

IRS NATIONAL ADVOCATE ANNUAL REPORT AND IRS OVERSIGHT BOARD ANNUAL REPORT

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

SECOND SESSION

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FEBRUARY 28, 2002
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**IRS NATIONAL ADVOCATE ANNUAL REPORT
AND IRS OVERSIGHT BOARD ANNUAL REPORT**

THURSDAY, FEBRUARY 28, 2002

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

The Subcommittee met, pursuant to notice, at 2:00 p.m., in room 1100 Longworth House Office Building, Hon. Amo Houghton, (Chairman of the Subcommittee) presiding.
[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
February 20, 2002
No. OV-8

CONTACT: (202) 225-7601

Houghton Announces Hearing on IRS National Taxpayer Advocate Annual Report and IRS Oversight Board Annual Report

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 annual reports of the Internal Revenue Service (IRS) National Taxpayer Advocate and the IRS Oversight Board. **The hearing will take place on Thursday, February 28, 2002, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m.**

In view of the limited time available to hear witnesses, 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 National Taxpayer Advocate was established by the 1996 Taxpayer Bill of Rights (P.L. 104-168), replacing the original Taxpayer Ombudsman that had been created by the IRS in 1979. Taxpayers who believe they are 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 House Committee on Ways and Means and the Senate Committee on Finance.

Established by the IRS Restructuring and Reform Act of 1998 (P.L. 105-206), following the recommendation of the National Commission on Restructuring the IRS, the IRS Oversight Board first convened in 2000. Its purpose is to oversee the IRS in its administration of the execution and application of internal revenue laws. Now, following its first full year of operation, the Oversight Board is submitting its first annual report to Congress.

In announcing the hearing, Chairman Houghton stated, "The reports of the IRS Taxpayer Advocate and the Oversight Board provide Congress with key insights into the operations of the IRS. In our efforts to improve IRS operations, we welcome the independent recommendations made in these reports."

FOCUS OF THE HEARING:

Congress will review the Taxpayer Advocate and Oversight Board annual reports in order to assess the mission and priorities for the upcoming year.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Due to the change in House mail policy, any person or organization wishing to submit a written statement for the printed record of the hearing should send it electronically to hearingclerks.waysandmeans@mail.house.gov, along with a

fax copy to 202/225–2610 by the close of business, Thursday, March 14, 2002. Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing should deliver their 200 copies to the Subcommittee on Oversight in room 1136 Longworth House Office Building, in an open and searchable package 48 hours before the hearing. The U.S. Capitol Police will refuse messenger deliveries to all House Office Buildings.

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. Due to the change in House mail policy, all statements and any accompanying exhibits for printing must be submitted electronically to *hearingclerks.waysandmeans@mail.house.gov*, along with a fax copy to (202) 225–2610, in WordPerfect or MS Word format and MUST 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.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://waysandmeans.house.gov*.

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.

Chairman HOUGHTON. Good afternoon everybody. Thank you very much for coming here and I appreciate the witnesses being at the witness table. We are going to hear from two obviously very hard working public servants in our government. They have got very tough jobs. Our first witness, Nina Olson, who is down here, navigates the tax laws on behalf of individual taxpayers; and then our next witness after Ms. Olson is going to be Larry Levitan who oversees the \$10 billion agency that administers our tax laws.

Each of you recently issued reports to provide us with key insights into the operation of the Internal Revenue Service (IRS), and also I would like to take this opportunity to thank all those employees of the Taxpayer Advocate's Office that helped write the report. Before coming to Washington, Nina Olson was a leader in assisting low income taxpayers through community tax law project enrichment. She has brought her passion for helping individual taxpayers to a role as National Taxpayer Advocate.

Ms. Olson has made tax simplification the overall theme of her annual report, and we applaud you for that. She makes two dozen excellent recommendations to bring some reason to the areas of the law that most affect individual taxpayers. In addition, she details

the most serious problems encountered by taxpayers and offers some great solutions as well.

Like our first witness, Larry Levitan is eminently qualified for his role as Chairman of the IRS Oversight Board. Under Mr. Levitan's leadership, the IRS Oversight Board has become actively engaged in reviewing the IRS' computer modernization program and the budget needs. In the coming months, the Oversight Board will face the challenging task of identifying candidates to serve as the new IRS Commissioner, as Commissioner Rossotti's term expires next November. I would like to now yield to our Ranking Democrat, Mr. Coyne.

[The opening statement of Chairman Houghton follows:]

Opening Statement of the Hon. Amo Houghton, a Representative in Congress from the State of New York, and Chairman, Subcommittee on Oversight

Today we are going to hear from two of the hardest working public servants in our government. They have among the toughest jobs too: our first witness, Nina Olson, navigates the tax laws on behalf of individual taxpayers; our next witness, Larry Levitan, oversees the 10 billion dollar agency that administers our tax laws. Each of you recently issued reports that provide us with key insights to the operations of the IRS.

Before coming to Washington, Nina Olson, was a leader in assisting low-income taxpayers through the Community Tax Law Project in Richmond, Virginia. She has brought her passion for helping individual taxpayers to her role as National Taxpayer Advocate.

Ms. Olson has made tax simplification the overall theme of her annual report. She makes two dozen excellent recommendations to bring some reason to areas of the law that most affect individual income taxpayers. In addition, she details the most serious problems encountered by taxpayers, and offers solutions as well.

Like our first witness, Larry Levitan is eminently qualified for his role as Chairman of the IRS Oversight Board. He is a retired managing partner of Andersen Consulting, the well-known consultant to America's largest corporations, and an accountant by training.

Under Mr. Levitan's leadership, the IRS Oversight Board has become actively engaged in reviewing the IRS' computer modernization program and budget needs. In the coming months, the Oversight Board will face the challenging task of identifying candidates to serve as the new IRS Commissioner when Commissioner Rossotti's term expires this November.

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

Mr. COYNE. Thank you, Mr. Chairman. Welcome. At this Subcommittee hearing, I feel it is most appropriate that we receive the testimony of the IRS National Taxpayer Advocate and the Chairman of the IRS Oversight Board. The Congress enacted legislation in 1998 to reform IRS operations and to provide taxpayers with the more efficient tax administration system. I, along with Congressman Portman, served as a Member of the National Commission on Restructuring of the Internal Revenue Service and supported enactment of the substantial authorities we granted to both Taxpayer Advocate and the Oversight Board. Both oversight organizations have proven to be critical to the success of the IRS' ongoing restructuring efforts and continuing focus on taxpayer services.

I want to thank both Nina Olson, the Taxpayer Advocate, and Larry Levitan, the Chairman of the Oversight Board, for their leadership and commitment to a better IRS. The Subcommittee has a lot of ground to cover today, and first we will consider the Advo-

cate's 273-page report on the most serious problems facing taxpayers, advocacy efforts on behalf of taxpayers and legislative recommendations the Committee should consider.

Next we will consider the Board's analysis of IRS operations, short and long term, to understand what the IRS must do to best meet the needs of taxpayers nationwide. I want to thank Chairman Houghton for continuing the tradition of holding annual Oversight hearings on the IRS. Thank you. I look forward to your testimony.

[The opening statement of Mr. Coyne follows:]

**Opening Statement of the Hon. William J. Coyne, a Representative in
Congress from the State of Pennsylvania**

As the Oversight Subcommittee's first hearing in 2002, it is most appropriate that we receive the testimony of the IRS National Taxpayer Advocate and of the Chairman of the IRS Oversight Board.

The Congress enacted legislation in 1998 to reform IRS operations and to provide taxpayers with a more efficient tax administration system. I served as a Member of "The National Commission on Restructuring the Internal Revenue Service" and supported enactment of the substantial authorities we granted to both the Taxpayer Advocate and the Oversight Board.

Both oversight organizations have proven to be critical to the success of the IRS' ongoing restructuring efforts and continuing focus on taxpayer services. I want to thank both Nina Olson, the Taxpayer Advocate, and Larry Levitan, Chairman of the Oversight Board, for their leadership and commitment to a better IRS.

The Subcommittee has a lot of ground to cover today. First, we will consider the Advocate's 273-page report on the most serious problems facing taxpayers, advocacy efforts on behalf of taxpayers, and legislative recommendations the Committee should consider. Next, we will consider the Board's analysis of IRS operations, short and long term, to understand what the IRS must do to best meet the needs of taxpayers nationwide.

I want to thank Chairman Houghton for continuing the tradition of holding annual oversight hearings on the IRS.

Thank you.

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Chairman HOUGHTON. Thanks very much, Mr. Coyne. Now I would like to ask Mr. Portman for his statement.

Mr. PORTMAN. Thank you, Mr. Chairman and thank you, Ms. Olson, for being here. Again, I want to join my colleague, Mr. Coyne, in congratulating both and you Mr. Levitan for your good work which is consistent with what we had envisioned in the Commission's report. Mr. Coyne and I spent a couple of years looking at the problems at the IRS, not all of which have been solved, but we made progress and came up with structures that we thought would be helpful. This hearing is, in a sense, one of them, but structures only work if the right people are in place and your commitment to this new expanded Taxpayer Advocate's responsibility, and the more independent role that Taxpayer Advocates have, and then a more comprehensive report to us here in Congress as to what the real problems are, is key to making all of this work.

And Mr. Levitan, I will have a chance to talk to you later. I appreciate your work chairing the Oversight Board and again, being sure that these well-meaning structures and changes in law actually can be implemented in ways that help taxpayers receive the service that they deserve. So I thank you all and look forward to your testimony. Thank you, Mr. Chairman, for this oversight hearing, and all your commitment to this.

Chairman HOUGHTON. Thank you very much. I would like to call on Ms. Olson—

Mr. COYNE. Mr. Chairman, if I might, Congressman Neal, our colleague, had a statement welcoming the Taxpayer Advocate here, Ms. Olson, today, and I would like unanimous consent to be able to insert it in the record.

Chairman HOUGHTON. Without objection, approved.

Mr. COYNE. Thank you.

[The statement of Mr. Neal follows:]

Statement of the Hon. Richard E. Neal, a Representative in Congress from the State of Massachusetts

Mr. Chairman and Mr. Coyne, I am pleased that you have invited the Taxpayer Advocate, Ms. Olson, to testify today on her annual report, which includes many suggestions for simplifying the Code.

I can think of no more worthy cause than reducing Tax Code complexity, benefiting millions of taxpayers.

You may be interested to know that the Advocate recently completed a particularly difficult case on behalf of one of my constituents.

I look forward to working with her and the Members of the Committee to find a legislative solution to this case and other important taxpayer issues.

Chairman HOUGHTON. Thanks very much. Now, Ms. Olson would you give your testimony.

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

Ms. OLSON. Mr. Chairman and Members of the Committee, thank you for providing me the opportunity to appear before you today to discuss the National Taxpayer Advocate's 2001 annual report to Congress. The report represents the work of many dedicated Taxpayer Advocate service employees. I am proud of their efforts and I would like to acknowledge those members of the report team who are attending the hearing today. The focus of my remarks today is tax law simplification. I will also be glad to answer any questions you may have about the top 20 taxpayer problems.

Many pundits in the tax world say that tax simplification will never occur because there is no constituency for simplification. I am not sure what this phrase actually means. For example, making uniform the provisions that relate to family status would have simplified tax computations for taxpayers filing 44 million returns for tax year 2001. In a Universe comprised of approximately 130 million individual returns, that is a significant constituency.

Simplification does not require complete revision of the Code. In fact, we can achieve simplification by identifying provisions in current law that create taxpayer or administrative burden for a significant number of taxpayers. We can focus our efforts on provisions that are actionable immediately while we work toward a consensus on more difficult issues. We can agree to focus on different groups of issues from one year to the next, even while we are addressing the pressing and immediate issues of the day. This year's annual report contains 28 legislative proposals, 19 of which are described in great detail as key recommendations. These proposals range from extending income averaging to commercial fishermen to

a discussion of equitable relief factors for innocent spouse relief. They include recommendations as sweeping as permitting married taxpayers to allocate their separate items on the face of their jointly filed return, thereby eliminating joint and several liability.

