programs that exist in the area. And if a taxpayer calls with a frivolous claim, we send them on their way. We don't waste any time on frivolous claims.

Where our clinic is located, it is centrally located in Pittsburgh, at the University of Pittsburgh Law School next to the Law Library. The building is open during the day and the evenings so people that have to work don't have to miss work to meet with us.

It is a great opportunity because in the Pittsburgh area prior to this clinic there was no place low-income taxpayers could go for



help except the IRS, and when they go to the IRS—and they have expressed this and the clients I have talked to—they don't get the same comfort level that they do coming to talk to us. Once they realize that they are talking to somebody on a confidential basis and they can tell us the whole story, whereas if they are talking to the IRS they have to watch what they say, I think that also speeds up their process. Because once they know that we are available, they are willing—the last thing they want to do is have a tax problem hanging over their head. But the second-to-last thing they want to do before that is to call themselves. So if they understand, hey, we can talk to these people, we can sign a power of attorney, and they can take care of the problem with us, I mean, we have to pay whatever we owe or do whatever we have to do, but it really helps resolve problems a lot quicker.

To respond to what Nina said, when somebody gets a notice in the mail, they get one notice, they don't do anything. They get two notices, it starts snowballing on them. Then, before you know it, they are in collections when they might have had just to send a birth certificate in to prove that their child they claimed the earned income credit for was actually their child.

Because one thing that I have found is that you don't run into traditional family units. You might have people with last names being the mother of somebody, you know, and it is just not as easy as it used to be to prove these things.

So having qualified students—and our students, second—and third-year students, a lot of them have a surprising amount of general and public accounting experience; and they are almost all law clerks. So they are very well represented, and the IRS has been very cooperative in working with the students. Also, the IRS in our area has been very cooperative in helping get our names out.

The Collections Division is an area—and that is the one recommendation I have to make—is the one area where we could help a little more with getting notices—because lawyers aren't allowed to target people, but in this instance where you have a notice going to taxpayer, it is easy to—well, I shouldn't say it is easy because of the logistics of which taxpayers get the notice and not—but to stick a little piece of paper in the notice that says, here, if you are within 250 percent of the poverty level you can call these people and get help. I think that really speeds up the process, and it might cut into the dead weight that Nina's coming across.

In particular, we have had all kinds of clients. Our clients are singles, single and married moms and dads, abused spouses, disabled taxpayers and retired taxpayers. The types of situations and the cases we have—we have had two Tax Court cases. I have only been there a year, but we have had two Tax Court cases, both of which we have prevailed on, and stipulated cases where there aren't any trials. We just go in and prove—we sit down, do what we have to prove, and the case is over. We are not wasting any Tax Court time.

We have also had a lot of issues with dependency and claiming exemptions, filing status, proving head of household, things like that, and offers in compromise, installment agreements, formally and informal, cases where we have the IRS, the Service Center will issue out a 1099 matching audit.

Well, this one poor lady, a relative did her tax return for her. She got a big tax bill. Well, what we did—she did miss some income, but what she also missed was a bunch of expenses and deductions. We took care of that. She still owes a little money, but it is a whole lot less. That was for 1999, and for 2000 we are just going to do the same thing. So we are really killing two birds with one stone there. You know, we have one taxpayer and we have cleaned up 2 years in matter of a couple of months.

So I think this is one area I know in the Pittsburgh area where there were no legal clinics before. If you had a family problem, you could go to one place, but you couldn't go to anyplace with a tax problem.

The one area where I really think the IRS and where I would recommend we help is the stuffer notices. I know in Pittsburgh, the appeals office, the taxpayer service office, the walk-in office, they have been very helpful. They tell people, hey, if you have a problem, call these people and PITT will help you. But the actual notices, the collection notices that go out of Philadelphia and the automated collection system, if you could stick notices in them, I think you could really help a lot of taxpayers and cut down a lot on—you could target who we need to help.

I mean, targeting people when you are a lawyer isn't good, but in this situation, I mean, that is our audience. Taxpayers are who we are supposed to help. They get a notice, and it would be easy, I would think, to include our blue stuffer notices with all of the other notices that go out of Philadelphia.

From the students' perspective, I think it really helps our students in the skill of learning how to meet a client, to gain their confidence and to interview a client and to gather the information necessary to prove your case to the IRS, especially in our situations because sometimes the evidence isn't as clear. There isn't a check-book or leases, things that normal people have.

In closing, I really thank the fact that you are giving low-income taxpayers an opportunity for confidential independent help other than the IRS. When they walk into our office they are nowhere near the Federal building, and it gives them a comfort level and gives them the ability to promptly respond without having a sword or something hanging over their head.

Thank you very much for giving me the time this afternoon. My testimony goes into a lot more detail, but I just wanted to really concentrate on the fact that, up until you guys and ladies have started this program, there was no other program like this, and I want to thank Nina for doing so.

[The prepared statement of Mr. Rich follows:]

**Statement of Dixon R. Rich, Jr., Adjunct Professor, and Faculty Member,  
Low-Income Taxpayer Clinic, University of Pittsburgh School of Law,  
Pittsburgh, Pennsylvania**

Good afternoon, Mr. Chairman and Members of the Oversight Subcommittee. My name is Dixon R. Rich, Jr. I am a tax attorney in Pittsburgh, Pennsylvania, and an adjunct professor at the School of Law of the University of Pittsburgh. I have been involved as a faculty member of the Low-Income Taxpayer Clinic for the past year.

I wish to thank the Subcommittee and Congressman William Coyne in particular for this opportunity to share our perspective of and our experience with the Low-Income Taxpayer Clinic at the University of Pittsburgh. I would also like to extend

the regrets of Clinic Director, Professor Martha M. Mannix, who is unable to take part in the hearing today.

We greatly appreciate the three-year funding from the Internal Revenue Service (IRS) and believe the Low-Income Taxpayer Clinic (LITC) provides a much-needed community service to individuals who have few other avenues of assistance, at the same time it is a unique and valuable professional learning experience for second and third year law students.

I would like to cover three aspects of our experience for you: first, a brief description of the Clinic at the Law School including its history, its clients, its students and its cases; second, a short review of what has gone well for us and our clients; and third, a recommendation for the future that we believe could improve what is already a highly-effective program.

The Low-Income Taxpayer Clinic at the University of Pittsburgh is one of PITT Law School's four student clinics: tax law, health law, elder law and environmental law, that provide important legal services to the community and professional, hands-on training for future lawyers. As a result of receiving the funding award from the IRS, Professors Martha M. Mannix, Thomas D. Arbogast and Leo N. Hitt organized the Clinic during 1999, which then opened its doors to clients and students in January 2000.

Specifically, the University of Pittsburgh School of Law LITC is an "advocacy clinic." We assist low-income taxpayers with resolving open issues with the IRS. We respond to all inquiries and refer tax preparation requests to local VITA programs. PITT's LITC is housed adjacent to the law library with the Law School's other student clinic offices, where Ms. Stacey Patrick, our LITC administrative assistant, receives client and student messages and correspondence and maintains our client files.

The Clinic is centrally located on the main boulevard in the Oakland neighborhood of Pittsburgh and easily accessible by public transportation. The building is open during the day and evening, enabling students to meet with taxpayers without taxpayers missing work.

The LITC program provides low-income taxpayers an opportunity for free tax assistance that is confidential and independent from the Internal Revenue Service. Unlike the IRS Walk-in Taxpayer Assistance offices, our LITC is physically separate and independent from the IRS. This provides low-income taxpayers with a comfort level they cannot obtain from assistance provided by IRS employees.

Prospective clients usually ask about our connection with the IRS. Once they understand we are independent and that their conversations are confidential, clients feel more relaxed and are more inclined to fully explain their situation. By executing a Power of Attorney, low-income taxpayers are afforded representation before the IRS and the luxury of not having to personally talk and correspond with IRS employees. Clients are candid that the anxiety of talking with IRS employees creates stress that snowballs with each notice and delays them from responding to IRS notices. After contacting a LITC, an eligible taxpayer is more likely to promptly respond to IRS notices.

During the past year, we have been contacted by approximately sixty (60) taxpayers and have accepted and represented thirty-eight (38) clients. Our clients are all ages and consist of singles, single and married moms and dads, abused spouses, disabled taxpayers and retired taxpayers.

This past year we had eight (8) students during the fall 2000 semester and ten (10) during the spring 2001 semester, nine (9) women and nine (9) men. Many of the students have public accounting, general accounting or law firm clerking experience, so our clients are represented by qualified students that are assisted and closely monitored by our LITC faculty. Upon receipt of an inquiry, a specific student is assigned to contact the taxpayer and interview them to determine their eligibility. If the taxpayer is eligible, the student proceeds with the representation and prepares an engagement letter. On average, each student handles one (1) to four (4) cases/clients. Any student without an active case is assigned to specific marketing projects.

We field general questions from taxpayers. Over the past year we have handled two Tax Court cases involving a taxpayer's eligibility for head of household filing status and the earned income credit. Both cases were settled in favor of the taxpayer by stipulation, without the need for a trial, thereby saving court time. We have responded to IRS notices requesting further proof from taxpayers filing as head of household, claiming exemptions for dependents and claiming the earned income credit. We have contacted a bank and corrected the amount of income reported on a Form 1099 when it foreclosed on a low-income taxpayer's residence, then prepared an amended tax return reducing the discharge of indebtedness income recognized when the bank sold his house. We have filed Offers-in-Compromise on behalf

of taxpayers dealing with the Collection Division of the IRS. We have assisted low-income taxpayers with formal and informal installment payment agreements with the Collection Division. We have also handled innocent spouse claims, one of which is still pending, and have reviewed the possibility of utilizing Due Process Hearings in innocent spouse and other similar hardship cases with a longtime Pittsburgh Appeals Officer, recently trained for Due Process Hearings. We have responded to an IRS Service Center Form 1099 matching audit conducted by mail on behalf of a taxpayer, who had a relative prepare her 1999 return. We correctly reported her gross income, substantiated the claimed deductions and deducted additional expenses originally overlooked. She still owes tax, but now it's much less. In addition, we are in the process of amending her 2000 Form 1040 to deduct additional expenses, similar to those overlooked in 1999. We have also assisted a number of taxpayers with their filing status, their options for claiming withholding exemptions on Form W-4 and their option of receiving their earned income credit in advance during the year by increasing their "take-home pay."

We have placed flyers in the IRS Pittsburgh Appeals/District Counsel Office, which handles appeals and Tax Court cases, and the Taxpayer Service Walk-in Room, which handles general questions, provides tax forms and processes hand delivered payments. Additionally, students distributed flyers to elderly facilities, shelters, the Department of Welfare, churches and other social/government subsidized nonprofit organizations. All students are involved in marketing and some have obtained radio and print exposure. We arranged publicity through the local media with an interview on a local news and talk radio station and through an in-depth article, including contact information, in the Pittsburgh Post-Gazette. We have also advertised in a few neighborhood newspapers distributed free to the public in areas likely to house eligible taxpayers. This marketing experience is invaluable for students, since not introduced through the academic component of law school.

The Internal Revenue Service has also been very helpful by including LITC Stuffer Notices with IRS Appeals Division notices, as well as displaying and distributing our PITT LITC flyers in their offices. The Tax Court also includes LITC Stuffer Notices in "S" (i.e. small) cases to be held in Pittsburgh. While preparing this testimony, we received an inquiry from Malvern, Pennsylvania, clear across the state from Pittsburgh, involving a taxpayer with a mental health disability and a 1996 tax liability accruing penalties and interest. With technology today, we can represent an out-of-town taxpayer or contact a closer LITC. Telephone calls like this show the effectiveness of including LITC Stuffer Notices with IRS notices; eligible taxpayers most needy of our free services can be directly informed.

Handling LITC cases also trains students in meeting and interviewing clients. Students develop the skills of earning a client's confidence, asking questions in a patient and unobtrusive manner, framing the issues, designing a solution or alternate solutions, then eliciting pertinent information and obtaining substantiating documentation. A few female students have also gained experience addressing and earning the confidence of older male clients.

Many low-income taxpayers do not have cancelled checks, leases and other documentation normally submitted to the IRS. Students gain the experience of utilizing alternate sources of substantiation such as affidavits. Low-income taxpayers do not always have the luxury of living in traditional family units, (i.e. one or two parents with children). Different generations of families and stepfamilies and other non-traditional living arrangements further complicate the ability to provide traditional substantiation to the IRS. The availability of our LITC services enables low-income taxpayers living in nontraditional arrangements to prove their filing status, eligibility for tax benefits and resolve controversies.

Since the time frame to completely resolve an issue with the Internal Revenue Service usually exceeds one (1) semester, students gain the experience of picking up a case midstream, that another student started. At the end of each semester when pending cases are passed to the next LITC class, they also gain the experience of preparing closing memos outlining each case's history and law, its current procedural and administrative status and items to be completed.

Alleviating the stress associated with personally communicating with the IRS generally improves the quality of life of low-income taxpayers and their families. The low-income taxpayers benefit and the students benefit by gaining practical, clinical training. The IRS may benefit by prompt responses and more efficient communications, since students understand the IRS regulations and can accurately respond to IRS inquiries, thereby reducing the need for follow-up requests.

In closing, the University of Pittsburgh School of Law would like to thank Congress, the Committee on Ways and Means and this Subcommittee for the opportunity to provide important legal services to low-income taxpayers that were not available before the Low Income Taxpayer Clinic program was established. Our con-

fidential and professional relationship with our LITC clients and our independence from the Internal Revenue Service distinguish our services from the free services provided by IRS employees. As you may be aware, before the LITC program, low-income taxpayers were generally limited to seeking free tax assistance from the IRS.

The Internal Revenue Service and the Tax Court have been extremely helpful in implementing this program and advising low-income taxpayers of our free services. The IRS has also been very accommodating in corresponding with students representing taxpayers. The managers of the Pittsburgh Taxpayer Service, Appeals and District Counsel Divisions have agreed to meet with our fall 2001 LITC class to explain how their respective divisions operate and make themselves available for questions.

We recommend including stuffer notices in IRS collection notices generated by the Collections Division sent to low-income taxpayers to directly inform a large group of eligible taxpayers that would benefit from our services, since other independent, confidential representation rarely exists.

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Chairman HOUGHTON. Thanks very much, Mr. Rich. Mr. Book.