Some of our proposals have shown up in previous reports; for example, our proposals for expanding relief for the return of levy proceeds, including the ability to restore such proceeds to retirement accounts. Others are just plain common sense as with the first-time penalty waiver, also known as the One Time Stupid Act Exception.

To my mind, the most important recommendations in this year's report are those concerning family status issues. Family status is most taxpayers' point of entry into the tax system. On a form 1040, before a taxpayer even enters \$1 of wage or interest income, that taxpayer must determine whether his or her child qualifies as a dependent or entitles the taxpayer to claim head of household status or impacts the taxpayer's marital status determination. These provisions apply different tests for eligibility with respect to the same child. Further along in the form, the taxpayer must look up other definitions or limitations for the child tax credit, the child and dependent care credit, the earned income credit, and various education tax incentives.

In order to learn about these provisions, the taxpayer must read through over 200 pages of IRS publications and instructions. We propose that for each of six-family status provisions, we adopt a common definition of qualifying child. We propose a uniform relationship, place of abode, and age test as a safe harbor for a type of familial relationship about which we can be reasonably certain, once this test is met, that we have correctly awarded a tax benefit.

Under the safe harbor, once a taxpayer establishes that he or she has a biological, adoptive or stepchild or a descendant, we need only determine if that child or descendant lived with the taxpayer for more than half of the tax year, and if that child or his descendant is of the appropriate age. Both relationship and age are relatively easy for a taxpayer to demonstrate in an audit situation. It is easier for the taxpayer to prove that the child lived with him or her for more than half the year than it is for the taxpayer to prove that he or she met the support test or the home maintenance test.

Thus, the key feature of this proposal is that the IRS would not have to make intrusive inquiries into the most intimate affairs of its citizens without due cause. It can rely on a set of verified third party statements that have an acceptable degree of accuracy and reliability. The IRS can then apply its limited compliance resources to taxpayers with a higher risk of error.

We in the Taxpayer Advocate service take our congressional reporting responsibilities very seriously. As tax administrators, our focus is the administration of the tax laws, not the underlying policy considerations. We have limited our legislative proposals to provisions about which we have experience and which we believe will significantly simplify matters for many taxpayers.

I hope you find this report helpful on behalf of the Taxpayer Advocate service employees. I thank you for this opportunity to report on these matters both in writing and before you in person today.

[The prepared statement of Ms. Olson follows:]

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

Mr. Chairman and Members of the Committee:

Thank you for providing me the opportunity to appear before you today to discuss the National Taxpayer Advocate's 2001 Annual Report to Congress. The Report represents the work of many dedicated Taxpayer Advocate Service employees, and it is my distinct honor to come before you today to discuss their work. I am truly grateful for and proud of their efforts.

Today marks the completion of my first year of service as the National Taxpayer Advocate (NTA), and it has been a very interesting year, indeed. The National Taxpayer Advocate is fortunate, in that both the position and the elements of her two Annual Reports to Congress are established and described in the Internal Revenue Code. Section 7803(c) clearly establishes that the Annual Reports are considered a direct communication between the National Taxpayer Advocate and Congress. In order to preserve the NTA's independence, Congress mandated that the Reports be delivered to it prior to delivery to the Secretary of the Treasury or the IRS Commissioner.

While the focus of my remarks today is tax simplification, I would like to make a few preliminary comments about the Annual Report's methodology. As you know, when I first assumed this position, I met with many of the Members of this subcommittee and the Senate Finance Committee in order to learn, more specifically, what Congress expected from the Annual Report to Congress. From these discussions I learned that you view the Annual Report as providing certain information that will help you resolve taxpayer problems either through legislation or by oversight of the Internal Revenue Service. You view the Taxpayer Advocate Service (TAS) as a credible source of this information, given our unique role within the IRS as an independent and impartial advocate for taxpayers who are trying to resolve their tax problems.

The independence, impartiality and confidentiality that the Taxpayer Advocate Service offers is critical to our ability to deliver this information to you. Without these assurances, taxpayers will not come to TAS to discuss their problems. In my upcoming June 30th Report to Congress, I will describe in detail the efforts we have made to enhance independence, impartiality, and confidentiality in TAS' operations.

With respect to the Annual Report to Congress, I am pleased to report to you today that I will soon be recruiting and hiring two Senior Advisors to the National Taxpayer Advocate. One Senior Advisor will serve as an advisor for legal matters pertaining to the Annual Report to Congress, including assisting my employees with development of legislative proposals.

The second Senior Advisor will oversee all research activities and establish a research agenda for the Taxpayer Advocate Service, including the Annual Report to Congress. I hope to fill these positions in the next four months. Next year's Annual Report will be enhanced by these additions to the NTA's staff.

I view the information provided in the Annual Report as a continuum. First, we identify taxpayer problems. Our focus is the administration of the tax laws, not the underlying policy considerations. This year, we have developed two lists of "Top 23" taxpayer problems—one derived directly from the TAS database of cases and one that reflects TAS employees' judgement, as informed by their conversations and outreach with individual and business taxpayers, practitioners, and other IRS employees. Some of these problems surface again in our analysis of the ten most litigated issues.

Many of the top taxpayer problems can be addressed administratively by the Service. Indeed, in many instances the Service has detailed, long-term plans for addressing these problems. Some solutions require issuance of guidance, or a different allocation of resources, or even greater resources. But some problems cannot be fully resolved unless there is legislative change.

In making our key legislative recommendations, we narrowed our focus to issues that have the potential to achieve simplification or reduce taxpayer or administrative burden with respect to a significant number of taxpayers. We have also focused on proposals that are "actionable"—that is, with the exception of one proposal, they do not require major reform of the Code and can be enacted, in one form or another, immediately.

For each recommendation, we describe the problem, illustrate it with examples derived from TAS cases (some of which were referred by Congressional offices), and provide a description of current law and an explanation of our proposed legislative change. Although others have suggested some version of these proposals, our recommendations reflect the viewpoint, experience, and pragmatism of TAS employees who wrestle with the underlying problems daily in their case inventories.

The Constituency for Simplification

During the past year, I have spoken at many taxpayer, tax practitioner, and IRS employee meetings about some of our legislative proposals and the complexity of the Internal Revenue Code. All too often, I have heard people say that tax simplification will never occur because there is “no constituency for simplification.” I am not sure what this phrase actually means.

If the lack of constituency refers to the fact that individual taxpayers do not have special interest groups speaking on their behalf or are not flooding Congressional switchboards demanding tax simplification, the statement may be true. But if, for example, we consider the number of taxpayers positively affected by developing a uniform definition of a “child” for purposes of the Internal Revenue Code, the statement is false. Making uniform the provisions that relate to family status would have simplified tax computations for taxpayers filing 44 million returns for tax year 2001. In a universe comprised of approximately 130 million individual returns, this is a significant constituency.

Family Status Issues

Family status is most taxpayers’ point of entry into the tax system. And yet, Treasury Secretary O’Neill has noted, only within the confines of the Internal Revenue Code would one find five different definitions of a “child.”¹ On a Form 1040, before a taxpayer even enters one dollar of wage or interest income, he or she must determine whether his or her child qualifies as a dependent or entitles the taxpayer to claim head of household status or be considered not married.² These provisions apply different tests for eligibility with respect to the same child. Further along in the form, the taxpayer must look up other definitions or limitations for the child tax credit, the child and dependent care credit, the earned income credit, and various education tax incentives.

At the end of the day, the taxpayer or his or her preparer is woefully confused about a subject that is fundamental to one’s economic and tax existence. Each element of variance increases the likelihood of an honest mistake. In some instances, the differences provide opportunities for deceit. In all instances, the differences increase the administrative burden on the IRS to fairly implement the tax laws. Further, the IRS must conduct intrusive inquiries into the lives of taxpayers in order to monitor compliance with these non-uniform provisions.

The Taxpayer Advocate Service’s recommendation is really very simple. However, as with all simplification, the details require careful attention. We propose that for each of six family status provisions we adopt a common definition of “qualifying child.” Our proposed definition focuses on a type of familial relationship about which we can be reasonably certain, once certain tests are met, that we have correctly awarded a tax benefit, at least with regard to the “child” element. Thus, we propose a uniform relationship, place of abode, and age test. Once a taxpayer has established that he or she has a child (biological, adoptive, or step) or a descendant, we need only determine if that child (or descendant) lived with the taxpayer for more than half of the tax year and if that child (or descendant) is of the appropriate age.

We suggest that this definition be placed in the definitional sections of the Code so that it can be easily cross-referenced in the current tax provisions. As new family status provisions are enacted, this definition will become the norm.

This definition has several advantages over the current state of the law. First, both relationship and age are relatively easy for a taxpayer to demonstrate in an audit situation. Second, it is easier for the taxpayer to prove that the child lived with him or her for more than half the year than it is for the taxpayer to prove that he or she provided more than half the support of the child or more than half the cost of maintaining a home in which the taxpayer and the child lived for more than half the year. Finally, by limiting these tests to the proposed family relationship grouping (parent/child/descendant), we significantly lessen the chances that the “wrong” taxpayer would receive the tax benefits.

Our proposal differs from the Joint Committee on Taxation’s proposal that the uniform definition of a qualifying child completely replace the support and household maintenance tests. We do not propose substituting this relationship/abode/age test for all family relationships. We believe that there are other family and household arrangements that should qualify for the various family status benefits. Yet those family and household arrangements require the Service to make additional inquiry into the household circumstances in order to ensure that the special tax benefits are awarded to the appropriate party.

¹ O’Neill Claims Simplification, Stimulus Top Priorities, 2002 TNT 36-1.

² IRC § 7703(b).

We also propose to extend a version of the recently amended EITC “tie-breaker” rule to the uniform definition of a qualifying child. That is, where two or more taxpayers having a qualifying relationship with the child live in the same household, the parental relationship would trump others. A grandmother, mother, and child may live together, and the mother may not want to claim the child as dependent or for head of household status. That is, the mother wishes to “opt-out” of the uniform definition of a qualifying child safe harbor. In these situations, as under current EITC law, the mother simply does not claim the child on her return and the grandmother will be able to claim her grandchild. In other household arrangements outside the relationship safe harbor, the cohabitator would still have to satisfy the current statutory tests, including the appropriate support or household maintenance tests.

Our sensitivity to non-nuclear family arrangements is best evidenced in our proposed expansion of the definition of “foster child.” Under present law, we have at least three different definitions of foster child—one for dependency exemptions, one for head of household status, and one for the Earned Income Tax Credit. We propose establishing a uniform foster child definition between these provisions. The foster child must meet either a relationship or custodial test and must also live with the taxpayer for more than half the year.

In order to provide more certainty sooner in the administrative process, we propose a rather narrow relationship test. We define the term “child” as an individual who bears one of the following relationships to the taxpayer:

- A son/daughter or descendent (e.g. grandchild or great-grandchild);
- A stepson/stepdaughter or descendent (e.g., step-grandchild or step-great-grandchild);
- An adopted child; or
- An eligible foster child.

We also propose that the taxpayer could demonstrate the “foster” relationship by proving that the child was placed in his or her home by an authorized placement agency as under current law or by showing custodianship through some other means. We contemplate that the law would permit a taxpayer to claim a foster child when the taxpayer could prove that some other Federal, State, or local governmental agency (or its agent) had made a determination that the child lived with the taxpayer. Depending on the circumstances, this “certification” could take the form of food stamp certification, of school placement, or of an award of temporary custody by a family court.

The key feature of this proposal is that the IRS would not have to make intrusive inquiries. Rather, it is relying on a set of verified third-party statements that have an acceptable degree of reliability. This approach—accepting reliable third-party documentation—should be extended administratively to *all* family status audits, including those involving the Earned Income Tax Credit. Such an audit approach removes the government from having to pry into the most intimate affairs of its citizens without due cause. I have stated elsewhere how humiliating such an audit can be. That these audits are routinely visited upon the poorest and least represented portion of our population represents a fundamental flaw in the design of the law as well as in our tax administration system. Middle class and wealthy taxpayers would not tolerate such intrusions.

Individual Alternative Minimum Tax

Increasingly, middle class taxpayers face a different type of problem—the individual alternative minimum tax (the AMT). A minimum tax was first introduced into the Internal Revenue Code in 1969 as a means to tax high income taxpayers who had gross income and yet paid no taxes because of various provisions. The first minimum tax listed 14 preferences that were to be added back in to taxable income. In 1978, the minimum tax was expanded to include additional deductions, exemptions, and credits; all typically claimed by middle class taxpayers.

The design of the minimum tax has not achieved its original goals. The number of high-gross income earners who pay no tax has increased slightly since 1978. The Alternative Minimum Tax does enhance revenue, largely by subjecting increasing numbers of middle-income taxpayers to its requirements. These unintended targets are drawn into the alternative tax system because they have large families, live in high-tax cities or states, or earn their income in a variety of ways other than direct compensation, such as stock options. Today, 1.5 million taxpayers pay the AMT. The

Joint Committee projects that 35.5 million taxpayers will be subject to the AMT by the year 2010.³

As a tax administrator, I view these numbers with concern. Many of the taxpayers do not even know that an alternative minimum tax system exists. Thus, in 2010 the Service could be faced with sending out 35.5 million letters to taxpayers who believed they filed a perfectly accurate tax return and who will learn that they did not.

To avoid this situation, we propose three alternatives to the recommendation that the individual AMT be repealed. I personally favor the alternative proposal of establishing a gross income threshold, below which a taxpayer will not be subject to the AMT. This proposal has the advantage of providing relief to those taxpayers who must dedicate 12 hours to simply determining whether they are subject to the tax at all. Under the gross income proposal, a taxpayer need only look to a line on his or her return and check it against the threshold for his or her filing status. The taxpayer will learn from the face of his or her return whether he or she is subject to the AMT. This proposal also provides relief to middle income taxpayers who would otherwise be subject to the AMT because they exercised incentive stock options. If their gross income was below the threshold, the exercise of these options would not be subject to the AMT.

Worker Classification

One of the most difficult areas of law within which to strike a balance between competing interests is worker classification. This difficulty is in large part attributable to the variety of workers and type of work that would be affected by any guidelines.

I believe that both the tax law and the tax administration system can do a far better job addressing this issue. Most businesses and their workers are capable of reaching agreement on employment arrangements by themselves. There are, however, groups of workers who have limited ability to understand and pay self-employment tax.

One such group of workers is known as home-based service workers. These workers provide home care and services for persons who are disabled or elderly and who need assistance in daily living activities. The workers themselves are often low income. Usually these workers are paid with some combination of State and Federal funds. Most commentators agree that, under common law, the workers are employees of the service recipients. And yet the service recipients are usually not in the position of issuing W-2 forms or 1099-MISC statements. In some instances, states or localities undertake the issuance of 1099 forms; some states and localities actually withhold FICA tax from the workers' pay and issue them W-2 forms.

In the case of home-based service workers, we have proposed deeming the payor agency to be the "employer" *solely* for purposes of tax withholding and income reporting. Alternatively, these workers could be deemed independent contractors but subject to a flat withholding rate sufficient to pay self-employment tax. Either approach addresses the critical failures of the current system—where workers receive a 1099 form and have no tax withheld; where they are unable to pay a lump sum of quarterly or year-end taxes; and where the Service ends up placing the workers in "currently not collectible" status because the workers cannot afford to pay a pyramiding tax liability.

Removing the burden of tax reporting and withholding from the service recipients relieves them of the need to file a separate Schedule H, Household Employment Taxes. This is appropriate because most service beneficiaries do not have a filing requirement.

Taxpayer Rights

The National Taxpayer Advocate's taxpayer rights proposals include provisions relating to partial payment installment agreements; the return of levy proceeds under IRC section 6343(b) and (d); the realignment of underpayment interest rates simultaneous with the repeal of the late payment penalty; and a first-time penalty waiver (also known as the "one time stupid act" waiver). Each of these proposals is discussed in detail in the Annual Report.

I would like to identify, here, two themes that run through these taxpayer rights proposals. The first is that it is very difficult, in practice, in a tax system that relies on voluntary compliance to draft laws and develop procedures that differentiate between habitual or chronic offenders and taxpayers who simply make a mistake. If the law is written so broadly that IRS personnel have significant discretion in im-

³U.S. Congress, Joint Committee on Taxation, Estimated Effects of the Conference Agreement for H.R. 1836 [1] (JCX-51-01) p. 8.

plementation, taxpayers may experience disparate results and even face abuse of that discretion. On the other hand, if we do not permit IRS personnel to exercise common sense and good judgement—and give them the tools to help honest taxpayers who have made a mistake get back into compliance with the system—taxpayers will feel that they are caught within an “Alice in Wonderland” or Kafkaesque system.

The second consideration is how to remedy situations where the IRS has done something wrong. In many instances, it takes a while for either a taxpayer or the IRS to figure out that the IRS was wrong in taking a certain collection action. The usual period for protesting such actions may have passed—in the case of levies, that period is nine months from the date of levy. In these instances, should the Commissioner be permitted to grant relief? Our proposal regarding the return of levy proceeds is our first attempt to address this issue; we were unable to develop a proposal that was broader in application.

Joint and Several Liability

The proposal to eliminate joint and several liability on jointly filed individual income tax returns grew from the awareness that “innocent spouse” relief under IRC section 6015 threatens to become an exception that swallows the rule. Almost 1 percent of the Service’s workforce in 2001 processed innocent spouse cases. I am skeptical of the IRS projections that show the number of full-time equivalents (FTEs) dedicated to innocent spouse will drop significantly over the next two years. As current case law becomes part of the mainstream and future case law develops under this provision, I believe more taxpayers will request relief.

It is for these reasons that the Taxpayer Advocate Service took the bold step of proposing that taxpayers receive all the benefits of a joint return without incurring joint and several liability for any tax debt attributable to that return. We developed a prototype Form 1040 M on which married taxpayers can allocate between themselves their items of income, deduction, adjustments, credits, and payments. If such an election is made, it will be dispositive for any later adjustments relating to those items. Under this proposal, “innocent spouse” relief will no longer be available to married taxpayers. However, taxpayers will still be able to challenge even an allocated liability under the common law defense of duress.

It is our experience that married couples in fact do allocate items between themselves, even if not consciously. The advantage of our proposal is that the allocation occurs at the front end of the filing process, when the information is fresh in everyone’s minds, rather than years after the filing, when documentation is missing and the married couple has separated. We also acknowledge that it may be simpler to require the allocation on joint returns, rather than permitting an election to allocate. Since we were addressing this problem from an administrator’s point of view, we proposed the narrower solution to the administrative problem. We believe that *requiring* married couples to allocate is a policy decision and beyond the scope of our report.

We recognize that this proposal is the one key legislative recommendation that cannot be enacted overnight. It amounts to a significant change to our filing system. We intend to explore the issue of taxation of married couples from several different perspectives over the next few years. We will review State community property laws and their impact on Federal tax law as well as the treatment of tenancy by the entirety property. Each of these topics raise the truly thorny question of whether there should be, in this arena, a subset of property rights that are defined by the Internal Revenue Code and that trump State property law for purposes of the Code. We are taking a long-term view and hope to address a different aspect each year, which will allow for a full development and discussion of the issues.

The Causes of Tax Complexity

Clearly, no one in Congress or in the IRS sat down and said, “let’s try to make the Code so complicated that no one will ever be able to figure out even basic provisions like family status by himself.” Tax complexity creeps up on us—we try to eliminate a perceived abuse (as with the minimum tax in 1969), or carve out relief for one special set of circumstances (as with innocent spouse). We keep adding exceptions, limitations, and rules as other inequities reveal themselves. Certainly revenue considerations play a role. Sometimes we actually think we’ve solved a problem—as with the dependency exemption between divorced or separated parents under IRC section 152(e) in 1984—only to find that forces outside the Federal tax universe—here, State courts’ interpretation of their domestic relations jurisdiction—have foiled all our best efforts.

Tax simplification is anything but simple. It requires discipline and persistence. It really requires us to admit that we tried a solution that seemed the best at the

time, but that it turned out to need some more tinkering. Perhaps over time, as with the AMT, we will discover that our first solution missed the mark completely. We need to keep an open mind, view these provisions as controlled experiments, and learn from our misjudgements. Above all, we must have a firm resolve that while we are simplifying current law we do not enact new laws that further complicate the Code.

The National Taxpayer Advocate's Annual Report to Congress is one source of information about complexity and simplification. We have limited our proposals to provisions about which we have experience and which we believe are "actionable" and will significantly simplify matters for many taxpayers. I hope you find this Report helpful. On behalf of all the Taxpayer Advocate Service employees, I thank you for the opportunity to report on these matters, both in writing and before you in person today.



**MOST SERIOUS PROBLEMS
ENCOUNTERED BY TAXPAYERS**

1. Access to Customer Service Toll-Free Telephone Service
2. Multiple Definitions Of "Qualifying Child"
3. Determining Earned Income Tax Credit (EITC) Eligibility
4. Answers to Questions on Customer Service Toll-Free Lines
5. Documenting Earned Income Tax Credit (EITC) Eligibility
6. Refund Inquiries
7. Earned Income Tax Credit (EITC) Examinations
8. Understanding Estimated Tax Payments
9. Explanations on Math Error Notices
10. Processing Claims for Refund
11. Recertification for Earned Income Tax Credit (EITC)
12. Computing Income Tax Using Schedule D (Capital Gains & Losses)
13. Awareness and Understanding Federal Tax Deposits Requirements
14. Obtaining Employer Identification Numbers (EINs)
15. Misapplied Payments
16. Lack of Access to Free Tax Preparation for Low-Income Taxpayers
17. Processing Offer in Compromise Applications
18. Computing the Alternative Minimum Tax (AMT)
19. Determination and Notification of Revised Tax Liability
20. Cost of Electronic Filing for Low-Income Taxpayers
21. Automated Underreporter (AUR) Tax Assessments
22. Status of Innocent Spouse Claims
23. Delay in Receiving Requested Documents

Chairman HOUGHTON. Thanks very much, Ms. Olson. Mr. Coyne. Mr. COYNE. Thank you, Mr. Chairman. I was wondering, has Treasury reviewed your report and expressed support for any of the legislative recommendations that are made?

Ms. OLSON. Well, as you know, in the statute that governs the writing of the annual report, we are not supposed to submit this report either to the Commissioner or to Treasury prior to delivering it to you. But immediately after we delivered it to Congress on January 2 this year, I met with various members of Treasury as well as with the Commissioner and discussed these provisions in detail. They were very supportive of our provisions, and since that time,

both the Commissioner and the Secretary have come out talking in particular about the uniformed definition of a qualifying child.

I would also note that in the President's budget, there is language discussing their interest, their dedication to simplification, and they do discuss the uniform definition of the qualifying child. They do say that they are looking at provisions about alternative minimum tax (AMT) relief and various other items. So I can say that there is definitely support for our proposals.

Mr. COYNE. Are any of your recommendations included in the Administration's fiscal year 2003 budget?

Ms. OLSON. Not as line items is my understanding.

Mr. COYNE. How about the Commissioner? Has he taken any administrative action as a result of your report?

Ms. OLSON. The Commissioner read my report in full, and I have been told by my peers in the IRS senior leadership team that they have all received e-mails from him directing them to look at certain provisions and act upon them. So I think that judging from the ripple effect throughout the Internal Revenue Service leadership team, that there has been quite an amount of attention paid to the report.