**STATEMENT OF LESLIE BOOK, ASSISTANT PROFESSOR OF  
LAW, AND DIRECTOR, FEDERAL TAX CLINIC, VILLANOVA  
UNIVERSITY SCHOOL OF LAW, VILLANOVA, PENNSYLVANIA**

Mr. BOOK. Good evening, Mr. Chairman and distinguished Members of the Subcommittee. Thanks very much for your continued interest in low-income taxpayer clinics.

In light of the time of day and prior testimony and written testimony, I am going to summarize a few important points and highlight some areas that I think are worth highlighting.

Villanova University where I am affiliated is one of the few organizations that, prior to the Restructuring Act, hosted tax clinics. Since the 1998 Restructuring Act, the growth of tax clinics has been remarkable, and I am pleased to be able to be part of this growing and exciting community, and I would like to talk about some of the issues and challenges raised by the growth and the operations of the program.

Today, LITCs across the country represent thousands of taxpayers involving all stages of the tax controversy process and all sorts of issues, including varied issues like earned income tax credit, innocent spouse, injured spouse, offers in compromise, educational expense deductions, substantiation of business expenses and others. Moreover, LITCs are helping nonfilers reenter the tax system.

I wanted to highlight just a few attributes of our client base and talk about how I think LITCs can really play an important role in the system.

Many of the clients of LITCs such as Villanova's are least able to help themselves. A number of our clients, like other clients at LITCs, are relative newcomers to the country who may speak English as a second language. These ESL taxpayers, while diverse in their backgrounds, often share significant language barriers and fear of government and have little understanding of our Nation's voluntary system of tax self-assessment. Many other of our clients, like those at other LITCs, are recently off the welfare rolls in welfare-to-work programs. Others are recently separated or divorced. A significant number of our clients lack access to computers and

to the Internet that many of us now take for granted in our lives and have limited literacy skills and educational backgrounds.

What that means for the most part is a number of these taxpayers are ill-equipped to handle and work through the oftentimes confusing and lengthy controversy process. The procedural and substantive provisions of the Internal Revenue Code, as we all know, are quite complex, and LITCs play an very important role in ensuring that those taxpayers have a voice in the system.

What I would like to do is really acknowledge the strong administration of the program that the IRS has been able to provide since day one. I think it has been a challenge to get up and running a grant administration program as well as an organization that is reviewing the performance and operation of the LITCs. What has happened is because of the great success of the LITCs and the funding provisions there has been enormous growth in the program.

In the 3 years in which LITC funding has been available, the growth has been substantial. In the first year, the IRS received 43 grant applications and approved 34 grants totaling approximately \$1.46 million. In the second, year the IRS received 88 grant applications and approved 81 grants totaling approximately \$5 million. Last year, the IRS received 141 grant applications and approved 102 applications covering a full \$6 million authorized under section 7526.

Largely because of the success and remarkable growth of the LITC program the IRS has been placed in a very difficult situation that I believe will only get worse. According to the IRS, of the 102 organizations which received funding for 2001, almost 50 percent of those organizations would have received additional funding if the \$6 million authorization cap in section 7526(c)(1) were higher and more appropriated funds were made available. Moreover, according to the IRS in 2001 the \$6 million funding limitation prevented eight otherwise qualifying organizations from receiving any funding at all.

The effect of this is that many otherwise needy taxpayers in parts of the country are not able to receive representation. Many organizations that receive only partial funding are not able to serve fully their communities.

There are 12 States without any LITC at all; and many large cities, especially those with significant ESL communities and high populations of those recently moved from the welfare rolls, could support more LITCs. If things merely stayed the same, the IRS would continue to be placed in the unenviable position of rejecting in whole or in part worthy organizations' grant applications and denying the possibility of extending the benefits of LITC activities to deserving communities.

Accordingly, in my written testimony I recommended that Congress consider raising the authorization limitation from \$6 million to \$15 million and likewise consider specifically appropriating funds so the IRS does not have to make difficult decisions in terms of allocating resources to LITCs apart from other areas in which the IRS is intending to modernize.

In sum, I believe the LITC program has been an unqualified success, and I look forward to continuing to work with the IRS and with Congress in ensuring its future success.

Thank you.

[The prepared statement of Mr. Book follows:]

**Statement of Leslie Book, Assistant Professor of Law, and Director, Federal Tax Clinic, Villanova University School of Law, Villanova, Pennsylvania**

Mr. Chairman and Distinguished Members of the Subcommittee:

Thank you for providing me the opportunity to testify on the important topic of low-income taxpayer clinics (LITCs). LITCs have been one of the true success stories of the Internal Revenue Service Restructuring & Reform Act of 1998 (RRA), and I am pleased to be able to share with the Subcommittee my experiences serving as a Director of a tax clinic hosted by an academic institution.

Let me introduce myself. Since August, 2000, I have been an Assistant Professor of Law at Villanova University School of Law in Villanova, Pennsylvania, and Director of our school's Federal Tax Clinic. Prior to joining Villanova, I was a professor at Quinnipiac University School of Law in Hamden, Connecticut, and Director of its Tax Clinic. Both of those academic institutions are unique in that they are among the dozen or so organizations that sponsored tax clinics prior to RRA's authorization to the Treasury to allocate up to \$ 6 million for matching grants up to \$100,000 to qualified organizations. Villanova University School of Law has been a recipient of LITC grants since the program's inception, and has received \$87,250 for the year 2000 and is scheduled to receive \$100,000 this year.

*I. The Importance of LITCs*

Prior to RRA and the work of pioneers in the tax clinic community, including two other distinguished witnesses here today, Professor Janet Spragens and the current National Taxpayer Advocate, Nina Olson, many in the tax community were surprised to hear about low income individuals' need for legal representation. Now, however, I believe there is a growing awareness of the need for professional tax representation for the low income taxpayer community. Today, LITCs across the country represent thousands of taxpayers involving all stages of the tax controversy process in issues involving the earned income tax credit, innocent spouse and injured spouse provisions, offers in compromise, educational expense deductions, substantiation of business expenses, and others. Moreover, LITCs are helping non-filers reenter the tax system.

Many clients of LITCs are those often least able to help themselves, including relative newcomers to the country who may speak English as a second language (ESL). These ESL taxpayers, while diverse in their backgrounds, often share significant language barriers and a fear of government, and have little understanding of our nation's voluntary system of tax self-assessment. Other clients include those who have re-entered or just entered the workforce from the welfare rolls, and recently separated or divorced taxpayers. A significant number of LITC clients lack access to computers and to the internet that many of us now take for granted in our lives, and have limited literacy skills and educational backgrounds. A large percentage of LITC clients have limited means of transportation, and are overextended, balancing the demands of both work and family in single-parent households. These factors hinder significantly their ability to work with the often complex substantive and procedural provisions of the Internal Revenue Code, which apply even to low-income persons. Merely answering IRS-generated correspondence, gathering facts through contacting witnesses and collecting documentary evidence in support of a matter can be difficult in the face of some of these factors.

While the amounts in controversy for these matters are often small (for a typical matter in the Villanova Tax Clinic, the amount in controversy is about \$4,000, although some matters can involve much more), for our clients the amounts are significant. A few thousand dollars for a single working mother just getting by can mean the difference between being able to move to a better and safer neighborhood, clothes for the family, or steady access to transportation or child-care.

In the last year, the Villanova Federal Tax Clinic was contacted by over 100 taxpayers seeking our services. We were able to represent 42 of those taxpayers, as well as continuing to provide services to six taxpayers whose representation continued from the prior year. Six of those taxpayers were ESL taxpayers. These matters included all stages of the tax controversy process. In the past year, working with the IRS, the Tax Clinic was able to make a significant difference in our clients' lives. A few highlights included successfully restoring the earned income credit for a num-

ber of clients; abating a crippling tax assessment to young man who sold assets in a custody account upon turning 18 but who initially failed to file a tax return; successfully prevailing at Appeals on an equitable relief innocent spouse claim for a victim of domestic abuse who was unable to gather on her own the evidence needed to demonstrate eligibility; and many offers in compromise and installment agreements that gave our clients the ability to overcome past mistakes and the opportunity to become responsible taxpayers.

A number of the taxpayers we did not represent were taxpayers who had no basis in positions but who genuinely did not understand the often complex rules applicable to their situations, including issues involving filing status, earned income tax credit and the financial disability rules applicable to refund claims.

In addition to LITCs helping resolve individual cases for otherwise unrepresented taxpayers, they provide other benefits that are just as tangible, only somewhat indirect. Through their individual representation and outreach to communities such as the growing English as a Second Language population, LITCs contribute to a general sense of confidence among taxpayers that the tax system is responsive to all members of society. In the past year, the Villanova Tax Clinic sponsored informational outreach sessions to community service organizations working with victims of domestic abuse and the ESL community. Prior to our sessions, these organizations and their constituents were largely unaware of some of the more important tax issues applicable to their communities. Moreover, through the presence of LITCs working cases both in the court system and before the IRS, LITCs help ensure that the tax system is aware of issues and needs of constituencies that often do not have a voice in the system. LITCs help reduce the administrative burdens on the IRS and the court system often associated with *pro se* taxpayers. Through LITCs at academic institutions, enrolled students gain valuable educational experiences and practical skills necessary for professional representation, and are often exposed to the value of public service and the importance of *pro bono* activities.

## II. The Growth of LITCs

The RRA LITC funding provision has contributed enormously to the growth of tax clinics. In the three years in which LITC funding has been available, there has been remarkable growth: in the first year of the program, FY 1999, the IRS received 43 grant applications and approved 34 grants totaling approximately \$ 1.46 million; in the second year, FY 2000, the IRS received 88 grant applications and approved 81 grants totaling approximately \$5 million; in the third year, for the calendar year 2001, the IRS received 141 grant applications and approved 102 applications covering the full \$6 million authorized under section 7526.

Treasury and IRS have done an admirable job of creating the grant review processes and putting in place personnel necessary to manage and administer the grant program. Working with the American Bar Association Section of Taxation and the American University School of Law, the IRS has co-hosted annual meetings allowing the LITC community to come together to consider substantive, procedural and grant-related issues in a collegial atmosphere. The IRS has put in place program guidelines in grant application packages, and has generally been responsive informally to LITC-generated questions and concerns.

Nonetheless, largely because of the success and remarkable growth of the LITC program and the annual \$6 million authorization limitation of section 7526(c)(1), the IRS has been placed in a very difficult situation that will only get worse. In FY 2001, 141 applicants sought grants totaling \$9.8 million, almost 40 percent more than the statute's authorization amount. According to the IRS, of those 102 organizations awarded funding for 2001, almost 50 percent of those organizations would have received additional funding if the \$6 million cap were higher and appropriated funds were available. Moreover, according to the IRS, in 2001, the \$6 million funding limitation prevented eight otherwise qualifying organizations from receiving any funding at all. The effect of this is that many otherwise needy taxpayers in parts of the country are not able to receive representation, and many organizations that received only partial funding are not able to serve fully their communities. There still are 13 states without any LITC at all, and many large cities, especially those with significant ESL communities and high populations of those recently removed from the welfare rolls, could support more LITCs.

If things merely stay the same, the IRS will continue to be placed in the unenviable position of rejecting in whole or part worthy organizations' grant applications and denying the possibility of extending the benefits of LITC activities to deserving communities. It is likely that these problems will be exacerbated in the immediate future if the \$6 million cap is not increased substantially. In response to concerns previously raised by many in the LITC community regarding the need to be in a position to hire more qualified personnel and to better plan resources, start-



ing in 2001, as permitted by section 7526(c)(3), the IRS has awarded to a number of institutions multi-year grants up to a period of three years. Starting in 2001, the IRS has also switched the grant program year from a fiscal year ending 9/30 to a calendar year, which should also assist LITCs in their planning, especially those hosted by academic institutions. Yet, it is likely that the number of qualified organizations seeking LITC funding will increase and the amount of funds sought by already funded organizations will increase, especially among potential and existing LITCs at non-academic non-profit (NANP) organizations.

The growth in NANP LITCs has been truly astounding: in 1999, there were only 13 NANP's awarded grants, and by 2001, the IRS awarded 67 grants to NANPs. This development is one of the most significant aspects of the LITC program. Essentially, many of these organizations receiving grants (or organizations related to the grant recipient), were involved in other aspects of support for the low-income taxpayer community. The availability of funding through the LITC program has increased awareness among those providing a panoply of other services to this community about the importance of the tax system toward achieving societal goals benefitting low-income people. This awareness is growing, and those who have not traditionally been associated with tax representation are now an important part of the support system for low-income taxpayers, a development that will I believe create lasting benefits for the tax system. As the tax system increasingly is used as a tool for social policy benefitting low-income and the working poor, the intersection of tax and other areas of the law, including family law and public-benefits law, will become increasingly important. The NANP LITC growth will help ensure that our nation's working class citizens are afforded access to representation that considers their overall well-being, including tax matters.

The upshot of the LITC success, however, is that barring an amendment to section 7526(c) authorizing additional funding, the IRS has been and will continue to be placed in the difficult and unpopular position of turning away qualified organizations from funding. To ensure that there are adequate resources available for all organizations, the authorization limitation of section 7526(c) should be raised to allow the Treasury to allocate \$15 million a year to LITC grants, which will allow for full funding for those qualifying organizations that were denied in whole or part in 2001, while providing a cushion for measured growth to permit the possibility of funding LITCs existence in areas not yet served or underserved.

#### *A. Possible Objection to Funding*

While there has been general support for LITC funding, one possible objection to increasing the amount authorized for appropriation under section 7526 would be that Congress might not wish to indefinitely fund LITCs or fund LITCs beyond a start-up period. The existence of federal funding has allowed organizations to leverage the federal dollars and successfully compete in the marketplace for matching dollars to be used for qualified LITC activities associated with representing low income clients or providing outreach to the ESL community. Section 7526's matching requirement ensures that no organization can remain complacent and completely dependent upon federal assistance. Nonetheless, in light of the great expenses associated with running a tax clinic and the scarce resources of many of these organizations, without Congressional funding it is likely that many of the LITCs would fold or scale down their operations. Continued IRS administration of the grant program will also ensure that organizations remain competitive, as the IRS will likely reward those organizations that demonstrate strong quality and improvement. In sum, continued funding is a good long-term investment for the taxpayers and the tax system overall.