Mr. COYNE. Do you have any recommendations to this Subcommittee and the full Committee relative to reforming the Earned Income Tax Credit (EITC)?

Ms. OLSON. I have to say that I think at this point, the problems with the earned income credit are primarily administrative. We need to figure out what to do about our audit situation. The legislative changes I believe that need to be made have to do with conforming the other family-related provisions to the definition of a qualifying child in the earned income credit, and I do think that there are things that we can do administratively much better with the earned income credit.

The Commissioner today is testifying that he is convening with Treasury a team, a task force, and a steering committee, a high-level steering committee on which I will serve together with the Commissioner and the Assistant Secretary for Tax Policy, Mark Weinberger, to look at the entire earned income credit process, the audit process, and come up with ways in which we can streamline this process, get better results at it and intrude less on taxpayers who have a right to claim the credit. And I think that is really where our attention needs to be right now.

The only fix that I would say that I would like to see is a more expanded definition of foster child in terms of the placement agency requirement. You know, we changed the law a year ago, I believe, to say that a foster child could be one that was placed in a home by a licensed or certified placement agency, and I believe that in the households of people who are eligible for that earned income credit, that does not happen very often. Placement is more informal, and what I would like to see is that we expand that definition to say where there is some sort of governmental agency, third party agency certification, that that child is living in the home, where we can rely on a local or State agency that has looked at that household arrangement, that we should be able to say yes, that child is a foster child in an informal sense. I think we can get

there with that kind of certification, but we need a legislative change to fix that.

Mr. COYNE. Are you far enough along with this recommendation relative to EITC to put a price on it, price tag?

Ms. OLSON. We are currently looking at that right now.

Mr. COYNE. What are the problems that taxpayers face in calculating capital gains tax?

Ms. OLSON. Well, there are several different rates and the form itself is very complicated and what we noted in our report was that 2 of the top 10 most common errors on the 1040 form are attributable to the schedule D, which is the capital gains schedule. Those errors are that people use the wrong percentage, the wrong tax rate, to calculate the tax, and then interestingly, the other error is that they are transferring one number to another line or form and they make an error in the transfer. If you have ever looked at the schedule D, there are a lot of lines there in addition to a worksheet and it is easy to get confused about the instructions for those lines.

Now, the service went back this past year and eliminated 12 or 14 lines off of the return and so they made it a simpler return in terms of that, but it still is a very complicated calculation.

Mr. COYNE. Thank you very much. Thank you.

Chairman HOUGHTON. Thank you, Mr. Coyne. Mr. Portman.

Mr. PORTMAN. Mr. Chairman, thank you very much. And Ms. Olson, I think you have provided us a great service. First just to clarify one issue that might be confusing to some, and that is, why you did not talk to the Treasury Department, tax policy people, or to the Commissioner in preparation of your report. It is because we asked you not to, and the reason we asked you not to is because we want this to be an independent appraisal by the Taxpayer Advocate. Sometimes there are tax policy reasons, some driven by complexity concerns, some different driven by political concerns that lead the Treasury Department down one path or another, and we wanted to be sure this was the unvarnished view of the Taxpayer Advocate as to what the major problems were, and I am delighted that this year you have focused not just on that, but on simplification ideas for the Tax Code that would make sense.

You have given us, I think, 23 of them and they are related and it is obvious in your report. We appreciate the way that you laid it out. For example, when you were talking about problems, problem number two was the multiple definitions of qualifying child and you described why that was a problem for people, that 44 percent over 3 million people who had math errors had them attributable to 5 Code provisions that provide basic benefits to taxpayers with children.

So clearly, there is a nexus between Tax Code complexity and problems that people are bringing to you and your Taxpayer Advocates out in the field around the country.

So I think this is a very appropriate way for us to get into the simplification issues. I will say that you have done two things with your report that came out in January. One is you have inspired the Treasury to be more focused on simplification than it might have otherwise been, and we have learned recently through this Committee that the Treasury Department is likely to send us some specific examples, if not legislative recommendations, over the next

several months. Perhaps not all at once, Mr. Chairman, but they are going to give us some specific ideas.

You have also inspired some of us to get to work, and I have put together legislation, as you know, working with you and with Treasury. We have 36 items in our bill right now and almost each of your 23 is in here, not precisely the way you had them, but very close in almost every case, including the uniform definition of a qualifying child. I know this Subcommittee, Mr. Houghton and Mr. Coyne, are interested in this because there is not the issue of the flat tax or sales tax, which are very difficult political issues, frankly, to get through the system. It is very important to taxpayers to just take the Code as we have it, and get under the hood and look at the mess that we have created through legislation over the years where you have, for example, several definitions of child when you could greatly simplify it for taxpayers by having one. So I really appreciate the service you have given, and I am glad you did it independently.

I do have some questions for you, but I will wait and see if we get a second round as my time has now expired. Thank you, Mr. Chairman.

Ms. OLSON. Thank you.

Chairman HOUGHTON. Thank you, Mr. Portman. Mrs. Thurman.

Mrs. THURMAN. Thank you, Mr. Chairman. Ms. Olson, we welcome you back and certainly appreciate the work that you have done, and as always, my district staff thanks your office for the work they do for our constituency and the information that you have provided us, in fact, to help folks out there. So we do appreciate that being an arm of it.

So again, we thank you. Maybe to follow up on Mr. Coyne's issue on the EITC, and particularly from a standpoint that, you know, the numbers we hear up here, a lot of people don't even know about it, don't file for it. Are we making any headway at all with employee/employer opportunities for the employee to sign up with an employer? Are we seeing any changes in numbers there at all?

Ms. OLSON. With the advanced EITC, I would have to say we are not. The IRS did, several years ago, do an intensive campaign and having represented taxpayers in this population and tried to talk them into utilizing, you know, face to face. I have had very intensive conversations about the benefits and how doing the calculations and saying this could go toward rent, there is a really strong behavioral urge to using the IRS as a bank. Taxpayers want that lump sum at the end of the year, and I am not sure what it would take to get that behavioral change.

I think that tendency would be very interesting to study, and I know that the IRS is beginning to do some behavioral economic types of studies, what drives taxpayers to do a certain thing, and certainly one of the most perplexing things has been people over withholding using the IRS as a bank. You see it very much in the earned income credit population.

The other thing I don't know about is that people in that population tend to be transient in their jobs, and they may be nervous that because they change jobs so much or they hold more than one job at one time, that they may end up owing at the end of the year, which I am not sure whether that could happen or not, but they

may be afraid. So there is probably a chilling effect from that as well.

Mrs. THURMAN. And I know you talk about tax simplification, which always is something we talk about, and I guess even in your report, there were some that said there is no constituency out there for that. Could you give me some ideas about what we might—could do? I mean, you simply just talk about definition of a child for the purposes of making some things easier. Where are some other things that we can look at that would be just as easy?

Ms. OLSON. I don't think—I don't know whether this would be as easy, but we are starting to look at the education incentives in the Code, and we listed that as one of our additional issues, that there are right now eight different tax incentives for education, and they have all sorts of different requirements. I am not sure whether you couldn't simplify them down to at least maybe a pot of three or four that would serve very different things.

So a taxpayer—I think many taxpayers feel frankly like chumps because they go through this list of things and they can't really tell whether they have got the right provision that would work the best for them, and maybe there is something else out there that would be better, but they just don't know and they can't figure it out, and I think sometimes it is an example of giving people too many choices is not a good thing. Giving them some choice is, and where the choices are discrete and they serve very clear purposes, that is very helpful, but when they serve shades of purposes, that adds complexity that taxpayers, as a rule, can't deal with.

Other areas we are looking at are the phase ins, phase outs, and again, the education incentives are a good example. There are different phase ins and phase outs for those provisions, and how does somebody walk their way through that?

I will say something about the uniform definition of a qualifying child. I decided to sit down with my return for the 2000 year. I have an adult son who is living with me right now. He is medically disabled right now, and I claimed him, as a head of household, for a dependent and I said well, I will just go through the forms that someone would have to do. It took me 8 hours one day to add up all my expenses in order to entitle me to those provisions, and it took me 6 hours the next day to fill out the form, and the documentation that would have been required of me in an audit and that is how long it took someone who has a Master's of Law in Taxation and a few other things under her belt.

So if you want the big ticket item on simplification, it really is the uniform definition of a qualifying child. You have the area of the alternative minimum tax which is a big area and really needs to be looked at. We had a phone call from someone the other day who had a son who was 8 years old, his father had died, and the son was receiving his father's pension benefits, and because the child was under 14, that pulled him into the alternative minimum tax under the kiddie tax system, so he ended up paying AMT on this income that was coming to him in that situation and you just—what can I say?

Mrs. THURMAN. Thank you.

Chairman HOUGHTON. Thanks. Mr. Foley.

Mr. FOLEY. Thank you, Mr. Chairman. Some of my colleagues have made a sport out of bashing the IRS and at times it may be warranted, but it seems like we have a responsibility as well. Where do you think Congress has failed or at least how have they created some of the complexities that you described?

Ms. OLSON. I take the point of view, and I have spoken about this, that complexity isn't necessarily a failure. It creeps up on us. You know, that when these new provisions, for example for a child, come in there is a reason why Congress did these differences, whether it was a revenue reason, or that you were trying to target it for a particular population, but it does create that complexity, and then there is no moment in time where you stand back and say what have we done here to the rest of the Code?

And I think that there needs to be some sort of device that is built into our system where we just sit back and say whoa, Nelly, let us take the overview and just see whether over a period of 5 years we have created some things that are having unintended consequences. I think the unintended consequences of tax law are the greatest source of complexity, and we have no mechanism built in to review these tax laws and come together like a hearing here to say what have we done, and do we need to regroup.

Mr. FOLEY. That is an interesting suggestion because in the legislature, we always had sunset provisions on laws that we would establish, so at least in 5 year periods, we could reflect on the need for it at the time and does that need still exist, but there is no mechanism, and it seems like every week we are adding some new dilemma to the Tax Code by changing something, maybe beneficial for some, maybe not.

I was noticing in your report, though, you had some very significant recommendations on AMT and we all, again, on this Committee, talk about AMT, and yet we never really seem to figure out how to really fix it. You have what I think is a very significant and simple way to do it. Would you elaborate?

Ms. OLSON. Well, we approached the AMT from the Tax Administrator point of view, which I think I identified pretty well in the report which was looking at the Joint Committee on Taxation's estimate that 35½ million taxpayers would become subject to it in 2010. And the people who will become subject are middle class taxpayers, most of whom do not know that the AMT exists, and so what I was looking at as a Tax Administrator, was we are going to be sending out 35½ million notices to people saying you thought you filed your return correctly but surprise, you owe more tax. That is not going to sit well with these people, and it is going to really foul up our system in trying to collect that.

So we thought, well, if you cannot repeal the AMT in full, there may be three ways that you could go at it to peel off some taxpayers without quite the large price tag that a full repeal would have, and the first one was to say that the exemptions on the AMT had not been indexed for inflation really, since they were first enacted in the 1980s, and if you indexed them for inflation, you peeled off about anywhere from 400 to 500,000 taxpayers based in 1998. If there were about 900,000 taxpayers paying AMT in 1998, you could peel off about 4- or 500,000, and that only had a revenue impact of about 25 percent of the AMT revenue.

The other one that I particularly liked because it went to simplification in two ways was to say could we take a number off the face of the return, and just say if your income was under this amount, then you are not into the AMT?

And we took a look at where the people who were paying AMT in 1998 were clustered, and it seemed like there was a threshold of about 200,000 of gross income where we could peel off people. The interesting thing about the AMT is that it was originally designed to get the very wealthy who were not paying taxes, and in fact, we have as many, if not more, of that category of people today who are not paying taxes, and we are not catching them in the AMT.