#### *III. Publicity for LITCs*

One issue that has been important for LITCs is publicizing their existence among the target client community. Publicity is vital for LITCs to reach their statutorily-mandated audience and ensure that access to representation is readily available to those in need. One avenue for publicity is through IRS-generated distribution and posting of LITC-generated literature, including posters and so-called "stuffer" letters similarly advising unrepresented taxpayers about the existence of clinics. The stuffers provide information to unrepresented low income taxpayers about the LITCs, such as phone numbers, addresses, and hours of operation, while also generally making clear that, while the IRS partially funds LITCs, the IRS and LITCs operate independently and that a taxpayer's decision to use or not use the services of an LITC will not affect the taxpayer's rights.

While many LITCs have been conducting targeted outreach programs to both better educate taxpayers about their rights and responsibilities and also increase the community's general awareness of LITCs, the possibility of including stuffers in cer-

tain types of IRS-generated correspondence is an important means of accessing unrepresented low income taxpayers in need of representation. In the old Student Tax Clinic program, the IRS Manual authorized the IRS, in certain correspondence, to include stuffer letters advising taxpayers about the existence of Student Tax Clinics. There is no such authorization regarding LITCs. Instead, many LITCs have negotiated on an *ad hoc* basis with local IRS functions the placement of stuffers in select correspondence. (For some LITCs, the Tax Court includes a stuffer letter describing the availability of tax clinics in its notices setting "S" cases for trial to unrepresented taxpayers).

I understand that the IRS has developed a policy encouraging the use of LITC flyers at various walk-in offices and is in the process of studying ways to create and implement fairly an LITC stuffer program. In some areas, such as in Connecticut and Rhode Island, the LITCs and local IRS management have met to facilitate the creation of combined LITC stuffer notices. These notices have been placed in correspondence covering all IRS controversy functions, including EITC correspondence examination letters originating from the Andover Service Center, Appeals Office acknowledgment letters, certain collection due process correspondence, and pre-trial Counsel correspondence to unrepresented taxpayers who have cases on the Tax Court "S" calendar. In Pennsylvania, the Villanova Tax Clinic has similarly been successful in placing stuffers in certain correspondence, including Appeals acknowledgment letters, and is working with local IRS management on the possibility of expanding the placement of stuffers.

That notwithstanding, the lack of a public IRS National Office unified position tends to hinder the ability of local LITCs to negotiate with local IRS management on the placement of stuffers. I am encouraged by National Taxpayer Advocate Olson's commitment to this issue, and while I believe that there are certainly logistical concerns regarding implementation on a nation-wide basis (especially as the IRS is still implementing the many RRA-mandated changes to its organizational structure and compliance activities), a strong statement of support from other senior IRS management on the issue might facilitate the placement of LITC stuffers locally pending a more comprehensive IRS implementation plan.

I have found that once local IRS employees work with LITCs, they generally favor clinic involvement and encourage publicizing LITCs to taxpayers. LITC participation helps the compliance process for IRS employees in a number of ways. LITCs are often contacted by prospective clients who have no basis in certain positions or matters whatsoever. Taxpayers are more inclined to listen to LITCs than IRS employees no matter how courteous or dedicated the IRS personnel may be. Sometimes, LITCs are better able to dedicate resources to explain exactly why a taxpayer's position has no merit. This process helps ensure that IRS and possibly judicial resources are spent more productively. When LITCs do take on matters, they are often able to research the issues and develop the facts in a way that facilitates IRS or judicial consideration of the merits. Moreover, LITC involvement helps shepherd taxpayers through the incredibly complicated and often lengthy procedural maze of tax controversies. This shepherding helps ensure that taxpayers stay the course and understand the implications of actions and decisions. For the most part, I believe that fully informed IRS employees would favor early LITC involvement in the process, and the use of stuffers in appropriate correspondence.

I also believe that certain matters are particularly appropriate for LITC involvement and more active IRS publicity efforts, including pre-trial Counsel and Appeals correspondence to taxpayers who have docketed "S" Tax Court cases, equitable relief innocent spouse relief requests, EITC correspondence audits and doubt as to collectibility and so-called hardship offers in compromise. While LITCs should assist the IRS in addressing some logistical concerns, such as possibly creating combined stuffer notices and identifying with particularity the types of matters where stuffers are appropriate, without active and creative IRS facilitation, I fear that the stuffer matter will continue to be addressed on an *ad hoc* basis. I look forward to continued cooperation with the IRS on these matters; for while LITCs and the IRS may be adversaries on individual matters, we are partners in ensuring the continued health of the tax system. Access to representation that publicity can provide helps ensure that taxpayers entitled to important rights and substantive benefits are given an opportunity to exercise those rights and receive benefits (like tax credits) to which they may be entitled.

#### IV. *The Possibility of Creating a Separately Funded LITC-type Program For Return Preparation Activities for Low Income Taxpayers*

The IRS currently funds voluntary return preparation services for taxpayers through its VITA and TCE programs. In addition, through the LITC program, the IRS has taken the position that the preparation of tax returns for ESL taxpayers

constitutes a permitted qualifying activity and is part of a program to inform ESL individuals. Thus, there are effectively three permitted activities under the LITC program: 1) the representation of low income taxpayers in controversies before the IRS; 2) outreach, not including the preparation of current year tax returns to the ESL community, including presentations on substantive and procedural issues to taxpayers; 3) and the preparation of current year tax returns for ESL taxpayers. There have been recent proposals by private organizations and proposed legislation, the Low Income Taxpayer Protection Act of 2001, S. 802 (sponsored by Senator Bingaman), to create a separate federally-funded program to assist organizations that perform return preparation work for all low income individuals.

There is a substantial need in the low income community for improved access to free and qualified return preparation services, including greater access to free e-filing. To the extent that Congress does in fact adopt additional legislation authorizing direct funding for return preparation clinics on a basis similar to that provided to LITCs, this new return preparation program, and not the LITC program, should be the exclusive means to support current year return preparation activities for all low income individuals, including ESL taxpayers. This would ensure that IRS management of the LITC program is simplified and targeted mainly to LITCs performing representation and ancillary non-return preparation outreach work to ESL taxpayers. It would also allow current LITC's that exclusively perform return preparation activities to avoid some of the administrative concerns associated with the possibility of commingling of resources dedicated to some activities that are not qualifying activities under the LITC program (e.g., the preparation of tax returns for non-ESL low income taxpayers). If such an approach were adopted, I would anticipate a high level of synergy and cooperation among 1) LITCs doing representation and non tax-return preparation outreach; and 2) organizations funded under this new provision that would be dedicated to return preparation for all low income individuals. This approach reflects the strong need for both preparation and controversy activities, while also recognizing that preparation and controversy are different functions often performed by different organizations or individuals within organizations.

#### *V. Delays Affecting Consideration of Offers in Compromise*

While not exactly related to the administration of the LITC program, the IRS's implementation of some of RRA's provisions has direct effect on LITC clients. Recent GAO testimony before the Senate Finance Committee (*Information on Selected IRS Tax Enforcement and Collection Efforts*, GAO-01-589T (Apr. 5, 2001)) highlighted the delays taxpayers have experienced who have claimed innocent spouse relief or submitted an offer in compromise (OIC) request. While the IRS is administering innocent spouse requests on a more timely basis, the delays associated with considering OIC requests seem to be getting worse.

It is not uncommon for clients of the Villanova Federal Tax Clinic to be told that they will have to wait close to a year for the IRS to consider their OIC requests. From the tax system's perspective, the delay in OIC consideration has a particularly pernicious effect among low income taxpayers. Many have significant credit problems as a result of an IRS filing of a notice of federal tax lien and genuinely wish to resolve their delinquencies on a timely basis so they could put past mistakes behind them. The long response time contributes to an inability for our clients to manage their financial affairs and weakens confidence in the tax system. The delay also often necessitates duplicative requests for information, as the financial information on the OIC request is often stale when the IRS eventually gets around to considering the matter.

While there has no doubt been a surge in OIC requests since RRA, LITCs and their constituents would greatly benefit from the IRS improving and expediting the review process.

I wish to thank the Chair and distinguished members of the Subcommittee for inviting me today to testify and discuss these matters.

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Chairman HOUGHTON. Well, thank you very much. I am going to do this in the order of distance you have to travel. So, Mr. Heavner, since you probably have to get back to Richmond, why don't you go next and then we will just go to the others.

**STATEMENT OF TIMOTHY B. HEAVNER, EXECUTIVE DIRECTOR, COMMUNITY TAX LAW PROJECT, RICHMOND, VIRGINIA**

Mr. HEAVNER. Thank you, Mr. Chairman and distinguished Members of the Committee. Thank you for the opportunity to appear and testify before you today regarding the low-income taxpayer clinics.

I appear before you attempting to fill some very large shoes of my predecessor Nina Olson as I am the Director of the Community Tax Law Project, and I am also here today as the current director of the Low-Income Taxpayer Clinic National Resource Center.

I have submitted a more comprehensive statement, but I would like to highlight just a few points concerning the benefits that to low-income taxpayers clinics provide, and I will call them LITCs for the sake of this discussion.

Many of the benefits LITCs provide are direct and obvious. They provide direct representation to low-income individuals regarding their tax liabilities and obligations to which they would not otherwise have access. They also conduct outreach to these same taxpayers and those who work within that community to educate and inform these taxpayers of their tax obligations.

The efforts of the LITCs have been an unmitigated success. Since the adoption of IRC § 7526 as part of the IRS Restructuring and Reform Act which provided funding for the LITCs, the clinics have been able to assist thousands of low-income taxpayers through direct representation and outreach. These are the direct and tangible benefits that flow from the outstanding work being done by these clinics.

I wanted to share with you some less obvious benefits that are derived from the work of the clinics based on my personal experience. Prior to taking my current position as director of CTLP, I worked as an attorney in a field office for the Richmond, Virginia, Office of Chief Counsel for the IRS. In that role, I was responsible for numerous cases which involved low-income taxpayers who often were attempting to represent themselves.

I experienced firsthand the frustration, fear and anxiety of these taxpayers based on their participation in this process. I also quickly discovered how ill-equipped these taxpayers were to handle these matters. Normally, I was able, with significant effort and expenditure of time, to help taxpayers understand at least the basic nature of their claim and the process in which they were involved. They were often unable to gather information necessary to support their position and often did not trust what I was telling them was in their best interest.

There were many instances in which, although I did not doubt the veracity of the taxpayer, the complete inability to support their position with anything other than their oral testimony was insufficient to satisfactorily resolve their issue and may have not gotten to the right answer. This often led to the need to go before the Tax Court for resolution of an issue that should have been able to be resolved by the parties.

When working with the same types of issues with other low-income taxpayers that were represented by an LITC, there was a much different result. By working with LITC attorney representing the client, I was able in a much more efficient manner to narrow

the real issues in controversy; and then that attorney was able to assist the client to fully develop their case, especially on factual issues, and present it in a well-reasoned response to the issues raised by the IRS. Most of the time the attorneys, the two attorneys, myself included, were able to resolve the matter without the need for litigation. If litigation was required, it was based on a well-developed case, both legally and factually.

The efficiencies created by the work of the LITCs were not limited to this prelitigation stage. I attended several Tax Court calendars where LITCs were present and ready to discuss potential representation with pro se taxpayers. Some of these taxpayers may never have had any contact previously with the Service other than receiving the letter or with counsel in preparation of their case.

All of those involved in the process were beneficiaries of the presence of the LITC representatives. The Tax Court appreciated the ability of taxpayers to confer with the representatives if they chose to do so. They often led to the ability to resolve the matter, again without the need of court intervention.

In cases that the LITC were involved in, had the LITC not been involved the Tax Court would have probably had to dismiss the case for either failure to prosecute or would have had terribly insufficient information on which to base its decision. The representative of chief counsel also very much appreciated the LITC presence because many times the LITC representative was able to confirm to the taxpayer, from an independent source, that what the counsel attorney had been telling them was the correct result and was in their best interest, and again was able to avoid litigation.

Finally, the biggest beneficiaries obviously were the taxpayers served by the LITC. The ability to consult with an independent counsel provided an incredible amount of legitimacy and confidence to the process that would have otherwise been lacking. Too often I heard pro se taxpayers that didn't have the benefit of an LITC representative say that they didn't really get their day in court or that "I was railroaded."

Avoiding this feeling by the taxpayer and making sure that they feel they are fairly treated is vitally important in our system of tax administration.

I also want to highlight the efficiency of the LITCs as a delivery system for these much-needed services. The key to the success of the LITC is the leverage they provide in maximizing the benefit of the grants given. LITCs are able to use volunteer services. In the academic clinics they are able to use the student representatives; and for the nonacademic, not-for-profit organizations they use a combination of in-house counsel and volunteer attorneys and accountants to provide pro bono representation.

The use of this donated time and effort allows LITCs to provide services worth significantly more than the actual dollars received in grants. Based on the requirements under IRC § 7526, these funds are awarded on a matching basis and this further leverages the use of the funds.

Before section 7526 was enacted, CTLP had significant difficulty in obtaining grant funds. Although we received compliments on what we were trying to do, our activities wouldn't normally fit within the mission of potential grantors. Now that we have funds

from § 7526 we have been able to exceed our matching grant and actually receive funds in excess of the matching as we seek grants.

The limit on available funds under § 7526 has already caused the IRS to limit the amount of awards given to some 50 percent of the authorized grantees and caused eight otherwise eligible groups to fail to receive funds. This lack of funds will also inhibit the expansion of the programs into States and cities that do not have the services available. To ensure that adequate resources are available to allow for necessary growth and expansion into these areas, the authorization limit under 7526 should be increased to \$15 million, and this number should be indexed to account for inflation. This increased authorization would be sufficient to meet these goals.

I thank you for the opportunity to speak with you concerning Low-Income Taxpayer Clinics, and I also thank you and look forward to your continued support of the clinics.

[The prepared statement of Mr. Heavner follows:]

**Statement of Timothy B. Heavener, Executive Director, Community Tax Law Project, Richmond, Virginia**

Mr. Chairman and Distinguished Members of the Committee:

Thank you for the opportunity to appear and testify before you today regarding low-income taxpayer clinics (LITCs). I appear before you today in my capacity as the Executive Director of The Community Tax Law Project (CTLP). CTLP is a 501(c)(3) corporation founded in 1992 for the purposes of: (1) providing pro bono representation to low-income Virginia taxpayers in federal, state, or local tax disputes; (2) educating low-income individuals about their rights and responsibilities as U.S. taxpayers; and (3) increasing public awareness of and encourage informed debate about the tax policy and practice issues impacting low-income taxpayers.

I also appear before you today in my capacity as the current director of the Low-Income Taxpayer Clinic (LITC) National Resource Center. The Center was created to provide technical assistance and training to start-up and ongoing LITCs, coordinate training and publicity materials for LITCs on a wide variety of issues, and work with the IRS, Treasury, and Congress in the implementation of the LITC program and on low-income taxpayer issues in particular.

The common misconception is that low-income taxpayers do not pay taxes and therefore cannot have any tax problems. The fact is that low-income taxpayers confront many of the same issues faced by any other taxpayer, and have a number of special concerns as they interact with the tax system. Issues commonly encountered by these taxpayers include improper worker classification, substantiation of deductions, hobby losses, disability income, pension income, unreported tip income, start-up business expenditures, among others. Of special concern to low-income taxpayers are the areas of the Earned Income Tax Credit (EITC), new entry into the tax system (especially English as a Second Language [ESL] taxpayers), and innocent spouse relief. Although taxpayers may need assistance and representation in addressing these issues, and the implications of these tax liabilities are substantial, they normally do not have the means to obtain paid advice or representation.

Prior to the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA), there was limited awareness of the need for representation and outreach to low-income taxpayers concerning their tax obligations. At that time, only 15 tax clinics existed nationwide. Thanks to the tireless efforts of advocates like Professor Janet Spragens and my predecessor, Nina Olson, Congress realized the importance of increasing this awareness and the availability of representation to low-income taxpayers and recognized this need with the enactment of I.R.C. § 7526 as part of the RRA. Based on the \$6 million of funding authorized under § 7526, there are now 102 LITCs which are funded for the purpose of providing representation and outreach to low-income taxpayers.

Thanks almost exclusively to these grants, LITCs have been able to address the needs of low-income taxpayers in a variety of ways. Most directly, LITCs represent taxpayers in disputes with the Internal Revenue Service at all levels of the administrative and judicial process. Our experience indicates that most of the taxpayers we represent are, for a number of reasons, unable to develop and provide to the I.R.S. sufficient information to adequately support their position. LITCs are adept at gathering and presenting this information for the represented taxpayer. They also assist

the taxpayer in understanding the process that they are involved in and educating them regarding their tax obligations.

Another important role that LITCs serve is client counseling and negotiation. We can explain to the client in a way they can understand the issues, and discuss with them the alternatives available. Without this understanding, taxpayers cannot decide how to proceed or what is required of them. For example, many clinics have bilingual staff to assist ESL clients. LITCs counseling often includes advice similar to that given by the I.R.S., to which the taxpayer was not receptive based on fear or distrust. Thus, through an independent review, LITCs often impact positively on the tax administration system by confirming for the taxpayer that they have made errors and do have a tax liability.

I can confirm this from my past personal experience as a attorney with Chief Counsel for the I.R.S. During my three years with Chief Counsel, I regularly worked with pro se, low-income taxpayers who were involved in Tax Court litigation. As a public servant, I took very seriously not only my responsibility to represent the I.R.S., but also to "get the right answer." Pro se taxpayers were often overwhelmed and fearful of the process. Normally I was able, with a significant effort and expenditure of time, to help taxpayers understand at least the basic nature of their claim and the process in which they were involved. These taxpayers were often ill-equipped or unable to gather the information necessary to support their position and often did not trust that what I was telling them was in their best interest. There were many instances in which, although I did not doubt the veracity or sincerity of the taxpayer, the complete inability to support their position by anything other than their own oral testimony was insufficient to resolve their tax issue in a way that may have been the "right answer." This often led to the need to go before the Tax Court for resolution of issues that the parties should have been able to resolve without the need for court involvement.

When working with the same type of issues with other low-income taxpayers that were represented by CTLP, the result was much different. By working with the attorney representing the client, I was able in a much more efficient manner to narrow the real issues in controversy and tell the attorney what type of information I would need to see to support the taxpayer's position. The attorney was then able to assist the client to fully develop any factual issues and present a coherent, well-reasoned response to issues raised by the I.R.S. Most of the time when working with CTLP, I and other Counsel attorneys were able to resolve the matter without the need for litigation. If litigation was required, it was based on a well-developed case, both legally and factually.

From this personal experience, I can unequivocally state that the tax administration is significantly enhanced by the direct representation of low-income taxpayers provided by LITCs. Taxpayer's level of confidence in their outcomes were increased. On cases that I worked with CTLP, the savings of time to Counsel attorneys, other I.R.S. personnel, and the Tax Court was immeasurable. LITCs are able to aid the tax system in getting the right answer in a way that is impossible for the I.R.S. to provide.

LITCs do more than just direct representation. They provide outreach to the low-income taxpayers which focuses on helping this community better understand and fulfill its tax obligations. The ESL community is a significant focus of these outreach efforts. Many clinics translate their informational materials into at least two, and sometimes as many as 5 different languages for distribution. I am aware, for example, that the Pine Tree Legal Assistance LITC in Maine has plans to produce its internet web site in 4 languages. CTLP Staff Attorney Anita Soucy recently was featured on a nationally-syndicated radio program for Spanish speakers discussing tax issues relevant to the Hispanic community, which reached approximately 40,000 people in at least six states. LITCs also do educational programs to the taxpayers and those who work with taxpayers to educate them about various tax-related issues common to ESL taxpayers.

Another area of specific outreach conducted by LITCs include training welfare-to-work program participants. For example, the Brooklyn Legal Services LITC is developing educational materials for home based day care centers and other welfare-to-work programs, to make them aware of their tax compliance obligations, including self-employment tax and record keeping requirements. CTLP has met with case workers involved in the welfare-to-work program in Virginia to educate them about the issues that the program participants will face upon entering the workforce or starting their own business.

Also, in carrying out its representational function, many clinics conduct trainings and outreach to attorneys and accountants in their area. CTLP conducts an annual CLE on tax issues that concern low-income taxpayers that serves the dual purpose of training current and potential volunteer attorneys and accountants, as well as a

means of outreach to others in the legal and accounting community. CTLP also produces a newsletter, the Community Tax Law Report, which contains in-depth and scholarly analysis of tax issues relevant to low-income taxpayers. This type of outreach is valuable in increasing awareness of the issues beyond the population we serve.

The impact to date of the LITCs has been very substantial. CTLP handles over 200 cases per year. Based in part on the grant funding received under § 7526, we have been able to hire another full time staff attorney, which will allow us to increase the number of cases substantially. I recently spoke with an LITC that just received grant funding and became operational in April, 2001, which had already handled 25 cases. When you consider that the average case affects at least two (and often more) individuals, these two clinics alone will handle over 300 cases that affect over 600 individuals, with both of these numbers increasing over time. This does not even factor in the outreach efforts that touch countless others, both directly and indirectly.

The key to the success of LITCs is the leverage they use to provide the maximum benefit to the low-income community. A significant number of clinics already have links within their communities to network with other organizations that serve the low-income population. This networking creates a synergy which enhances the return on the LITC efforts. LITCs also rely on the provision of services on a volunteer basis. The clinics that are part of academic institutions benefit from student-provided services. Non-academic non-profit (NANP) organizations generally use a combination of in-house counsel and volunteer attorneys, accountants and enrolled agents to provide pro bono representation to their clients. The use of the donated time and efforts allows LITCs to provide services worth a significant multiple of the actual dollars received in grants.

Based on the requirement under § 7526 that funds be awarded on a matching basis, the LITCs further leverage the federal funds they receive. Prior to the RRA, CTLP made approximately 30 grant requests, but was able to secure funding only from (our guardian angel) the Virginia Law Foundation for \$28,000. The receipt of the maximum award of the federal grant under 1A7526 provided CTLP the opportunity to obtain not only matching funds, but grants in excess of the matching funds, from several sources, including the Commonwealth of Virginia, The Community Foundation, National Association of Public Interest Law (NAPIL), and the continued support of the Virginia Law Foundation. Although the matching requirement may be challenging for some new clinics, it is a constraint which has the positive effect of making other organizations aware of the work that LITCs are doing and allows us to maximize the benefits received from the federal grant funds available under § 7526.

In an efficient and effective manner, LITCs have already made a tremendous impact in the communities they serve and will continue to increase this impact as they become more established and reach broader and deeper into those communities. Even with this tremendous impact, more needs to be done. According to the I.R.S., almost 50% of those programs awarded funds would have received additional funding, if more funds had been available. In addition, the I.R.S. has stated that the overall \$6 million limitation under § 7526 prevented 8 applicants who were otherwise qualifying organizations from receiving funds. Currently 12 states and several major metropolitan areas do not have a federally funded LITC. This lack of funds will be even more severe in FY 2002 due to multiple-year funding authorizations to existing clinics. If all clinics received continued funding under these multiple-year funding authorizations, approximately 2/3 of the available \$6 million dollars would be allocated to these existing clinics. Another possibility is that clinics that received multiple-year commitments may see their awards reduced based solely on limitation of funds, not based on lack of merit.

This limit on available funds most likely will mean that otherwise eligible LITCs will not receive funds and/or will receive significantly less than they need. The lack of funds will also inhibit the expansion of these programs into states and cities that do not have this service available. To ensure that adequate resources are available to allow for the necessary growth and expansion of LITCs into areas where there are still needs, the authorization limitation under I.R.C. § 7526 should be increased to \$15 million, and this number should be indexed to account for inflation. This increased authorization would be sufficient to meet these goals.

Although the implementation of the grant program under I.R.C. § 7526 allows for return preparation for ESL taxpayer under the auspices of outreach, there is a great need within the low-income community for access to free and qualified return preparation services beyond that which is currently authorized. Many within the LITC community feel that this is an area of need which should be addressed. Any authorization for increased return preparation for low-income taxpayers beyond that which



is currently allowed should, however, not be funded through the current § 7526 authorization, but should have access to a separate funding authorization designed to specifically address this need.

We, as members of the LITC community, appreciate this opportunity to tell you about the outstanding work being done in the area of low-income taxpayer representation. We also are grateful for the continued support available under I.R.C. § 7526. We look forward to the continued growth and vitality of the clinics that will allow us to ensure that all taxpayers have access to qualified representation concerning their tax obligations.

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Chairman HOUGHTON. Thank you, Mr. Heavner. Ms. Spragens.

**STATEMENT OF JANET SPRAGENS, PROFESSOR OF LAW, AND  
DIRECTOR, FEDERAL TAX CLINIC, WASHINGTON COLLEGE  
OF LAW, AMERICAN UNIVERSITY**

Ms. SPRAGENS. Thank you, Mr. Chairman.

Mr. Chairman, I am the Director of the American University Tax Clinic in Washington, D.C. ours is one of the older clinics in the country. We started our program in 1990. We started it as an educational program for law students to teach them about representing taxpayers and practical applications, and at the time we had no idea how great the demand would be for our services. We were literally overrun by clients who came to us and sought out help from us.

At the time, there were 14 tax clinics in the country; and if a person had a problem involving a landlord-tenant issue, a battered spouse issue, a criminal defense issue that they needed help with, there were legal services organizations all over the country who could help them. If they had a tax issue, there was no one to help them. We were one, as I said, of only 14 all over the country. Since 1998, there are now 102 tax clinics helping people all over the country, and that is just a huge compliment to this Committee and this Congress in creating this extremely valuable program.

Other Members of the Committee have talked about what the clinics do and the importance of the clinics and the successes that they have had and how valuable they are, and I am not going to repeat that. I would only say that this Congress has enacted three Taxpayer Bill of Rights provisions over the years, and I can tell you that the most important taxpayer right that was created in any of those provisions was to give people access to lawyers, to access those rights. Because unless people know about them and unless people can access those rights, those taxpayer rights lose a lot of value.

The only problem today that exists in this extremely successful program is that it is running out of money; and as other Members of the panel have said, the statutory cap, which is now \$6 million in section 7526, badly needs to be adjusted upward; and we are suggesting a cap of \$15 million. As I said, there were 14 clinics when we started, and a \$6 million cap seemed enough because the statutory limit for any one clinic was \$100,000. If every clinic got a full grant, that was a million four, which didn't come close to the \$6 million. No one understood how quickly these clinics would grow and develop, and we are now bumping up against the cap.

As Mr. Pomeroy said, there are still several States that do not have clinics. There is not an overabundance of clinics. One hundred and two clinics is two clinics per State. We could use one in every city in the country, and in some of the major cities we could use more per city. So we can certainly use more clinics, and we need more money.

Clinic education for an academic institution is extremely expensive. At my law school, I can stand up in front of a hundred students and generate tuition dollars from a hundred students, and all I need is a classroom and a blackboard. If I am teaching in a clinic, first of all, I can only teach about eight or nine students at a time. Because if you have each student having three or four cases, supervising all those cases by people who need a lot of supervision, who are novices at that, limits the number of students that you can help in any one time. In addition to that, you need computers, fax machines, copiers, stationery, malpractice insurance. You need everything that you need to run a law firm.

It is much more expensive for a law school to offer that kind of education, and you also need a huge amount of space within the law school. So law schools are not going to offer this without some kind of supplemental funding to help them defray these costs.

I think my time is almost up. I am going to stop there.

[The prepared statement of Ms. Spragens follows:]

**Statement of Janet Spragens, Professor of Law, and Director, Federal Tax Clinic, Washington College of Law, American University,**

Mr. Chairman and Members of the Committee:

Thank you for inviting me to testify on the issue of low income taxpayer clinics, their needs and performance record. I come before you today in my capacity as a tax professor at the American University Washington College of Law and Director of the American University Federal Tax Clinic. The American University Federal Tax Clinic is an academic clinical program. The program is open to third year students at our law school who receive 6 hours of degree credit for their work. In the program, student-attorneys, under the supervision of two faculty members, Nancy Abramowitz and myself, represent low income taxpayers who have controversies with the Internal Revenue Service. The clinic charges no fees for its services. Since its inception in 1990, the American University Federal Tax Clinic has represented over 700 such taxpayer-clients, and it has given advice and informal assistance to hundreds more. The American University Federal Tax Clinic predates the Low Income Taxpayer Clinic funding program (Internal Revenue Code section 7526) created in the IRS Restructuring and Reform Act of 1998. Since the inception of that program, the American University clinic has received three \$100,000 matching grants under it.