So what we are doing with the AMT is we are catching the middle class, and we are not catching the people it was originally enacted to catch back in the 1970s.

Mr. FOLEY. So you basically have a bracketing approach? You look at a number and decide whether you are eligible?

Ms. OLSON. Yes.

Mr. FOLEY. Let me ask one other question, because our time will expire, and I will have a chance to ask others. The IRS is planning to implement the National Research Program (NRP), which is a nice academic name for plain old random audits. Given past taxpayers' complaints about the random policing, if you will, how can we make sure that this area of audits aren't going to be subjected to the harassment aspect that some taxpayers view it as?

Ms. OLSON. I am very sensitive to this issue because as a tax practitioner, I have sat through and represented taxpayers in the old Taxpayer Compliance Measurement Program (TCMP) audits, and they were, in fact, excruciating. They were no fun for the taxpayer, for myself or for the auditor for that matter. I was briefed early on in the NRP program and raised several concerns which the Service did, in fact, address in their current proposal. The truly random audits are limited to a very small number, and I think where you can avoid the—what might feel like harassment is to do reviews of those as they are going along so that there is no trailing time between when the audit is completed and a review is done. Someone, a disinterested person is looking at what happened and can stop it if something is going on that would look like harassment.

I am comfortable, and I say this with some thinking about it, that the Service has really listened to what Congress and practitioners have said about the old TCMP audits, and has really tried to come up with an approach that will give us some current data without doing the invasive techniques that we did before.

Mr. FOLEY. Thank you.

Chairman HOUGHTON. Thanks, Mr. Foley. I have got sort of a broad question here. You say on page 8 of your testimony that it is a very difficult practice, and the tax system relies on voluntary compliance to draft laws to develop procedures that differentiate between habitual or chronic offenders and the taxpayers who simply make a mistake. Elaborate on that a little bit, will you.

Ms. OLSON. Well, we really need to have a better approach to our audit approach, and I think that complexity lets people make easy mistakes and then they are easy also for us to catch and we put

our resources to those easy mistakes rather than to the ones that are causing people to feel like you are catching me, and I know so and so down the block is doing something even more egregious, and you are not even finding him. That really is a backwards way of administering our tax system, and I think complexity to some degree breeds that.

Chairman HOUGHTON. Okay. We will have another chance to get another question.

Mr. COYNE. No.

Chairman HOUGHTON. No questions. All right. Mr. Portman.

Mr. PORTMAN. Thank you, Mr. Chairman. I can't leave our Tax Advocate without talking about telephone assistance. You did list it as, I think, the first and fourth most serious problems still facing taxpayers. This has been a huge frustration for many of us including me. In our Commission report, we focused a lot on the fact that you are never going to get an IRS that works well until you deal with that frontline taxpayer issue, calling on the phone, which is the way most taxpayers access the system.

You also need to simplify the Tax Code which we talked about a lot in our report, but we have got to figure out a way to get these phone trees to work better and so on. I know we have made improvements in the last 3 or 4 years, in fact, fairly dramatic improvements, but still there is a huge problem when such a high percentage of taxpayers can't get through. I have seen the U.S. General Accounting Office (GAO) study and I have seen other studies and I don't know if I should throw a number out, but it is close to half of the taxpayers are having some frustration when they call, they can't get through or they are getting responses that are not accurate. Your report, again, highlights it as a problem both in terms of access and responses.

Can you give us just your personal view this afternoon as to what the IRS needs to do right now in terms of enhancing its phone service?

Ms. OLSON. Well, we have created an advocacy project to monitor this, and we have decided to take pieces of the phone service to see what we can learn from it and then make recommendations. So I am speaking a little prematurely about where we may come out as a result of that advocacy project. I have talked to a lot of people about this. They tell me that we have, you know, new technology that is in place or is going to be in place that will help us get to a better response rate, accuracy rate, you know—well, response rate on the phones.

The second thing they tell me is that the specialization of training the assistors will help so that when you do get to somebody on the phone, you are dealing with someone who knows the answer or can find it. Historically, what they did was they had a big book in front of them and they needed to know every answer to everything, and now we are trying to make sure that the people who are answering the phone are being—they are receiving the calls that they are trained specifically to answer, so that there is a greater chance that you will get a correct answer.

I think it has got to be that we stay on course with what we are doing now, and not let up, and frankly the oversight function of you all and of GAO does serve a purpose because it drives us forward

on that. I think Chairman Levitan can speak to a greater depth about the kinds of additional resources that we might need, but what I see is we need the wherewithal to stay on course, keep training those people and keep watching, not letting up.

Mr. PORTMAN. What do you believe the percentage is of taxpayers who do not get through?

Ms. OLSON. I don't know whether I can—the percentage, I have pulled some numbers and it varies from day-to-day. Taxpayers who get through averages 70, 69 percent. Last Monday we had 1.2 million calls. The only day in the history, since we have been recording this, of the IRS where we had over a million calls, was last summer when there was an announcement about the advanced payment of taxes. This filing season, we have had 2 days, a Monday and Friday, where we have had 1.2 million calls, and that response rate went down for a while in the 20's because we just can't deal with that kind of volume, and what you also see is that the wait time is a very long time, and then your abandon rates go up.

What we did with that advanced rebate, those calls, when we realized that there was some confusion about the advanced payment and people were calling us on our refund line, huge numbers of people calling us on our refund line, was we put out a press release, but we also changed the script on the refund line so we could explain very clearly before they had to go anywhere further into the system, and maybe get their answer just right up front, and we found that, in fact, that made a big difference once you started tracking those numbers.

Mr. PORTMAN. If the Chair would indulge me, I think that is an important issue to get your perspective on because there is a lot of confusion out there over the \$300, \$500, \$600 checks that went out last summer. These were rate reduction credits. Some people are now believing that this will result in their having to pay higher taxes on their 2001 income tax returns. That is not true. They will retain the benefit of those credits for the 2001 taxes. In fact, their taxes will remain lower and continue to be lower because of the tax relief we put in place. It is an advanced payment that went into effect January 1 of last year.

Can you explain this afternoon to just set the record straight so that taxpayers who might be watching this or those of us who might be in a position to get out there and talk about it can understand it better as to what the real story is, and what those taxpayers should be doing with those returns?

Ms. OLSON. Well, that line on the return is only to be used by those taxpayers who did not receive that credit earlier in 2001 mailed out to them as a separate check.

Mr. PORTMAN. And again, this is the \$300 for individual or \$500 for household or \$600 for couples checks that went out last summer.

Ms. OLSON. Right. And so it is an opportunity for them to claim it on this year. They are not required to put what they received in 2001 as an advanced payment on that line and add it back in as a payment and have it subtracted out from their refund. If they received the money earlier, they are not to put anything on that line. One of our press releases says specifically that your tax return preparer may ask for that information, but that is only to make sure

that you either received it or they need to put an entry on that line, don't get confused by that.

So we have tried very hard to explain what it is, but it is a new line and there has been a lot of misinformation out about there. What we do see is people filling this out incorrectly, and we have had to pull returns off line and do adjustments, spend our staff time to deal with these.

The Taxpayer Advocate Service, since the checks first started going out last fall, have had about 3,400 cases dealing with the advanced payment, and we currently have 228 open cases where people are confused, they haven't gotten it, they don't know what is happening with their payment, whether they claimed it on their return and they shouldn't have or they didn't claim it on their return and they should have, and they have already filed their return.

Mr. PORTMAN. But it is clear that does not need to be filled out—

Ms. OLSON. It does not.

Mr. PORTMAN. If somebody indeed did receive it and that is line 47 on the 1040?

Ms. OLSON. Correct.

Mr. PORTMAN. Thank you very much. Thank you, Mr. Chairman. Chairman HOUGHTON. Thank you. Mr. Foley.

Mr. FOLEY. Thanks again, Mr. Chairman. One further question relative to the IRS service. It seems they have made significant progress, and one thing I feel terrible for is some of the agents in the field and those who make a great living working for the U.S. Government and the taxpayers but are somewhat put upon because of the constant finger pointing, again, at whatever. I sense there has been reform, I sense we are making progress, I know we are not perfect, but have you noticed that their response to inquiry from taxpayers, their helpfulness in the 800 numbers, the weekend opportunities people can go to the IRS, is that starting to take effect with the culture?

Ms. OLSON. I think it is making a difference. You know, everyone has recognized that we need to work harder on our field assistance. I think what people are seeing, though, that the two really important initiatives have actually started working now, which are TEC (Taxpayer Education and Communication) and SPEC (Stakeholder Partnerships, Education and Communication), which are the pre-filing educational function of the wage and investment division and the small business self-employed, and they are really geared to going out to taxpayers even before they walk into walk-in centers with problems, to tell them how they should be going about ordering their affairs to avoid problems later on, and it is very important in the small business community to have that kind of proactive approach rather than wait until the return filing day, and I think just being out there among taxpayer groups, practitioner groups, helps enormously in terms of when you actually do have a problem, you are not feeling that you have been attacked necessarily, that maybe there is someone that you can call up, it is part of a continuing—the IRS wants to help you rather than the IRS wants to get you.

Mr. FOLEY. Another issue that came up recently is from the private sector the entrepreneurial businesses that prepare things like Quicken Books and things that help taxpayers prepare their taxes.

They use automation, they use computer models and what have you, and they help you expeditiously prepare your own taxes. There has been a proposal, I understand, by the IRS, to do that themselves in-house, and of course, that reaches and causes hackles amongst those who are in the entrepreneurial sector.

As they say, it has been done in Europe before and they were fraught with error problem, the system was unable to really process, there was no user fee services where they can call up that 800 and get help with it.

Do you think that is the right course for the IRS to compete against these companies and create their own online filing service?

Ms. OLSON. Well, the approach that I would like us to take is that we are not competing, that we are actually partnering with them. I had a very interesting briefing with some folks from Oklahoma, the Oklahoma State Tax Agency, and what they have done is that they have decided that they want to make on-line filing available to the citizens of Oklahoma for their State returns, but they have contracted that out with the private sector. So they are not creating the software, the private sector is, in fact, creating it and they are paying a fee per return.

They just contracted out an agreed amount for the original return and then X amount for each additional page that is submitted through these portals that are basically coming into the agency. So the agency gets the benefit of electronically-filed returns, the taxpayers get the benefit of not paying a fee to file, and then the private entities are actually the people who are delivering the software.

I think that there are combinations of that kind of service. If we did a bare bones return like that, I think that that would appeal to a group of taxpayers, but there are always going to be people that want the tax preparation services and the ongoing relationship with the preparers.

The Commissioner and folks from Treasury did meet with Members of the software community last week, a couple of weeks ago, and I was told it was a very, very productive meeting where we talked about how we could partner together rather than looking at it as competition, and I will do everything I can to encourage that because I think that that will drive us again to that goal of achieving electronic filing.

Mr. FOLEY. I think that is helpful because I think if we endeavor to do it ourselves in-house in the IRS, then there will be a lot of problems where at least in these other sectors, they can call and get backup and software updates and all the things. So I urge you to make that recommendation to Treasury. The final question, and I see it in your package here, your presentation, joint and several liability, and it was unusual, but I got a call on Monday on this very issue where a woman I have known for years, who will remain nameless, her husband had a business, an ongoing business, and incurred significant liabilities for whatever reasons. I don't know all the background. But she is in tears because she was told by the agent who she was talking to relative to these payments that the only way to separate herself was to go ahead and get a divorce.

Now, she has been married 30 years, and that was not the intention when she was making the inquiry. I don't want to get out of

my relationship. I would like to keep my relationship, but why am I being brought into this arrangement since I am not a shareholder of the company and my husband has had problems, yes, but now you are talking about garnishing my wages. You mentioned the innocent spouse provision, relief under IRC, Internal Revenue Code, section 6015, threatens to become an exception that swallows the rule.