When the American University Federal Tax Clinic first began to represent clients in 1990, there were only 14 other such clinics in the country. Since 1998, the year Congress enacted Section 7526, that number has grown exponentially. This year 102 tax clinics around the country were awarded low income taxpayer clinic grants by the IRS out of a field of 141 applicants. The enormous growth in the number of clinics spurred by the tax clinic funding legislation represents an important commitment by the Congress and the entire tax community to ensure that fair results are reached in tax controversies involving taxpayers at all income levels, not only for those in upper income brackets.

The tax clinic funding program has, in my judgment and in the judgment of many, been a total and unqualified success. By any standard, the IRS has made a serious commitment to it at the highest levels, and has devoted significant resources to it to insure that it runs smoothly, provides timely information and funding to the clinic community, and addresses their questions and needs in a straightforward and complete way.

The program itself has resulted in the creation of dozens of new academic and nonprofit legal resource centers all over the country, which thousands of low income taxpayers have tapped into for professional help in the resolution of their tax mat-

ters. On an individual taxpayer level, the program has helped to build taxpayer confidence in the integrity of the tax system, and has resulted in the fair resolution of disputes all over the country. And finally, the program has helped to bring low income taxpayer issues into more visible focus for policy makers, for tax professionals, for the media, and inside the IRS itself. This is a remarkable record of achievement for a program after only three years of operation.

Owing in large part to its success, the tax clinic funding program is now in need of some minor adjustments and fine tuning which require legislative intervention. And that is what I would like to discuss with you today. In addition, I would like to discuss this Committee's role in insuring that the needs of the low income taxpayer population are properly served in the new era of the IRS under Modernization. As the legal representatives of this population, the tax clinics are a direct link to these taxpayers, and should be an invaluable source of information on this topic.

#### ***Low Income Taxpayers in Profile***

Before addressing any of these oversight issues, however, it may be useful to describe some of the economic and cultural characteristics that make up the population of taxpayers who are represented by the clinics, and the types of issues raised in their audits and in the controversy process.

To begin with, many workers in entry level jobs in this country are immigrants for whom English is not only not a first language—indeed, it would be a stretch to describe it even as a second language. (These taxpayers are generally referred to as ESL taxpayers). Many of our clients have no ability to speak English whatsoever, and require translators to communicate with us (which we provide through volunteers from our International LLM program).

These newcomers to the US are frequently entrepreneurial, starting their own small businesses as street vendors, merchants, or food service providers. They tend to use cash and money orders for their expenses, rarely have credit cards or bank accounts, and almost never have any records of their financial transactions—or even copies of their tax returns. Many come from countries where there is no requirement of annual self-assessment of taxes, and these taxpayers often become nonfilers in the US. Language is an incredibly powerful barrier for these taxpayers in all aspects of their life, but it is particularly difficult for them in their attempts to understand and deal with a highly sophisticated and complex administrative and judicial tax system.

Whether English speaking or not, taxpayers working near or at minimum wage levels tend to have limited education and literacy skills, and minimal understanding of financial matters. Often these taxpayers work unusual hours (such as less desirable shift work) and many work two or more jobs, which they get to by public transportation. Housing and food expense are often a reach, and these taxpayers commonly qualify for some form of public assistance. Many of our clients share living space in apartments or houses among several generations and/or collateral relatives and friends, and they often take in boarders to help defray their expensive rent, especially in major cities. Having a phone is often a luxury, and their phones are often disconnected for lack of payment. Job tenure is often short, and many float from job to job. These taxpayers do not own their own homes and do not have retirement plans, brokerage accounts, or other accumulated assets. Most live paycheck to paycheck.

When such taxpayers receive a letter from the IRS that they are the subject of an IRS examination and that they potentially might owe \$1500 or \$2500 or \$4000 to the government in tax deficiencies, it is an intensely stressful event, and they are understandably frightened. Sometimes they simply discard the letter out of fear. For the same reason, they also regularly fail to attend IRS conferences or return phone calls. Moreover, immigrant taxpayers, even though they may be legally living in the US, often also harbor a paralyzing fear of some immigration-related penalty, and are unlikely to communicate with the IRS in any way.

I would like to tell you that these instances of low income taxpayer audits are rare, and/or that when audits do occur, the issues are simple and easily resolved. However, exactly the opposite is true. Even seasoned tax professionals are often surprised to learn just how complicated low income tax returns and audits can be, as well as how often these taxpayers are audited. Indeed the frequency of low income taxpayer audits, compared to those of high income taxpayers, has been the subject of several front page stories in the *New York Times* in recent months.

These taxpayers come to interviews at our clinic wearing construction work boots or uniforms, often with young children in tow who draw on yellow pads, play with toys, or simply run around the room while we are conducting the interview.

Before enactment of the LITC program there were very few places in the country these taxpayers could turn to for legal help, or to whom IRS agents could refer

them. Most legal services offices did not have tax specialists on their staff of poverty lawyers. And only a handful of tax clinics existed around the country. Without the LITCs, these taxpayers would be lost in a complex administrative and judicial world they had no hope of understanding. The LITCs have truly been a lifeline for these taxpayers.

It is hard to describe the gratitude these taxpayers feel for the help they receive from their student-attorneys at the AU clinic. At the conclusion of their cases, many write us effusive letters, send us plants and other small gifts, bring us food they have cooked, and offer us personal assistance should we have future plumbing or carpentry needs at our homes. Some continue to send us greeting cards year after year. If these taxpayers could, I am sure that they would also write to you personally and thank you for setting up the LITC program.

#### ***The Issues Of Low Income Taxpayers***

The number of audit issues on low income taxpayer returns is surprisingly large and even more surprisingly, often extraordinarily difficult to resolve. A major source of complexity is the earned income tax credit, an income supplement program offering low income taxpayers with children a refundable credit of almost \$4000 per year. The statute, however, is a minefield of technical eligibility requirements, passive income limitations, and tiebreaker rules. The GAO reported in November, 2000, that EITC claims "have historically been vulnerable to high rates of invalid claims" and the IRS has been ordered by Congress to devote a considerable amount of its enforcement resources to monitoring the credit each year. Therefore the credit generates a large number of taxpayer audits, resolution of which is by no means simple.

Adding to the difficulty of the statutory complexity is the fact that a large number of EITC audits are conducted long distance, through EITC centers. Long distance audits are, by their very nature, difficult for the low income taxpayer community to handle. In the case of a long distance EITC audit, for example, taxpayers seeking our services often bring in IRS form requests for documents they have received, such as for birth certificates, school records, and medical records of their children. In many of these cases, the taxpayer has carefully collected the information and sent off a timely response to the IRS to the best of his or her ability. But it is often the case that "substantiation" of the existence of the child and/or his or her residence is only one of the issues in the audit that the IRS is concerned about, which may also include double claiming of the credit, or the application of the tiebreaker rule.

Thus, despite fully complying with the "substantiation" request, the taxpayer may still receive a Notice of Deficiency stating that additional tax is due. Subsequent attempts to reach the agency and discuss why the matter is still unresolved will cost the taxpayer long distance phone charges which can grow to large amounts if, as commonly happens, the taxpayer is required to spend a lengthy period "on hold." For low income taxpayers living on the financial edge, imposing this toll charge for access to the system is a significant hardship and many taxpayers simply give up. These taxpayers come to our clinic expressing frustration, surprise, and puzzlement as to why the audit is still ongoing since the taxpayer has provided all the information requested.

Other seemingly straightforward tax issues, such as filing status, dependency exemptions, and child care credits can become rather complex issues in living situations that, as noted above, often differ markedly from traditional "Ozzie and Harriet"-type, nuclear, wholly functional families. Discerning what constitutes a "household", or whether a married couple is effectively separated, for example, can be surprisingly difficult in these circumstances.

In addition, low income taxpayers are frequently audited in connection with issues such as worker classification, tip income, social security income, automobile expense, Schedule C income and expense, charitable contributions, uniforms, gambling income, and a host of others requiring supporting financial records or data. Again, in a population where checks and credit cards are not used, and record keeping and retaining receipts are not common, these tax disputes can become quite time consuming and complicated as both the IRS and the clinics struggle to find alternative types of proof that will satisfy the statutory standard.

Divorced taxpayers interpreting the knowledge requirements of the new separate liability/innocent spouse rules make up still another large group of low income audit issues, as do collections issues including the availability of offers-in-compromise, installment payment arrangements, and collections-due-process relief. We are also occasionally seeing cases involving the Alternative Minimum Tax.

For immigrant taxpayers, there may be additional issues involving the lack of a validly issued social security number, or problems arising from borrowed or shared

social security numbers, or the taxpayer's complete failure to file a tax return and the IRS's attempt to reconstruct income.

***Success of the LITC Program***

Even in the short time low income taxpayer clinics (LITCs) have existed to help individual clients, their contributions to the system have been nothing short of enormous. First, IRS statistics about the numbers of taxpayers assisted and of cases resolved surely confirm the success of the program. But numbers alone do not tell the whole story. I believe that the existence and growth of the LITC program has had a far more basic and important ripple effect throughout the entire system than the numbers themselves show; and that clinic representation of the working poor serves many functions above and beyond actual advocacy in individual cases.

First, clinic representation educates the working poor about their tax issues and responsibilities, thereby promoting better future compliance. IRS employees can of course talk to taxpayers about the importance of recordkeeping and future compliance, but the trust that is built between a lawyer and client lends itself far better to the giving of this advice. Better education and understanding tend to enhance our voluntary self-assessment system and to reduce the taxpayer/tax collection agency tension that figured so prominently in the 1997 Senate Finance Committee hearings leading up to enactment of the 1998 Restructuring Act.

Second, the availability of clinic representation of taxpayers who are frightened, confused, and often non-English speakers, tends to promote quicker and fairer resolution of disputes. The working poor are subject to some of the most complex provisions of the tax code. When the law and the processes by which disputes are resolved are not well understood, there is difficulty communicating, exchanging necessary information, and coming to a reasonable result. The presence of a representative facilitates the process on both sides and allows for a speedier route to a resolution agreeable to the taxpayer and the government.

Moreover, we have found that many taxpayers, on a fundamental level have some basic misunderstandings of just how the tax controversy process works. For example, any number of our clients whose cases have reached the U.S. Tax Court will, in the initial interview, focus exclusively on their perception that they have been abused by the IRS rather than talking to us about the merits of their case. These taxpayers believe that if they just "explain" to the judge how badly they have been treated, they will win in court. Therefore they haven't tried to resolve their case with District Counsel's office prior to trial. This approach, however, does not sit well with Tax Court judges who must reach a decision on the substantive issue.

Other taxpayers have trouble seeing the forest for the trees: they refuse favorable settlement opportunities which concede major items under review because the Service failed to concede a small single item to which they firmly believe they were entitled. Proper tax counseling as to the burden they have to meet at trial, the risks involved in going to court, as well as the time commitment in preparing for trial, often times leads taxpayers to settle their cases on very favorable terms, where they would not have done do without our guidance.

These resolutions not only reduce the government's cost of enforcement, but they also often increase the taxpayer's level of satisfaction with the process. Satisfactory dispute resolution also increases confidence in "the system" so necessary to taxpayers' willingness to comply with the rules.

Third, the proliferation of clinics has had the effect of increasing the visibility of low income taxpayers and their tax issues, as well as "democratizing" the case law to include low income taxpayer fact patterns and issues. Since the arrival of the LITCs, there seems to be a far broader base of understanding of these issues in recent years at the Internal Revenue Service as well as in the media, the tax community and the public at large. Increased visibility and publicity lay the foundation for better public debate about administrative and even legislative issues impacting this sizable population.

Fourth, the LITC program has fostered better communications among LITC clinics and between clinics and the government in bringing problem areas to the attention of the IRS. Clinics communicate among themselves and with the IRS via electronic mail channels (there is a very popular LITC listserv which is an important source of distributing information), allowing quick identification of common problems and quick access to appropriate government officials to alert them to matters of common concern. This communication has also resulted in the IRS being able to address issues (such as the need for toll free phone numbers for taxpayers to resolve appeals issues) that are of major concern to the low income taxpayer community.

### ***IRS Modernization***

The recent reorganization of the IRS into operating divisions based on taxpayer classification has important ramifications for all taxpayers, but has some unique and discrete issues for low income taxpayers in particular—making the role of tax clinics all the more important. The reorganization, based on taxpayer segmented groups, essentially incorporates the idea that in a world of electronic commerce, high speed computers, fax machines, cell phones, and inexpensive telecommunications, that the IRS can better service its “customers” through end-to-end accountability based on segmented taxpayer groupings rather than geographical areas.

In respect of low income taxpayers, the Wage & Investment (W&I) Division will have the primary responsibility for dealing with these taxpayers with the Small Business/Self Employed (SB/SE) Division handling their controversy work. W&I services by far the largest number of taxpayers of any of the four new Divisions, and it is the historic IRS view of low income taxpayers, indeed, all individual taxpayers, that they are the most compliant group, a group that typically interacts with the IRS only once a year, who pay most of their taxes through withholding, and who typically receive a refund at the end of the year. Within the Service individual issues are also generally thought more manageable and easier to resolve than those in the other Divisions. This view will necessarily shape decisions regarding allocation of Division resources.

For many taxpayers, the 21<sup>st</sup> century administrative approach of Modernization will no doubt work well. However, low income taxpayers do not, as a general rule, have access to computers and fax machines, do not have budgets for long distance phone calls, and do not have the resources to file electronic returns or retain professional representatives to assist them with tax compliance or audits. Language and cultural issues, moreover, seem to magnify where there is no face to face contact. In short, these taxpayers are not part of the sleek modern world of technology envisioned by the “new” IRS. Such taxpayers tend to fare less well in a world of geographically remote IRS offices dependent upon mail or long distance phone contact for customer service. These taxpayers are better off with walk-in locations and face-to-face contacts to resolve their problems.

To its credit, the IRS is aware of these issues and is grappling with them as it moves to reorganize the entire agency. Throughout its evolution the reorganization has been an extremely open process, with the agency seeking input in literally thousands of interviews around the country, including return preparers, tax clinics, professional practitioner groups, taxpayer representatives, and many others. And the agency has been receptive to outside suggestions. For example, when the issue of long distance phone costs in resolving audits was brought by the tax clinic community to the Service’s attention, the agency created a number of toll-free lines to address the problem.

Nonetheless, given the increasingly complicated and constantly changing nature of the tax law, and the compliance burdens it places on low income taxpayers, as well as the sometimes difficulty of reaching and communicating with this group, the effect of Modernization on low income taxpayers is an appropriate oversight issue.