How in theory or practice can we assure that men or women, regardless, it could be the other way around, the woman could own the business, how do we ensure that that spouse who is doing everything they are supposed to be doing, they are making their payroll taxes, they are doing all, isn't brought into that kind of web because of the other spouse's negligence, failure to remit?

Ms. OLSON. The proposal that we came up with, which was an attempt to avoid all the inquiry into whether the tax—the one spouse knew or had constructive knowledge about this business or that they didn't report all the income that they had, which are truly intrusive inquiries, was to go to the front-end and let us allocate out the items on a joint return. What we are doing with the divorced and separated spouses under current innocent spouse relief, going back after the fact and saying okay, you can allocate it out and we will only hold you liable for this portion of it, that is very difficult to do because you are usually years down the road, and it is a result of the divorce, so sometimes you don't have records and things like that.

But we have talked about this a great deal and really felt that if you gave taxpayers the option, that those taxpayers actually do think about well, this is his sole proprietorship, this is my W-2, and they would be—most taxpayers really would be able to fill out two columns, and in fact, many States have those two columns on their forms and taxpayers have the option of filling out two columns and then combining their payment at the end of—their taxes at the end of the day.

The big issue in that kind of filing system is if you are getting rid of joint and several liability in that way, by saying that you get to, on the form, allocate out your items just on the tax return, is what do you do about jointly held property and tenancy by the entireties property, and we basically punted on that and said that's a big issue, the Supreme Court is hearing a case this session, you know, maybe that will be answered; if not, we will take a stab at it. It is a big issue and it is a hard one, but we didn't think that it was something that should stop us from discussing this—

Mr. FOLEY. I am sure certain there are issues where a spouse has been actively engaged in the business and probably deserves to be held liable for their tax due, but—

Ms. OLSON. Right. If you have been engaged then maybe that should be on your column.

Mr. FOLEY. Right. But is that now our fault at the IRS for not having that documentation early enough where they are able to discern up front what their liabilities will be, because it seems if you file jointly as a couple and don't predetermine this, and that then you are falling into a trap not set by yourself but set by the form.

Ms. OLSON. It is set by the law because the law says joint filing, and we really have no authority to allocate it out, and currently the only relief we could give a married taxpayer under innocent spouse, under 6015, is if that taxpayer had no actual knowledge of what was either underreported or over-deducted on the return or had no reason to know.

Mr. FOLEY. That is an area, I hope Mr. Portman, as he looks at his bill and talks about that, this is a significant area and hope you will consider that.

Chairman HOUGHTON. Mrs. Thurman.

Mrs. THURMAN. Thank you, Mr. Chairman.

Ms. Olson, I noticed in your document that one of the things you also talk about is penalty and interest issues, and we know about those from hearings from before, and you had suggested maybe to have the ability to waive penalties for a first time offender. Over the course of the years, we all get constituent cases, and I had—you may remember this case, but whatever.

What about having the ability to provide refunds for innocent mistakes or when 1040's have been lost through no fault of their own, like hurricanes and some other things? We had an awful case that we had just been working on and working on, and we have never been able to resolve it. His papers were destroyed, although he had some information that he should have been able to receive the dollars back of what he had paid in, and they have just said no. Would we also look at those penalties being waived but in this case, look at ways where somebody could prove that they deserved a refund, that that would be an opportunity for them to ask for some kind of a waiver as well?

Ms. OLSON. Well, you know, to me, that is less a waiver question than it is how we are training our employees, because as a person who formerly represented taxpayers, and took, often, many cases like that to Tax Court, you would go through audit and you would come up with the worst result possible. The answer was, well, I can reconstruct these records, or I can sort of demonstrate it by third party evidence or my mileage—and they would say no, no, no.

And when you would get to court and you would be sitting opposite an attorney who had settlement authority, you know, you would work out some deal and often it would come out that maybe the taxpayer was entitled to a refund, and you could get it that way. I would like to see that approach moved further down along the administrative system so people aren't having to go to court because many don't.

Mrs. THURMAN. They can't.

Ms. OLSON. They fall out. They can't afford it, they are scared, they give up. How can we get to that, to the front line employee who is handling those things? And there is probably a break-even point where that kind of discretion should rest, but you need that.

So I don't know that we need a waiver then, just that we need better guidance to our employees about how to handle those kinds of cases.

Mrs. THURMAN. Thank you.

Chairman HOUGHTON. Thanks. I have just got a couple of questions to wrap this up. You, in your previous life, were founder of a thing called Community Tax Law Project, which was really inter-

ested in low income tax payers, and I wonder whether some of the low income tax payers are being caught here, people who do not speak English, and particularly ones who are exposed to our complex tax laws. Do you want to elaborate on that a little bit?

Ms. OLSON. I think, particularly for the low income tax payers, the family status provisions are the big playing item for them. They may have so little income that they cannot, in an audit situation, prove that they provided more than half the support, and many of them keep paying things in cash. They don't have checking accounts. They don't have documentation.

For the ESL, English as a second language, taxpayers, some of them have immigration issues. So there is this basic fear of the Internal Revenue Service, and we see nonfilers or we see that they can't get Social Security numbers, and they are making up Social Security numbers.

It is very difficult to deal with these populations and bring them in the fold. And complexity for them, I mean, you have someone who is able—if you live in Mexico and you can claim your child as a dependent, if you are working in the United States and your child is in Mexico and you are sending every dollar you make down to Mexico, you can claim your child as a dependent, but your co-worker may be from El Salvador, and he may be sending every penny down too, but he can't claim his child as a dependent because that is the way our law is written. That leads to mistakes. Their co-workers, they will talk about it, they will go to their tax preparer. The El Salvadorian will say I want to claim my child. Now you have got a mistake and we have to audit it. We have to pick it out and deny it. And in many instances, those people have gotten loans against their refunds, you know.

Chairman HOUGHTON. This was a 501(c)(3) operation that you had—

Ms. OLSON. Yes.

Chairman HOUGHTON. But is there anything you feel the government should do more in that regard?

Ms. OLSON. Yes. With regard to—

Chairman HOUGHTON. With regard to helping the low income—

Ms. OLSON. Yes. Absolutely.

Chairman HOUGHTON. People who were totally buffaloed by the complexity of the system.

Ms. OLSON. Absolutely. The Taxpayer Advocate Service has been doing a research project to find out what are the best ways for us, ourselves, to do outreach to that community, and I mentioned SPEC, Stakeholder Partnership Education and Communication, earlier today, the outreach part of wage and investment. They are truly focusing on that and working with Health and Human Service agencies in the State and local level to find ways to get information out to welfare populations, working with various Hispanic groups and other immigrant groups to get information out. So I think there is very much a consciousness of that.

Chairman HOUGHTON. Okay. Well, thank you very much. I have got just one last question. We have kept you too long here and I appreciate it. I have got a piece of paper here that says the most serious problems encountered by taxpayers—it came out from your

office, and there are 23 issues but if you were to give us the top three, what would they be?

Ms. OLSON. Well, you know, we have said the phone service, we have said the earned income credit eligibility, and I guess even though I say I don't want to say it, but the complexity of the tax law, the uniform definition of a qualifying child, it just trips everybody up. That is a legal issue. The earned income credit eligibility I think is an audit procedure issue. It is something we can fix, and the phone service is something we can fix.

Chairman HOUGHTON. Right. Well, thanks, Ms. Olson, very much.

Ms. OLSON. Thank you.

Chairman HOUGHTON. We appreciate your time and you have been very helpful to us and hope to see you again. Now what I would like to do is ask Mr. Levitan to come up and testify. Mr. Levitan, as everyone knows, is Chairman of the Oversight Board. Thank you for coming, and you can begin your testimony anytime you want.

**STATEMENT OF THE HON. LARRY LEVITAN, CHAIRMAN,
INTERNAL REVENUE SERVICE OVERSIGHT BOARD**

Mr. LEVITAN. Mr. Chairman and Members of the Subcommittee, thank you for holding this hearing and inviting me to testify. It is an honor to appear before you today on behalf of the IRS Oversight Board and to discuss our first annual report. Let me preface my remarks by acknowledging the role that this Committee had in the passage of the IRS Restructuring and Reform Act 1998. That legislation created the IRS Oversight Board, and more importantly established a strong foundation for a new and greatly improved IRS.

Since its inception in September 2000, the Oversight Board has acted to meet its responsibilities as defined in that landmark legislation. The report I am discussing today reflects what the Board has learned during its first year of operation. I would like to summarize my written statement and focus on areas that are particular interest to this Subcommittee. Two major topics addressed in our annual report were an evaluation of the current state of the IRS and an assessment of how the IRS got into that state.

To briefly summarize the Board's finding on the state of the IRS, we found that it is still not effectively and efficiently serving the needs of the American taxpayers, although it has made significant progress since 1997.

For example, customer service, although improved, has not risen to desired levels, and enforcement activity has fallen for many years to what we now believe is a dangerous level. These problems are compounded by outmoded computer systems that handicapped IRS workers and prevent effective service from being delivered. On the positive side, we found that the IRS is making progress and has put in place several key elements that establish a foundation for further progress, including a commissioner with a fixed term and a management background, a major reorganization designed to better focus on customer needs and provide clear accountability, a strengthened senior management team and a business systems modernization program that will eventually provide modern business processes and tools for employees and taxpayers.

I want to dwell a moment on modernization, because the Board believes that the IRS cannot continue to operate with its current technology and methods of doing business. These problems cannot be fixed with short-term improvements. Real and lasting improvement will only be realized with the successful implementation of the modernization program. The Board is pleased that the modernization effort is being conducted in accordance with the logical and well-thought out strategic plan. The challenge for the IRS, and I am afraid that it is a significant challenge with many risks, is to execute that plan effectively.

The Board's report presented data on four factors that influenced how the IRS got into this current state of operations: Number one, growth of the number of transactions, especially complex transactions, complex tax returns; decline in the number of IRS employees; past failures to modernize its outdated technology; and finally, the complexity and the growing complexity of the Tax Code.

I know that this Subcommittee is particularly interested in Tax Code complexity and its impact on tax administration. Although the Board's charter is tax administration, not tax policy, there is clearly a relationship between the two. Although it would be inappropriate to say that complexity is the cause of the IRS's performance problem, it is fair to say that Tax Code complexity is the enemy of efficient tax administration. Complexity negatively impacts customer service, enforcement and public attitudes.

One way that complexity affects customer service is by increasing the need of taxpayers to contact the IRS and lengthening the duration of their calls. It can affect enforcement by delaying the resolution of cases, stretching IRS resources, and adding interest and penalty costs to taxpayers. The effect of complexity on taxpayer attitudes can be insidious. The infamous *Forbes Magazine* of last year entitled "Are you a Chump?" identifies complexity as a causative factor in the rise of aggressive tax shelters and erosion of public confidence in our tax system.

To test taxpayer attitudes, the Board had a survey conducted last year. The results are in our report, but the bottom line was that a significant drop in attitudes about the acceptability of cheating occurred from 1999 to 2001. My comments on the complexity of the Tax Code and the need for simplification is not new news, and I am sure not a surprise to anyone.

Every taxpayer in the country knows that the Tax Code is ridiculously complex. Every Member of Congress knows the same thing. Many of you speak frequently and eloquently about the need to fix this serious problem. Despite this widespread understanding, the problem remains and grows worse every year. Only Congress can fix it. The IRS Oversight Board strongly supports Tax Code simplification. It will be good for the IRS, it will be good for the overburdened taxpayers, and it will be good for the country. The time for meaningful action is long overdue. I want to thank you again for this opportunity to testify, and I would be pleased to answer any questions.

Chairman HOUGHTON. Thanks very much, sir.

[The prepared statement of Mr. Levitan follows:]

Statement of the Hon. Larry Levitan, Chairman, Internal Revenue Service Oversight Board

Mr. Chairman, and Members of the Subcommittee, thank you for holding this hearing and inviting me to testify. It is an honor for me to appear before your Committee today on behalf of the IRS Oversight Board to discuss our first annual report to Congress.

Let me preface my remarks by acknowledging the role that this Committee had in the passage of the IRS Restructuring and Reform Act of 1998. Since its inception in September 2000, the Oversight Board has acted to meet its responsibilities as defined in that landmark legislation. The report that I am discussing today reflects what the Board has learned after its first year of operation.

The Oversight Board has found that the IRS is still not effectively and efficiently serving the needs of the American taxpayers, although it has made significant progress since 1997. Customer service, although improved, has not risen to desired levels and enforcement activity has fallen for many years. These problems are compounded by outmoded computer systems that handicap IRS workers and prevent effective service from being delivered. It is not surprising that this environment has resulted in dissatisfied taxpayers and inadequate job satisfaction among IRS employees.

On the positive side, the IRS is making progress and has put in place several key elements that establish a foundation for further progress, including a Commissioner with a fixed term and a management background, a major reorganization designed to better focus on customer needs and provide clear accountability, a strengthened senior management team, and a business systems modernization program that will eventually provide modern business processes and tools for employees and taxpayers. The entire modernization effort is being conducted in accordance with a strategic plan that has been approved by the Oversight Board, and monitored by balanced performance measures that will provide Congress, the Administration, the Oversight Board and other stakeholders a quantitative means to evaluate progress.

Neither the IRS nor the Oversight Board is satisfied with the current state of IRS' performance. The Board's report presents data that indicate the IRS needs to improve its performance in three dimensions: productivity, customer satisfaction, and employee satisfaction.

Performance measures for the key areas of customer service and enforcement were troubling to the Oversight Board. Customer service metrics pertaining to both level of service and quality associated with toll-free telephone operations need considerable improvement. Quality levels at IRS walk-in sites are just being baselined and need attention. Because of the link between employee and taxpayer satisfaction, employee satisfaction levels for these and other operations also need improvement.

An effective IRS is an important part of our government, and the IRS can ill afford to fall behind. Old technology, a growing economy with more tax transactions, reduced IRS staffing levels, and an increasingly complex Tax Code have created a situation where the IRS must make up a lot of ground. The Board believes that a private sector company that fell behind this dramatically would find its very survival threatened. However, failure is not an option for the IRS. Our society depends on a tax administration agency that can help taxpayers understand and meet their tax obligations and effectively enforce the tax laws.

I know that this Subcommittee is particularly interested in Tax Code complexity and its impact on tax administration. My fellow panelist, Nina Olson, the IRS Taxpayer Advocate, has made a compelling case in her annual report that Tax Code complexity negatively affects the American taxpayer.

The Oversight Board is concerned that the broad decline in enforcement activity increases our reliance on voluntary compliance, and fears that the public's attitude towards voluntary compliance is beginning to erode. Because of this concern, the Oversight Board initiated a survey to obtain data on taxpayers' attitudes regarding their obligations to report and pay their fair share of taxes. The survey, taken in August 2001, asked two questions from an earlier 1999 IRS survey and three new questions.

The survey results are included in the annual report, but the most troubling result was in response to a question that asked how much, if any, do you think is an acceptable amount to cheat on your income taxes. In 1999, 87 percent of the respondents replied "not at all." In 2001, the percentage of respondents who selected that answer fell to 76 percent.

The Oversight Board is reluctant to assign too much importance to a single survey, but intends to repeat the survey in 2002 using the same questions. There is cause for alarm if this trend continues.

To better understand compliance issues, the Oversight Board believes there is an urgent need for the IRS to increase its research on taxpayer compliance so it can identify and correct broad areas of taxpayer noncompliance. The IRS is developing a new program, the National Research Program (NRP), that will provide the necessary research. Past approaches were viewed by Congress and taxpayers as too intrusive, and the IRS is designing the NRP to lessen taxpayer burden while still obtaining a sample sufficient to produce meaningful results. The Oversight Board supports the NRP and requests Congressional support for this program.

The long-range solution to many of the IRS' problems is to modernize its business processes and information technology. The IRS' Business Systems Modernization (BSM) program is designed to transform both IRS' business processes and information technology into modern, efficient processes and systems that incorporate world-class best practices. The BSM program has been progressing slowly, limited primarily by IRS' capacity to manage the program. Efforts from inception to date have focused on establishing an enterprise life cycle, a standard architecture, and low-risk projects. In 2002, however, several major deliverables are scheduled, and the upcoming year will be a test of the IRS' ability to manage this program.

The longer it takes the IRS to modernize, the longer taxpayers will be deprived of the benefits of improved IRS processes and systems, and be forced to endure the inadequacies of antiquated systems in place today. Even under the best of circumstances, it will take the IRS far too long to complete its modernization program. The Oversight Board recommends that BSM be accomplished as quickly as possible, consistent with the IRS' ability to manage the program and absorb change. The private sector has already learned that accomplishing programs in as short a period as practical actually lessens overall cost and risk. To increase the pace of modernization, all organizations involved in BSM must do a better job. The Oversight Board's recommendations for key organizations include:

- The IRS must improve its program management ability, work more effectively with the PRIME Contractor, and manage/implement change more effectively.
- The PRIME Contractor must understand and achieve its responsibilities to deliver business results within budget and on schedule and improve its breadth and depth of skills.
- The Administration must understand the importance and critical nature of the situation, support the long term plan, including increased investment levels, and hold the IRS responsible for meeting the plan.
- The Congress must accomplish the same tasks as the Administration, and, in addition, speed up the process for review and release of BSM funding.

Oversight organizations must rationalize their roles to the extent possible and eliminate unnecessary overlap, leverage assets to advise in a more effective manner; and recognize that quality cannot be achieved by repetitious, and at times, inefficient inspection.

Notwithstanding the need for a long-term modernization program, the IRS must also improve in the short term. Potential means of realizing short-term improvements may be organizational changes, process improvements, or modifications to the legacy technology base.

An IRS that performs better requires adequate funding as its workload continues to increase. As discussed in our interim report on the FY2002 budget, inadequate funding and resources will make it impossible for the IRS to meet any of its strategic objectives. The IRS still has a long way to go to reach the level of performance envisioned by both the IRS Restructuring Commission and the IRS Restructuring and Reform Act. Failure to provide adequate funding will deprive the IRS of resources it needs to make improvements in customer service and compliance.

Chairman HOUGHTON. Mr. Portman.

Mr. PORTMAN. I thank you, Mr. Chairman and thank you, Mr. Coyne, for allowing me to go first. I have another meeting I have to go chair, and I apologize I can't stay for your entire question and answer period, but I want to start by, again, thanking you for stepping up to the plate and be willing to take on this arduous task. It is a very important task as well as difficult, and frankly I am a little discouraged by your report. I am an eternal optimist and I had hoped that by this time, having passed the legislation in

1998, hoping that the Oversight Board would have gotten in place a year and a half before it did, that we would have better news. At the same time, you did point out two things that are interesting.

One is that there is restructuring going on that is a positive, and there are a number of positive management or reorganizations efforts taking place; second, that modernization is taking place. We have made huge strides there. At the same time you acknowledge we have a long way to go. Second, you talk about some of the external factors that are affecting this, and it is almost as if as we are beginning to get the IRS back up on its feet and as we are getting some better feedback back from taxpayers as to service, additional problems are arising that make it even more difficult to stay above the course, and just stay above water. One is, just the number of returns we are getting and the amount of money coming in.

I think in the last 10 years the amount of money has almost doubled that comes in from taxpayers in a period of time of just 2 years. I think you point out in your report 1998 to 2000, we had an increase of 18 percent on the number of tax returns, and during that same time, the number tax returns examined decreased by 60 percent. And that is partly because we put more funding into taxpayer service, front line activities as well as a modernization efforts which are extremely important, and that is the only way, long term, we are going to see the kind of improvements you would like to see is through modernization.

Then you also talk about complexity, and I am glad you have added your voice to that this afternoon. We don't expect you to give us the answers. That is more in our bailiwick Treasury and Taxpayer Advocate, perhaps, given the nexus we talked about earlier. We need you to tell us how to make this thing work with the bad system we have but your voice is appreciated, and it is heard by this Subcommittee, and as I said, we are working on legislation to try to at least get through what we can in this budget environment because a lot of that complexity, simplification of those complex rules will result in additional revenue being needed and that is difficult to find.

Obviously, the best example of that is alternative minimum tax which may be \$300, \$400, or \$500 billion in lost revenue over a 10-year period we look at. My question to you is this: Given what I view as your kind of mixed picture of results at the IRS, first in general, are we on the right track, at least given all these external factors and the other things that I discussed, number one; and number two, is the Board working? Again it got in place because of some foot-dragging, I believe, by the Clinton Administration and perhaps the Senate to a certain extent, but once you got in place, it seems to me you found the right people, you have got a great Board, you have got people with experience and knowledge and commitment including yourself.

Is the Board working as you envisioned it, and as was envisioned in the report that Mr. Coyne and I were a part of? If you can answer those two questions, I know they are general, but it would be most appreciated.

Mr. LEVITAN. Mr. Congressman, the IRS is on the right track. The first thing that they have put into place, and I am very pleased with this, is a very logical, very thorough, and very mean-

ingful strategic plan. I have dealt with troubled organizations my entire career, and typically they fall into a number of categories. Many of them don't even know they are in trouble. Others know they are in trouble but don't know how to fix it.

Others are developing a plan to fix their problems and then finally executing the plan. The IRS knows they are in trouble, knows what the problems are, has an excellent plan to fix it and is in the process of executing that plan. We have seen and we monitor that execution on a continuous basis. We would like to see it move faster.

We would like to see more results more quickly and one of the things that I have learned during our year and a half in office, is that we have to be patient. It does take a long time because of the size and complexity of things we are talking about. But the IRS should be held to strict standards of executing that plan. We think they are doing that. As it relates to the Board, I am obviously not completely objective in this matter, but I think we are doing a fine job.

We went into business September 2000. I am very pleased with my fellow Board Members. They are bright, hard-working, dedicated and interested. We have been very much involved in all of the elements of the IRS operations, their strategic plan, their budgeting process, their modernization, the ongoing and daily operations. We provide oversight of that. We are in constant communication with the Commissioner and with his other senior executives. We think we have a good relationship with all of them. We believe they listen to us and we believe that that communication is effective.

So I think we are making progress. I am also convinced that as the Board gains additional experience, learns more and more about the operations of this very complex organization that we will become even more effective in the future.

Mr. PORTMAN. Again, I thank you, Chairman Levitan. And let me make one final comment, if I might. The purpose of this unique public/private Oversight Board of a Federal agency was to bring continuity, expertise, and accountability to the system and I know you are focused on all three of those. The continuity comes in now because as Chairman Houghton said, we are nearing the end of the Commissioner's term. My own view is that he has been an excellent Commissioner, because he is focused on management and the real problems that underlie the lack of good taxpayer service, but my understanding is that he will not seek an additional term. I wish he were seeking an additional term.

But this puts you in two positions. One is the position of recommending to the President under our statutory framework this Committee reported out, a recommendation to the President as to who the Commissioner ought to be. So you have a role in finding somebody who is good. But second is that continuity function. The reason we wanted these 5-year staggered terms was that somebody knew what the heck was going on, because as we looked back over the last 30 and 40 years at the IRS, we found that every 2 years there was a great reorganization, a great reform effort, but then it just kind of got lost in the shuffle without that continuity and accountability that comes with that.

So we appreciate the fact that you are, as you say, gaining that experience and knowledge, we will be in a better position, but also you have that continuity to be able to do to be there after this commissioner has left and continue to promote the reforms that we have finally begun starting really in late 1997. Thank you for being here and thank you for your service.

Chairman HOUGHTON. Thank you, Mr. Portman. Mr. Coyne.