In this regard, the LITCs have a vital role to play in providing data and information as well as suggestions for administrative improvement.

### ***Current Needs OF the Tax Clinics***

The contributions of the clinics to the system are not without cost. LITC programs are exceedingly expensive to run (particularly for law schools for a variety of reasons); and law schools, bar associations, and others involved in the clinic movement are directing large amounts of resources and personnel into the program. The American University Federal Tax Clinic regularly contributes far more than the required “match” to obtain its LITC grants.

Various legislative amendments to Section 7526 and other changes could significantly aid the task of the clinics in carrying on their work, and providing these important benefits to the system.

#### ***(1) Increase the Section 7526 Statutory Cap to \$15 million***

The most pressing need of the LITC program is for an amendment to Section 7526(c)(1), increasing the annual statutory funding cap from \$6 million to \$15 million. In 1998, when section 7526 was enacted, there were only 14 tax clinics in the country. With a per clinic limit of \$100,000 per year, the maximum grant amount the IRS could award, even if every clinic applied for and received the maximum amount, was \$1.4 million. The \$6 million cap therefore seemed to be an acceptable, even generous amount of funding for the LITC program.

No one could have predicted, however, the meteoric response of the academic and nonprofit communities to the LITC program. This year, however, with 102 recipients

of grant money (from over 140 applicants), and even more applicants expected next year, the IRS is concerned that it will have to turn away qualified applicants, and/or cut back amounts to some because of lack of funding. This should not be allowed to happen.

The number of tax clinics in existence today is not excessive, and indeed, is still too small. Having 102 clinics nationwide is approximately 2 per *state*. But given the complexity of the rules and the numbers of taxpayers nationwide needing assistance, as well as the constantly changing substance of our tax laws, the system could easily support one clinic in each *city* in the country, perhaps more in some of our larger cities.

I hope that my testimony today has made clear why a significant increase in the cap amount is appropriate and would be a good use of funds. The benefits these clinics offer to their individual clients in particular and to the system generally, far exceed their cost to the US Treasury.

**(2) Create a Separate Program for Tax Filing Assistance outside Section 7526**

Since 1977, the IRS budget has funded two important volunteer tax filing assistance programs, the "Tax Counseling for the Elderly (TCE) Program", which provides tax information and filing assistance for seniors; and the Volunteer Income Tax Assistance (VITA) program, which offers tax filing assistance on a walk-in basis in libraries and other public buildings around the country in the evenings and weekends each year in the months before April 15.

Accurate filing assistance, as well as the post-filing controversy assistance offered by the LITCs, are both critical needs of low income taxpayers; and the TCE and VITA programs are both excellent programs. But like the LITC program, more aid is needed.

Currently, the IRS has interpreted section 7526 to permit LITCs to assist ESL taxpayers with their filing needs as an appropriate LITC activity, though not other low income taxpayers. A better approach would be for Congress to create a separate matching fund program, apart from section 7526, with a separate funding stream parallel to the section 7526 controversy assistance monies, which would be available to any nonprofit, accounting school, or other institution which offered filing assistance to any low income taxpayer. Such organizations could also help small businesses run by low income taxpayers set up their books and records and file quarterly employee and other IRS forms. The separate program could then also administer TCE and VITA.

This streamlining of functions would simplify administration of both programs, as well as provide needed funds for tax filing assistance, currently an undermet need of this population.

**(3) Insure that IRS has Adequate Budget for Translators to serve the ESL Population**

The issues involving ESL taxpayers are a growing concern of the fair and proper administration of the tax laws. It is critical that the IRS have the resources to communicate effectively with this population of taxpayers.

**CONCLUSION**

I appreciate the opportunity to express my views to the Committee today on the subject of low income taxpayer clinics. The tax system is one of which we are all a part, and we all have a stake in insuring that it operates efficiently and fairly for all classes of taxpayers. Historically, providing pro bono attorneys to low income people has been the best guarantee that their rights will be respected, that the system will deal with them fairly, and that they will receive just results when they interact with the legal system. LITCs are working for those goals in the tax area, and the support and encouragement of this Committee toward those ends is appreciated by the entire LITC community.

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Chairman HOUGHTON. Well, thank you very much. Now, Mr. Gold.

**STATEMENT OF JEFFREY S. GOLD, CHAIRMAN, COMMUNITY  
TAX AID, INC.**

Mr. GOLD. Thank you, Mr. Chairman, and thank you for sticking with us with this late hour. We appreciate the opportunity to offer our views today on the functioning and funding of the Low-Income Taxpayer Clinic program.

My perspective about providing pro bono services to low-income individuals and families began about 30 years ago—more than 30 years ago when I started Community Tax Aid in New York City. So we predate the LITC program by a few decades. This nonprofit group is the oldest group in New York. The group is the oldest volunteer group of accountants and provides low-income taxpayers with a complete tax service including representation at the IRS State tax agencies and the Tax Court. There is no paid staff and an annual budget of less than \$4,000. And that is my roots.

When I moved to the District in the early eighties, we began a similar group. This past year, 250 volunteers helped nearly 1,400 clients with a wide variety of tax problems ranging from return preparation to offers in compromise and, as I said earlier, representation in various situations. We have our own training program and stress quality control.

Our talented volunteers make this possible and deserve all the credit. They include CPAs and a growing number of lawyers, economists and others. We regularly offer our services in Spanish, Mandarin, Cantonese, Amharic—which is Ethiopian—Arabic and Korean, and this year we are hoping to add another couple of languages. Either our volunteers speak these languages or we recruit interpreters.

We have developed mutually beneficial relationships with community groups to help our outreach into the community. The LITC program is well conceived, but it is a work in progress and should be revisited regularly so revisions can be made. The people we serve deserve no less.

The greatest need has already been mentioned by several of my colleagues, to at least double or even triple the current budget. And please keep in mind that most low-income taxpayers have not done anything to complicate their tax lives. Yet our tax laws, forms and instructions get more and more complex, while nearly half of our adult population is either illiterate or functionally illiterate, and this is the conclusion of the National Institute of Literacy, an independent Federal organization. This means about 90 million people in this country, and this population includes far more than the ESL population. Funds are needed to make sure that we can provide more help with return preparation to low-income native English speakers.

Amazingly, Congress expects the working poor to understand and comply with the baffling array of tax laws when they cannot—and most cannot—afford the professional tax help they need, nor can the IRS VITA program offer the needed help. The taxpayers often run into problems and are subject to severe penalties. Three are at the top of my list, and I will leave my statement in the written testimony to speak for that.

Community Tax Aid, we, as an independent not-for-profit, can afford to spend the time with the clients they need to work out situa-



tions such as extended payment schedules for an installment agreement so they can get away from installment payments and pay on estimated taxes which they rarely understand, and this will relieve them from paying added unnecessary expenses and save a lot of tax administration dollars.

Some in the LITC program would have separate funding vehicles for groups that deal only with controversies and another for those that prepare tax returns or ESL work. I suggest that we are speaking about one very large community and that all should be kept, at least for the time, under a single funding tent. All types of programs should work together toward a common goal.

Effective outreach brings in people so they have access to quality tax return preparation. What follows is that this should reduce or prevent the need for costlier controversy work and save considerable costs to the IRS and Tax Court.

At CTA, our limits are far lower than LITC caps, and we generally do not lack for clients. We decided long ago that people with the lowest incomes get the highest priority and have kept to this principle even if a client with a higher income and a more interesting issue arrives. Our primary goal is to serve low-income clients, not give our volunteers a wider range of tax issues to develop their skills.

Again, I urge that the funding for LITC programs be expanded significantly to meet the needs. If our Nation can spend \$117 million to administer the tax rebate program as well as the \$500 million that is being talked about over 5 years to speed up the processing of immigration applications, growing the original \$6 million annual grant for LITCs by a multiple of two or three times should be elementary. We need to be more than—substantially more than a band-aid solution.

I close with an invitation to Members of Congress and staff to visit CTA in the metro D.C. area next tax season and see the extent of problems that low-income taxpayers face.

Thank you.

[The prepared statement of Mr. Gold follows:]

**Statement of Jeffrey S. Gold, Chairman, Community Tax Aid, Inc.**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to offer my views today on the functioning and funding of the low-income taxpayer clinic (LITC) program.

My perspective about providing *pro bono* services to low-income individuals and families began more than 30 years ago when the massive changes in the 1969 Tax Reform Act inspired me to found Community Tax Aid (CTA) in New York City. This nonprofit group is the oldest group of volunteer accountants and continues to provide low-income taxpayers a complete tax service. CTA/NY has no paid staff and an annual budget of less than \$4,000.

When I moved to the District of Columbia in the early 1980s we began a similar group. It has grown from three sites in DC to 13 that extend to five surrounding counties in Maryland and Virginia. This past year, 250 volunteers helped nearly 1,400 clients with a wide variety of tax problems from return preparation to offers in compromise and representation before the IRS and state tax agencies. In the past we also have represented clients at the Tax Court. We have our own training program and stress quality control.

Our talented volunteers make this possible and deserve all the credit. They include CPAs—from the big-five accounting firms as well as smaller ones, industry, government and nonprofits—and a growing number of lawyers, economists and others. We regularly offer our service in Spanish, Mandarin, Cantonese, Amharic (Ethi-

opian), Arabic and Korean. Either our volunteers speak these languages or we recruit interpreters.

This past year we were approved for a \$42,000 LITC grant and are using this to improve and expand our service to the ESL (English as a second language) community. We have developed mutually beneficial relationships with many groups, such as churches, community groups and legal services programs, to help our outreach.

With this introduction, allow me some observations and suggestions.

The LITC program is well conceived. But it is a work in progress and should be revisited regularly so revisions can be made. The people we serve deserve no less.

The greatest need is to at least double the \$6 million appropriation. The need is enormous and most low-income taxpayers have not done anything to complicate their tax lives. Yet, our tax laws, forms and instructions get more and more complex while nearly half of our adult population is either illiterate or functionally illiterate. This is the conclusion of the National Institute for Literacy, an independent federal organization. These adults, says the NIFL, lack a sufficient foundation of skills to function successfully in our society. Since 90 million people are involved, the problem extends far beyond the ESL population. Funds also are needed to provide more help with return preparation to low-income native English speakers.

Amazingly, Congress expects the working poor to understand and comply with a baffling array of tax laws. When they cannot—and most cannot afford the professional tax help they need nor can IRS VITA programs offer the needed help—the taxpayers often run into problems and are subject to severe penalties. Three are at the top of my list:

First are the draconian ten-year and two-year prohibitions from claiming the earned income credit when it is likely the taxpayer was following poor advice from an equally unschooled friend or preparer. Second is the “user fee” imposed less than a decade ago for paying a tax bill on installments—even though most of the underpayments are due either to improper treatment of employees as independent contractors and to innocent underwithholding by working parents with children. Third is the use of the math error label by the IRS to speed resolution of problems.

These are aspects of our tax law that people with low income and minimal literacy cannot understand. At CTA, for example, we can afford to spend the time to work with the client to work out an extended payment schedule so they have the money to pay quarterly estimated taxes. This relieves them from added unnecessary expenses *and* saves scarce tax administration dollars. If our client was improperly treated as an independent contractor and no longer works for the employer we can, with the client’s approval, treat the client as an employee and leave the employer to the tender graces of the IRS.

Some in the LITC program would have separate funding vehicles for groups that deal only with controversies and another for those that prepare tax returns or ESL work. I suggest that we are speaking about one very large community and that all should be kept, at least for the time, under a single funding tent. All types of programs should work together toward a common goal.

Effective outreach brings in people so they have access to quality tax return preparation. What follows is that this should reduce or prevent the need for costlier controversy work and save considerable costs at the IRS and Tax Court. This is far preferable to shifting administrative costs to low-income taxpayers who can ill afford the burden.

I leave it to others to speak about the LITC limits that require at least 90 percent of cases to be within 250 percent of the poverty level and that the amount at issue not exceed \$50,000. At CTA, our limits are far lower—\$18,000 for individuals and \$26,000 for families (with discretion to go higher for large families—and we generally do not lack for clients. We decided long ago that people with the lowest income get the highest priority and have kept to this principle even if a client with a higher income and a more interesting issue arrives. Our primary goal is to serve low-income clients, not give our volunteers a wider range of tax issues to develop their skills; this will happen over time.

Again, I urge that funding for the LITC program be expanded significantly to meet the needs. If our nation can spend \$117 million to administer the “rebate” program under the new tax law, and the administration is requesting \$500 million over five years to speed up the processing of immigration applications, growing the original \$6 million LITC appropriation by a multiple of at least two or three in the next year should be elementary.

I close with an invitation to members of Congress and staff to visit CTA next tax season and see the extent of the problems that low-income taxpayers face.

Thank you.

Chairman HOUGHTON. Thanks very much. Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman.

Mr. Rich, your testimony includes a recommendation that the IRS collection notices sent to low-income taxpayers include a stuffer about the Clinic's services. How does the appeal stuffer process work and would it work the same for collection notices?

Mr. RICH. All the stuffer notices—it is a single piece of paper that says that if you are within 250 percent of the poverty level you can contact a low-income tax clinic, and it gives the University of Pittsburgh and I also think in our area it also gives the University of Duquesne number.

By putting those in the collection notices—right now, the Tax Court issues—any Tax Court case calendared in Pittsburgh, a small case, they get a stuffer notice. Over in the appeals division that handles Tax Court cases with the IRS and also handles appeals of exams from taxpayers, they have our stuffer notices in the front window there; and the receptionist there always informs people of our existence. And also down in the first floor where walk-ins come in and ask questions, pick up forms, we have our stuffer notice there.

But where we don't have our stuffer notices and the people that aren't getting them are the people that are getting the notices in the mail. Those are the notices that kind of just sit, and a lot of times we get envelopes that are never opened. Because people are just afraid when they get a notice from the IRS and they know they are not entitled to a refund, it is not usually good news.

Once they get us involved—and, believe me, as soon as they find out all they have to do is sign a power of attorney and we will take care of them, all they have to do is just give us the information, it is a weight off of their shoulders. Right away they will jump over backward trying to get the information to you and trying to get this behind them.

So from that perspective, the stuffer notice, to me it is a direct contact to the person that is going to have the problem; and it is something that we are not wasting a lot of money marketing and things like that. The tough part is— and from the IRS' perspective, Nina might know better than myself—but I know a lot of people in collections, from the logistics, just to put another piece of paper in a letter is a lot when you got a whole lot of letters to do.

You don't want to give everybody a notice, yet at the same time there has to be some way to distinguish between an eligible taxpayer or somebody in that 250 percent of the poverty level area and somebody that wouldn't be entitled to it. But if could you overcome that burden, you could inform taxpayers that have a real need, they open their first notice—because normally a lot of times they might open the first notice because they don't know what it looks like, but, believe me, the second notice they know what it looks like. They look at that and say, oh, I can call these people for help. You know, it just gets them into the system.

A couple of people we have had are non-filers where they, you know, they got a notice and they are looking for a tax return and they realize they can come to us. Now what we do is we send them

to the VITA program to get the returns done but then we coordinate with the IRS to make sure they are filed and all these sort of things.

So it is actually also bringing people back into the system that have been out. Just having a buffer of somebody that they can come to and to inform them of that, I think is one of the biggest hurdles; and by using stuffer notices we can directly target the people that need our help.

Mr. COYNE. Has the IRS been receptive to including stuffers in appeals notices?

Mr. RICH. Yes, the appeals people are very helpful and the district council people have also been very helpful as well as the taxpayer service people. It is just collections, and I know in our area—98 percent of the people I have ever met at the IRS are nice enough to be your mom and dad. I know in our area collections has been tough over the years.

For example, last year, there were seven seizures. I mean, seizures are very low, but in Monroeville, for Congressman Coyne, one revenue officer had three out of the seven seizures going. So I mean, we have a tough area to deal with; and by helping or informing those collection taxpayers that we are available, I think we could help a lot of people directly and also help the IRS. Because the quicker they can dispense of cases, we are helping them with their backlog.

Mr. COYNE. Thank you very much. Ms. Olson.

Ms. OLSON. I just wanted to comment on that.

I serve on a team at the IRS that is addressing these types of issues, and one of the things we have been wrestling with about a stuffer is can we do it, first, on a national basis so we are not having to sort by zip codes and just putting one special one for the Pennsylvania clinics. Can we put one in that would list all of the clinics that are eligible just on the back of the stuffer?

We are trying to see whether or not stuffers are the most effective medium to communicate with taxpayers. We are wondering whether on a notice, in order to save costs, can we put just a little box on the front that is highlighted that says, call this number; and you will get a recording, you can key in your zip code and we can pull up, you know, the clinic in the area. It would be an 800 number just dedicated to that.

We are also looking at and we are asking for a counsel opinion about—just a sort of security that our collection folks or our customer service reps— when a taxpayer calls up and they are hearing that it is someone who is saying I don't know what this is all about, you know, I don't have any money, that we can unsolicited say there may be a clinic in your area. And then we have on their screen the employee working there would be able to pull down by zip code the clinics that are available and we can give them the contact number.

So we are looking at some ways that might be more effective to communicate this information in addition to the walk-in and the brochures that we are putting out.

The only other thing I would say is that down the road our printing capacities are being consolidated and that will allow us to do many more of the sorts at a much more efficient manner than it

would be now with the sort of archaic printing technology that we have. We do have a time line for that. It is not as fast as maybe some of the people would hope. We are looking for some intermediate ways to approach that.

Mr. COYNE. Thank you very much. Thank you, Mr. Chairman.

Chairman HOUGHTON. Now we have got another time problem. Mr. Portman has got to leave at 7:15. So, Mr. Portman, would you like to inquire?

Mr. PORTMAN. Thank you, Mr. Chairman. I will probably see some of you at the airport. We are trying to catch flights.

First of all, I appreciate your testimony and what you do every day. And we have one of the pioneers in Ms. Olson. I am glad you stayed around in this area. This, as you know, came up during the Commission quite a bit—in fact, Ms. Olson, help us—and Ms. Spragens testified—I recall, Janet, you were involved in the Commission deliberations on this. And probably some of you did as well. I apologize if I don't remember your testimony. But 7526—and it is also something that this panel has taken the lead on, as you know. Without Mr. Houghton, Mrs. Johnson, Mr. Coyne and now our new Member of the Ways and Means Committee from North Dakota or the Dakota—

Mr. POMEROY. North.

Mr. PORTMAN. There would be no program. We not only started it, but every year—but we are the ones that write the letters to the appropriators saying give us the money. And this year, as you know, the Subcommittee has given another \$6 million, it was reported out yesterday. So I think we are on our way to getting that again. But it is very tight, as you all know who work with the IRS.

Ms. Olson, the IRS budget is going to be very tough this year. We again got a good mark up out of the Subcommittee, but we have to do it every year, and this group pushes that.

But I have to make the point, that when we put this together it was about controversies with the IRS. It was not about tax preparation. You remember, Ms. Spragens, when we came up with this idea it was a new idea building on an old system that has been out there for years. Those of you—I don't know, Mr. Gold, you said how many years you have been at it in New York and then here. But this is decades old.

But it was to focus not on the broader issue of how to prepare your taxes but when people with low income got involved with the controversy with the IRS where they could go. And some of the testimony, Mr. Book and others, have said, several of you have said we should perhaps set up a separate program for tax preparation or put more money in here for tax preparation. That is something we need to think about and talk about as a Subcommittee. Because that may be a different mission than what we at least had anticipated.

I look at the language—and Mr. Coyne was on the Commission with me. It says to represent low-income taxpayers in controversy with the IRS. And then it says, or to operate programs to inform individuals for whom English is a second language about their rights and responsibilities.

It is under the ESL part of the statute that the IRS has expanded into tax preparation which isn't really—I don't think was

the intent of the Congress. That is only by way of saying that we would be supportive I think of expansion of the appropriation. It is not going to happen this year, in my view, but maybe next year we can provide some data about the need that would help us in that regard. And the more applications the better, more stuffers the better, which leads to more interest in places like Cincinnati, Ohio, will get some of these clinics applying so we can get them more and more involved.

But the point is, I guess, that if you all think we are not focused enough on controversy and we are getting into these other areas and it should be a new program, we need to hear from you because it may be better to start a new program rather than try to expand on this one.

When you looked at the funding over the years, we started off with \$1.5 million, as I recall, try to find it here, then it went to \$5 million, then to \$6 million last year. We funded 72 percent, those who applied, which is a pretty high percentage. I don't know what you got in terms of your criteria here. I assume there were a lot of good quality candidates who were turned down, but 72 percent is pretty high. 59,000 was the average.

One way to do this, of course, is to reduce the amount you give so you can cover more people. Another is to increase the match. It is now 50/50. Maybe we should be trying a higher match for some. Other ways, to say after 3 years maybe you should graduate, sort of get on your feet and to find more private sources or other public sources.

Anybody have any thoughts on those ideas?

Let's assume for the next year we are going to live within the \$6 million budget. Mr. Rich.

Mr. RICH. I know, Congressman Portman, in Pittsburgh getting private funds for this sort of thing would be next to impossible. We have just been through two stadium deals in Pittsburgh, and private funds and that sort of thing are very, very tight. With the city budget and the county in the Pittsburgh area, I think this is the only place that we can look. Now I am sure the university has other places to look, but I know personally that would be very, very tough to all of a sudden cut somebody off in the third year.

Mr. PORTMAN. Other comments on those options?

Ms. SPRAGENS. I can only speak to academic institutions because that is my frame of reference, but, as I indicated in my testimony, I think that it is very expensive to provide these kinds of programs. There are still many, many schools who have not opted into this program because of the expense. So I think that this idea of seed money to get things started in hopes that the program will be able to be self-supporting is not realistic.

I think you are going to see a dropoff in clinics if they don't—at least academic clinics, if they don't—

Mr. PORTMAN. I assume we are coming up on the third year for some of the original applicants so we will be going through that re-evaluation process. Are you concerned about that, Ms. Spragens, that some of these entities might not get their funding?

Ms. SPRAGENS. Am I personally concerned?

Mr. PORTMAN. Yes, having been one of the originals.

Ms. SPRAGENS. Actually, my program was awarded a potential 3-year grant last year. So I am not immediately concerned about this.

But let me just say that this program—and I don't think I have to convince members of the Subcommittee how important this program is, but I think that it is more than just the settlement and resolution of individual cases. I think we are talking about building confidence in the system. I think we are talking about bringing low-income issues into more focus, more visibility before the IRS, before the media, into public debate, democratizing the case law by bringing these issues up.

It seems to me this is a program that ought to be funded to the extent people are willing to leverage private resources and participate in it. I think these are dollars so well spent that I am reluctant to respond directly to your question about how we can get people out of this program by increasing a match or—

Mr. PORTMAN. I am talking about getting more programs involved. The point would be to get more bang for the buck by not having—let's say 70 some percent were able to get funded this year. Let's say next year, next fiscal year we can only get \$6 million again, which I think is very likely, and we have more applicants because there are more stuffers and more interest and more people applying. How would you spread the wealth? Would you have smaller grants? Would you have just a lower percentage of grants given out? Would you require a higher match? Would you graduate some folks off who could do it on their own?

I mean, the easy answer is, you know, \$15 million; and I understand that. I think this Subcommittee would be your first place to support that, but that ain't going to happen in my view this year given the budget. Maybe you will have better luck in the Senate.

But that is what I am just wondering, if there is ways to restructure the program to respond to the need.

I don't need to take up any more of your time. I also have to catch my flight. But, again, thank you all very much for what you do every day.

I will yield to Mr. Pomeroy and the Chairman.

Mr. RICH. Congressman Portman, one thing, if you did have to cut programs I would recommend reducing the grants versus cutting sites. Because these things—cases are started in the pipeline, and especially with offers in compromise and things it takes a long time to deal with the IRS and to resolve a controversy. So to stop something midstream with something that has really caught on and really helps people would be I think detrimental. I think the programs might be able to pick themselves up by the bootstraps if you cut their allowance versus cutting it off. You know, just reduce it. So if you are thinking of something like that, I would tend toward reducing it.

Mr. PORTMAN. The funding would stay level but there would be a lot more interest and more applicants as there have been every year.

Mr. RICH. These programs like North Dakota—I am sure there are a lot of people out in North Dakota that could really use this—farmers, people that are self-employed, that don't have any place to go that get in trouble with estimated tax payments. You don't pay this year and it just snowballs up on you.

Chairman HOUGHTON. Thanks very much. Mr. Pomeroy.

Mr. POMEROY. Have a safe flight, Congressman Portman.

I want you to know, panel, that this is an absolute first in my legislative experience. This is a Subcommittee receiving testimony after 7:00 at night after the last vote of the week. Only the compelling power of the Chairman and the dazzling presentations of the panel would have created this kind of critical mass of legislative participation; and it really has been very, very interesting.

Ms. SPRAGENS, staff has been telling me of your involvement prior to my time on the Committee in terms of taking this from an AU program and advocating for some Federal support to get it more broadly extended. Has it worked as you had hoped?

Ms. SPRAGENS. Mr. Pomeroy, I think it is a dazzling success. I couldn't be prouder of the number of clinics that—I mean, I take no personal—I didn't do it.

Mr. POMEROY. Modesty noted.

Ms. SPRAGENS. The answer is, yes, I am very happy with the program. As I said, it is now just a victim of its own success. It has gotten so successful it just needs more money to keep going.

Mr. POMEROY. Have a safe flight, Professor Rich.

What are your matching sources?

Ms. SPRAGENS. My organization?

Mr. POMEROY. Generally, where do you get matching funds?

Ms. SPRAGENS. The academic clinics are supported by the law school, and the law school does not draw a distinction between offering a clinic course and offering contracts or torts or securities regulation or any other course. However, it is very expensive education because of the low faculty-student ratio and all the collateral costs. We don't have—

Mr. POMEROY. Thinking back to my law schooldays there wasn't a malpractice premium high enough to cover my exposure if I was doing tax returns for other people or helping people resolve conflicts, so I do understand that one. And then the law school's participation is in kind toward the Federal grant dollar then?

Ms. SPRAGENS. We overmatch. We contribute so much money. I am very proud of my school, that we have made such a commitment to this program. Between salaries and secretarial help and equipment, I mean we just overmatch. So we have never had a problem with the match. I think nonprofit organizations which are dependent on raising private funds are much more at risk for developing a match.

Mr. BOOK. My experience at Villanova is similar. Our institution is well above the match amount in light of salary and equipment for the clinic computers and space and secretarial assistance.

Ms. OLSON. Congressman Pomeroy, when I ran the Community Tax Law Project, the first year that I ran it I sent out 30 grant applications to both State, local and national foundations; and I got 30 very polite "your idea is wonderful but, you know, we don't have the funds for it." Over the years we slowly built up something from community foundations and from the bar association and the bar foundation.

But I also went up to the general assembly of Virginia for 3 years in a row. The first 2 years we were turned down in our request roundly, and it wasn't until the third year when I was actu-



ally able to wave a piece of paper in front of them. You see this? For every dollar you give us, we bring in another dollar. We got this IRS match. Then we got the appropriation. So now the Commonwealth of Virginia funds the Community Tax Law Project to the tune of \$50,000 a year.

Mr. POMEROY. As I pitch this back to North Dakota to the dean of the law school, what can you tell me about what the students have gained from their participation in the program?

Mr. BOOK. From a student's perspective it is a great educational experience. They are getting a lot of practical training in skills like interviewing, counseling, negotiating. They are getting an opportunity to work with a difficult substantive area in the law. They are getting the opportunity to get client contact at an early stage in their young careers.

They are also getting a very important sense of the importance of pro bono work and public interest work that hopefully can carry-over in their professions. Many of my students will be going on to doing work at corporate law firms or nonpublic interest work, but a lot of them are still involved and interested in the sorts of work that is done by our clinic and other organizations. So skills and public interest exposure is very important.

Mr. POMEROY. Ms. Spragens, the same?

Ms. SPRAGENS. The kinds of experiences they get are turning out better lawyers. They are lawyers who have had client contact. And you would be surprised what students don't know. I mean, the smartest students who are going on to—

Mr. POMEROY. Having been a student, no, I wouldn't be surprised.

Ms. SPRAGENS. To earn very large Wall Street salaries and so on.

One student—whenever a student sends out a letter, I have to approve it even if it is a form letter. And a student brought in a letter, and it was a very good letter. I said fine, send it out. And I don't even know why I said this, but I said be sure to put a copy in the file, and the student said good idea. You know, I mean it is just silly little things that people don't know about how to keep a file, how to write a memo to the file, what to wear to an interview. I mean, they are all the things that Les said about learning about how to interview, how to negotiate a settlement agreement.

But just basic lawyering skills are developed there, the clinical model, in ways that they just aren't throughout the law school curriculum. So it is very good education for the students; and, of course, the by-product is that it serves a need in the community that is in large part unmet and, as I said, has these ripple effects as well. It is a win-win program.

Mr. POMEROY. Thank you very much. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you very much.

I have just got one question here because it is late. What do you think about all of this, Ms. Olson?

Ms. OLSON. I am a little biased. I think, as Janet does that—Ms. Spragens does, that the low-income taxpayer clinics are extraordinarily important. And the most important part of it is the trust that taxpayers get back into the system, you know, that they are getting a fair shake. It keeps people in the system.

I wish that we had enough money to fund all of the ones that are applying. I know that the Service's highest priority in the next go-around is going to be with, you know, with the applicants coming in, if there is any money, if some groups are going out maybe because they are not performing in the way we need or something like that or if we make those hard choices about cutting the amount that we give—and I don't have any inside track on that at this point—that we are going to the areas that are geographically unrepresented, that we at least get them in every single State. That is a very important criteria for us at this point.

I have always had ambivalence about the funding of the tax preparation. As Congressman Portman pointed out, I don't think that was the original intent of the statute, to fund tax preparation. I do know that that was a call that chief counsel made within the IRS to interpret education and outreach as tax preparation. And I think that a good fit would be to relook at the statute and create a separate provision for tax preparation and that we think about that as a different issue. But I don't recommend defunding tax preparation now. I think that these programs that are being funded have a great degree of value.

Chairman HOUGHTON. Thank you. Mr. Gold.

Mr. GOLD. One of the ways that programs preparation, which is what we do primarily at Community Tax Aid, but we do representation as well and can work together with controversy clinics entirely—with Ms. Spragens' clinic, their students are able—as with any law school, are admitted to practice only before the IRS and Federal and the Tax Court. They cannot practice before State courts. They had an issue with an offer and compromise for both Federal and State, and we are working cooperatively where one of our lawyer volunteers is handling the State offer and compromise so that the taxpayer is indeed getting a full, complete service with friendly cooperation and it works out very, very neatly.

In terms of funding, by the way, our group has been very, very—found it very, very difficult to get funds from the accounting world where, with a growing number of large law firms in the metro D.C. area, we are going to start seeking funds from some law firms. But it has been very, very difficult.

One other last thought and brief one that I would like to leave you with is, for the 90 million taxpayers who fit in the category of illiterate or functionally illiterate, for them taxes are a foreign language; and we have to make sure that they speak that language. A term like "head of household" or "dependent" has a highly technical meaning; and most of these people don't have the slightest clue and find it very, very difficult to understand how to comply. Even the booklet explaining the earned income credit runs—I forget how many pages this year—54 pages, something like that. It is close to 60 pages. That is a heck of a read for somebody who doesn't read and comprehend and understand very quickly.

Chairman HOUGHTON. Thank you.

Ms. Spragens or Mr. Heavner, have you got any final words?

Ms. SPRAGENS. No, Mr. Chairman, I don't think so. Thank you for the opportunity to—

Chairman HOUGHTON. We thank you very much for being here and—all of you—really appreciate it, the late hour.

How about you, Mr. Heavner?

Mr. HEAVNER. Mr. Chairman, I would like to thank the Committee again for having us.

Just as a final thought that I didn't get to highlight, that as we increase—I think it was Ms. Spragens who mentioned the taxpayer Bill of Rights, and we have been seeking to increase taxpayer rights with each consecutive step, and opportunities for due process for taxpayers. Without the likes of the clinics, all the clinics doing the different things they are doing, how can we really have access to due process without the continued efforts of the clinics?

So we thank you for your support and staying at this late hour and hanging with us to hear our comments.

Chairman HOUGHTON. Thank you.

[Whereupon, at 7:30 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

**Statement of the Center for Law & Human Services, Chicago, Illinois**

**Why Federal Support is Needed to Expand Free Community-Based Income Tax Assistance for Lower Income Taxpayers**

*Background*

The growing complexity of federal tax law has created a significant burden for millions of hard working, low-income taxpayers seeking to comply with the tax code. For example, the Earned Income Tax Credit (EITC) arguably the most important federal benefit program for millions of working poor families and individuals, is explained in a 56 page instruction booklet that includes up to six separate worksheets.

*The Problem*

Not surprisingly, taxpayers claiming the EITC rely on paid tax preparation services at a significantly higher rate than the general population. Paid tax preparers typically charge \$100 or more to prepare a tax return that includes the EITC, a significant financial burden for low-income taxpayers. Many also pay up to \$200 extra for a Refund Anticipation Loan (RAL), a short-term loan that is aggressively marketed to EITC recipients. In total, it is not unusual for low-income taxpayers to spend up to 3% of their annual income on tax related services.

Although the IRS provides in-kind support and training for the Volunteer Income Tax Assistance (VITA) program, community-based organizations must secure operating revenue from local sources. The IRS does not currently provide any direct financial support for the program. Local VITA programs are staffed almost entirely by volunteers, many of whom contribute dozens of hours of their time during tax season. Most VITA programs prepare simple returns and will not provide assistance to millions of self-employed persons with 1099 income. VITA programs rarely prepare prior year returns or amended returns for low-income taxpayers who are due a refund.

The Treasury Department recently issued a report indicating a relatively high non-compliance or error rate among taxpayers filing EITC returns. Factors impacting the error rate include: the administrative complexity of the EITC, literacy barriers faced by many low-wage workers, the high cost of tax preparation services that drives many people into preparing their own returns, and the lack of free tax assistance in many communities. Many low-income taxpayers also fail to file a return, leading the IRS to announce that up to 1.6 million taxpayers had not claimed \$2.4 billion in refunds from tax year 1997.

Under the capable leadership of IRS Commissioner Rossotti, the IRS has greatly expanded its commitment to customer service. Hundreds of IRS employees provide taxpayer assistance and education. During the 1999 tax filing season, IRS staff completed 850,000 federal income tax returns. As the IRS implements its ambitious reorganization plan with limited funding for the effort, there appear to be diminished resources for taxpayer assistance.

*The Solution*

The many problems of low-income taxpayers present a clear and compelling rationale for the IRS to expand its support for free community-based income tax assistance. The current Low-Income Taxpayer Clinic (LITC) program funds tax preparation assistance only to English-as-a-Second-Language (ESL) taxpayers. A grant

program can and should be built on the experience and successes of the LITC program, while remaining administratively distinct from it. A new funding initiative such as this could be administered by the IRS and support cost-effective programs operated by local non-profit sponsors, allowing them to secure matching funds provided by private and public sources. An initial investment in the amount of \$6 million, matched by an equal amount of local funds, will train and place sufficient volunteers to complete as many as 480,000 tax returns.

A \$6 million investment by the IRS could save the agency untold millions of dollars by leveraging the resources of non-profit organizations who are positioned to recruit thousands of new volunteers. Grant supported tax preparation assistance programs would be expected to provide professional supervision for volunteers, and to further assure the taxpayers receive a full range of needed assistance. For example, grant supported programs would complete prior year returns for non-filers; amend prior year returns for taxpayers who made errors or omissions; and complete relatively complex returns for self-employed taxpayers.

Further, such a program could: 1) reduce the time IRS staff must spend to field calls and deal with inquiries from low-income taxpayers; and, 2) encourage more non-filers to join the more than 120 million law-abiding American taxpayers.

Access to capable free tax preparation assistance will improve overall compliance rates, and also improve levels of participation in the EITC by eligible families. This initiative will also increase opportunities for low-income taxpayers to file their returns electronically as community based tax preparation assistance programs will have an incentive to expand their currently limited technological capacity. This, in turn, will further drive down IRS return processing costs and further the agency's goal of expanding e-filing rates among all taxpayers.

Such a program would also be welcomed by many states that have modeled aspects of their state income tax on the federal tax code. Recently, Glen L Bower, Director of Revenue for the State of Illinois testified before the U.S. regarding tax complexity and the EITC. With Illinois having recently joined twelve other states with state EITC's, Director Bower called for the federal government to "provide additional resources to allow the IRS to assist taxpayers who cannot afford to get to a (paid) preparer,—and assure Illinois and other states receive accurate returns."

Recently enacted tax legislation provides certain valuable new tax benefits for lower income families, but unfortunately adds additional layers of complexity—and new forms to be completed and filed. It is incumbent upon Congress to expand support for free community based tax preparation assistance for all lower income taxpayers. Such support can bring tens of thousands of low-income workers into the taxpaying "mainstream" by successfully addressing the obstacles and barriers they face.

For more information contact: David Marzahl, Center for Law & Human Services  
dmarzahl@centerforlaw or (312) 252-0280 Michael O'Connor,  
moconnor@centerforlaw.org or (773) 262-2199

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UNIVERSITY OF MISSOURI-KANSAS CITY  
SCHOOL OF LAW  
KANSAS CITY, MISSOURI 64110  
*July 25, 2001*

Allison Giles  
Chief of Staff  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Ms. Giles:

We submit this letter in response to your invitation for comments from participating institutions in the Low Income Tax Clinic Program. The Graduate Tax Law Foundation of the University of Missouri—Kansas City Law School established an LITC two years ago. The clinic has been contacted by nearly 200 persons seeking assistance with federal tax matters. It has entered into representation agreements with approximately 75 persons. Almost all of the clients have serious financial difficulties. For example, during the period January 1, 2001 to June 30, 2001, two-thirds of the single clients had yearly incomes less than \$16,000. The clients with two-member families often had even lower yearly incomes—more than one-half of the families with two members had yearly income of \$15,000 or less. Such individuals could not afford to obtain assistance through private lawyers or accountants.

Many of the clients are divorced mothers supporting children often without any support from the child's father. It makes a tremendous economic difference for these persons to receive an earned income credit that was erroneously denied. We also have divorced mothers seeking innocent spouse relief. The process by which the Internal Revenue Service reviews innocent spouse claims is lengthy and many such claimants would simply have to give up if the clinic were not available. For example, the clinic assisted one client in making a request to the Cincinnati Service Center. The service center then requested additional information that was provided. Nearly one year later the service center sent the request to a local Internal Revenue Service office, which requested still more information. This taxpayer was unemployed when the case was transferred to the local office and could not have paid a representative to continue pursuing the claim. Low income tax clinics permit such individuals to at least complete the process of seeking relief.

This clinic also serves an educational function within the law school by training law students in the tasks of interviewing clients and making presentations before a federal agency. This type of hands on experience is a valuable supplement to the student's academic training.

We hope that Congress will continue to fund low income tax clinics and that, if possible, the amount appropriated for this purpose will increase.

Respectfully submitted,

EDWIN T. HOOD  
*Faculty Advisor*  
*Kansas City Tax Clinic*

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UNIVERSITY OF NORTH CAROLINA AT GREENSBORO  
 GREENSBORO, NORTH CAROLINA 27402-6165  
*July 10, 2001*

Dear Representatives:

The Department of Accounting at the University of North Carolina at Greensboro has established a Low-Income Taxpayer Clinic with grants received from the Internal Revenue Service. The Clinic has received grants from the IRS since 1998. We are currently in the first year of a three-year grant. The Clinic is the only Low-Income Taxpayer Clinic in North Carolina and South Carolina. We are writing to provide to you information on the number of taxpayers assisted.

The focus of the Low-Income Taxpayer Clinic at UNC-Greensboro is on English as a second language taxpayers. For ESL taxpayers we provide any type of tax assistance needed, including income tax return preparation, filing for a taxpayer identification number, and help in dealing with the IRS. In 1999, the Clinic assisted approximately 100 taxpayers. In 2000, that number rose to over 600. Since January 2001, we have assisted more than 1,100 ESL taxpayers (see attached spreadsheet). The Clinic has also reached thousands more with informational brochures, presentations, and advertisements. During the 2001 tax season we began presenting information to non-resident students at area colleges and universities to assist them in filing their income tax returns. We estimate that we have reached over 500 non-resident students. The Clinic also provides the Department of Accounting the opportunity for its students to receive hands-on experience in working with clients, as well as the IRS.

Please feel free to contact us if you have any questions concerning the Low-Income Taxpayer Clinic.

Sincerely,

ANGEL THARRINGTON, CPA  
*Low-Income Taxpayer Clinic*

Low-Income Taxpayer Clinic  
 UNC-Greensboro  
 Assistance Provided  
 January 1, 2001-June 30, 2001

## Estimated ESL Taxpayers Assisted

Date	Location	Income Tax Returns		
		W-7's	(Federal and State)	Non-resident Presentation
2/4/2001	St. Julia's Catholic .....	85	42	
	Siler City, NC .....			
2/10/2001	FaithAction .....	20	11	
	Greensboro, NC .....			
	Clemson University .....			130
	Clemson, SC .....			
2/11/2001	Christ the King Catholic Church .....	26	25	
	High Point, NC .....			
2/13/2001	A&T State University .....		24	
	Greensboro, NC .....			
2/17/2001	Blue Ridge Community Health Ser. ....	47	32	
	Hendersonville, NC .....			
2/22/01 & 3/26/01	NC State University .....			200
	Raleigh, NC .....			
3/5/2001	Southeastern Baptist Seminary .....			45
	Wake Forest, NC .....			
3/9/2001	Queens College .....			15
	Charlotte, NC .....			
3/10/2001	FaithAction .....	12	4	
	Asheboro, NC .....			
3/15/2001	Guilford College .....			15
	Greensboro, NC .....			
3/18/2001	Catholic Social Services .....	33	4	
	Asheville, NC .....			
3/18/2001	Christ the King Catholic Church .....	9	29	
	High Point, NC .....			
3/20/01 & 3/21/01	UNC-Greensboro .....			120
	Greensboro, NC .....			
3/31/2001	UNC-Wilmington .....			40
	Wilmington, NC .....			
4/1/2001	St. Julia's Catholic Church .....	26	62	
	Siler City, NC .....			
2001	Applications & Tax Returns We .....	19	43	
	Receive Through The Mail .....			
	Total .....	277	276	565
	Total ESL Taxpayers Assisted Jan-June, 2001 .....			1118
	Total Low-Income Taxpayers Assisted with IRS Issues. ....			10
	Total Taxpayers Assisted Jan-June, 2001 .....			1128