Mr. COYNE. Thank you. Thank you, Mr. Chairman. Mr. Chairman, I would just like to follow up on Congressman Portman's questioning relative to the Commissioner, and wonder what official role does the Board play in selecting or recommending a successor to Mr. Rossotti?

Mr. LEVITAN. We are very actively involved in the process of finding Commissioner Rossotti's replacement. We started on this process a number of months ago. The Board is very concerned that we get an individual who has the right qualifications. We felt it was important to start the process quickly and to get everybody working together. We went to Treasury, and we said we want to do a search for a set of candidates together with Treasury. They agreed to work with us and that partnership has now been ongoing a number of months.

The first thing we did is we developed a detailed set of specifications for the job and you probably won't be surprised to know that they were patterned to a great degree around some of the—many of the qualifications that Commissioner Rossotti has. We had complete agreement on those specifications between Treasury and the Board. We then went out and jointly hired an executive search firm to do a search for candidates and the Board is paying for that executive search firm. That search firm has now been working for about a month and a half. They have started to bring us a preliminary list of names of individuals who they believe are both qualified and have expressed some interest in the position. I will tell you that it is very hard to find someone qualified. It is even more difficult to find someone qualified who is willing to take on this very difficult job. That process is ongoing. We hope to in a relatively short time have a list of qualified names to pass on to the White House.

Mr. COYNE. Will you and the Board be able to interview prospective candidates?

Mr. LEVITAN. Absolutely.

Mr. COYNE. You will?

Mr. LEVITAN. Yes.

Mr. COYNE. As you pointed out in your testimony, the results in your report are not entirely satisfactory as you would like to see them relative to the improvements in the IRS. What budget level do you recommend for the IRS in fiscal year 2003?

Mr. LEVITAN. The budget process for 2003 was quite different from 2002. In this case also, we worked very closely with Treasury in evaluating the budget needs of the IRS and determining what budget to recommend. The recommendation that we made was for a 2003 budget of \$10,056,000,000. That number is really not completely comparable to the Administration's budget. There are a whole series of reconciling items but the bottom line is that we are recommending \$92 million more than the Administration. This is

significantly less of a difference than the 2002 budget and we feel much better about both the process that has been gone through this year and the end results.

Mr. COYNE. So the difference between your budget, your request, and what the Administration has budgeted is about \$92 million?

Mr. LEVITAN. Ninety-two million dollars, yes.

Mr. COYNE. Thank you.

Chairman HOUGHTON. Thanks, Mr. Coyne. Mr. Foley.

Mr. FOLEY. Thank you very much. Welcome to the hearing. Commissioner Rossotti's term ends in November 2002, and I understand you are engaged in a search for candidates for new IRS commissioner. What skills do you believe the new commissioner should have?

Mr. LEVITAN. First and primary are leadership skills, very, very strong leadership skills. We would like to see that having been demonstrated in an individual who has run a very large organization. The IRS is an organization of 100,000 people spread over the entire country in a very complex organization. We are looking for a person who knows how and has the experience in managing and providing leadership to an organization like that.

Second, one thing that is going on at the IRS at the present time and will go on for a long time to come is change. Change is difficult, large and complex change is very difficult. So therefore, we are looking for an individual who understands the process of change, who has managed change in a large and complex organization. Much of that change will come through technology. While we feel that the IRS was very fortunate in having a technologist in its present Commissioner and that would be a plus, we don't think that it is an absolute necessity, but we feel that the individual does have to have an understanding of how to use technology to change an organization.

We believe the individual needs to have very strong communication skills to communicate down through an organization that needs constant communication and at the same time communicate effectively up through the Administration, Treasury, OMB or Office of Management and Budget, the White House, as well as the very important communication to Congress.

And finally, we think it is critical that whatever individual we find have a lot of patience. This is a job that requires patience and I have talked about this to people and they have chuckled at that and they have said that this one is a little difficult because an awful lot of the very effective Chief Executive Officers (CEOs) of this country, who I worked with over the years, very often get to their position because they don't have a lot of patience and that job does demand that in addition to all of those other qualifications.

Mr. FOLEY. I guess it is finding somebody that fits the profile, if you will, and it is difficult because I view the IRS much like a utility company. I mean you have to get the power from them. You don't have a choice. They bill you, tell you what you have used. You have got to assume they are correct. And if you take another model, not a utility company, but a CEO from a service company like Home Depot, for instance, where service and quality and satisfaction are the hallmarks in order to get repeat customers, that is the two different models you operate under.

One can guide the company through sheer power and determination, and one has to adapt to the consumer's preferences and decide what is best and where we are heading. It would be interesting if you found somebody who had a little hands-on experience with customers because I think one of the fallbacks is—and the complaints we get isn't necessarily—and it is the complexity.

I mean, everybody complains about that, but they more often talk about the hostility that seems to be from the get-go. It is adversarial and sometimes it seems when you review their files, you find out it may have been an interpretation error. It wasn't an attempt to be noncompliant, it was simply they mistakenly assumed that was the right response in that box. Do you find the IRS is moving toward a more—and I seem to see it but I am wondering your advocacy there, if you think it is starting to be more consumer friendly?

Mr. LEVITAN. I think the IRS is definitely making progress and definitely has goals and very quantified objectives in order to go that way. If you look at the initiatives in what they are trying to accomplish through both their recent reorganization, through the measurements they have put in place throughout the organization, customer service is a major focus. And if you look at some of the statistics over the past few years, they have made some meaningful progress in the customer service area. They have a long way to go, but they are getting better at it, and they are very much focused on accomplishing that.

Mr. FOLEY. Mr. Chairman, will you indulge another question?

Chairman HOUGHTON. Yes.

Mr. FOLEY. Thank you. I guess my conflict at government at times, the structure of government, is the difficulty in which to gather information. It may relate to immigration, finding out if somebody is legally here, and they are going to work, and we are finding out if they are taxpayers and if they have a Social Security number. I can put my debit card in a machine in Europe and find out if I have money available. They will convert it to the currency in the country I am in and do it all within 7 seconds.

And it seems like every computer model or any system we have in government you never get that answer that quickly. How do you find their internal abilities via computer technology? Is it up to date? Are we making progress? Because it seems like we could clear up a lot of these unintended consequences, whether they are Medicare over-reimbursement. There are just so many things that technology seems to have a better model and it is not used often in government.

Mr. LEVITAN. You are exactly right. If you look at the foundation of the IRS' systems, they were built when John F. Kennedy was President. They are old, they are outdated, they are outmoded, they are inefficient to operate and maintain. They are extremely difficult to utilize. And many of the issues with the poor service that the IRS provides is because of that old and outmoded technology.

As you are, I am sure aware, the IRS has made previous attempts to update and modernize that technology, and those attempts in the past have failed at the cost of billions of dollars. Three years ago a new modernization program was started. There

is a detailed strategy and plan and blueprint to carry out the modernization, to replace all of that old technology and to provide the kinds of service that you describe, the kinds of service that can be provided through updated technology. That program, as I said, has been under way for 3 years. Some progress has been made. It has not been without bumps and stops and starts and some issues and problems. However, they are on the right track and they need to be supported in the execution of that modernization program. The strategy, the approach, the design of that program is excellent. The need to execute the plan effectively is their major challenge at this point in time.

Mr. FOLEY. Why is that? I mean corporate America couldn't exist under the way we do these rubrics. Every Member now has a Blackberry. We carry around the latest technology. Because we wanted them, we got them. So why aren't we fulfilling our mission for the IRS by giving them the money necessary for the upgrade?

Mr. LEVITAN. I would not say you are not giving them the money that they need. You have given them a lot of money to do the modernization. Unfortunately, things have gotten so bad over such a long period of time and these systems are so large and so complex that they cannot be replaced in 1, 2, 3, or even 5 years. Unfortunately, it will take a long time and a lot of money to get this change fully in place. They have made progress but it is going to take a long time.

If you just think of the complexity of it—let me start—think of the complexity of the Tax Code and then translate that into the complexity of a set of commuter systems. Think of the size of the number of tax returns that come in, multiply that by the complexity of the systems. This is a more complex computer environment than virtually any environment of any business in this country. And where you find modern, even large complex corporations like General Motors or Citicorp spending large amounts on technology, they are updating their technology on a continuous basis. They never have to completely replace everything that they have at the present time. And that is the position that the IRS has found itself in and is trying to work its way out of. But the objectives are clearly to get to the point that technology is doing what you described.

Mr. FOLEY. One more?

One more quickly. The situation with the bank in Pennsylvania where the returns were basically set aside, have we had more instances of that kind of subcontractor problems?

Mr. LEVITAN. If we are talking about the specific situation with processing of payments, this is the only problem that I am aware of. I am not aware of any problems with any of the other contractors who are processing payments.

Mr. FOLEY. Have you pursued an audit claim on all the other vendors to make certain that that is not a typical—

Mr. LEVITAN. We know there is an ongoing review and evaluation of all of the contractors. We know that TIGTA, the Treasury Inspector General for Tax Administration, has looked at this. The Board itself has not gotten into the issue of other contractors and what they are doing.

Mr. FOLEY. Thank you, Mr. Chairman.

Chairman HOUGHTON. Thank you, Mr. Foley.

I am interested in trends. And what I think you are saying is despite the fact that the IRS has had difficulty in organizing itself, getting enough money, getting the right people, getting the right equipment, that you feel this modernization program is on track, is that right?

Mr. LEVITAN. I feel the modernization program is on the right track. Now it is a question of the speed in which it can move down that track.

Chairman HOUGHTON. Given the resources they have got and that we have given to them, what do you think is a reasonable terminal point for being up to date and modernized?

Mr. LEVITAN. Unfortunately, it is going to take a long time. Exactly how long I don't know, probably close to 7 to 10 years. But during that period it is not that we won't see any improvements until the end, we should see fairly continuous improvements.

One way you might think about it is building these new set of systems is somewhat like building a huge building. And if you watch someone build a huge building for a long time you don't see anything. You know, people are just digging a big hole in the ground and filling it full of cement, and that is necessary. That is most of what they have been doing over the past 3 years is getting the foundations built. And now just in this year we are starting to see applications being delivered that will provide some improvements in customer service.

Chairman HOUGHTON. Let me try to interrupt here just a minute, so I understand that. You are building the base, you start from the cellar on up, and you really haven't seen an awful lot of improvements yet but you will. I think the issue that I am interested in is as you move along here, let's say it takes 7 to 10 years, by that time a lot of the stuff you put in know will be, well, obsolete. What are the crisis points that we are going to be meeting because we do not have or have not had the amount of funds to modernize this program earlier?

Mr. LEVITAN. I think the risks that we face, and there are significant risks with the existing systems, I think that the IRS does a yeoman job in keeping the existing systems running on a day-to-day, week-to-week basis. In getting us through the filing season every year. As we add changes to the Tax Code and new requirements on top of that on a continuing basis, it does add risk on the ability of those systems to handle it.

In addition, we are very dependent on a relatively small number of aging employees who are maintaining those old systems that are written in computer languages that aren't even taught in the schools today. So there is a risk of keeping that infrastructure running. And that is one of the major reasons why we need to keep this program moving ahead as quickly as possible.

Chairman HOUGHTON. Let me put words in your mouth, and you correct me. What you are saying is that we have a good program, we are going to do a good job on it, but, Congress, do not further complicate our mission as we go along.

Mr. LEVITAN. I wouldn't put it that way. In our report we laid out what we thought were the major things that different players

needed to do to make modernization effective and make it successful more quickly.

Number one, the IRS needs to improve its ability to manage the program. You have heard from GAO on what the status of the IRS' management capability is. We think GAO's reports are very accurate and very helpful. Again, they have made progress here. They need to continue that progress. They have strengthened their capability. They need to strengthen it further.

The prime contractor who has significant responsibility to build and implement the technology needs to get better on delivering product on schedule, on budget, and with the right level of quality. We think that the prime contractor also is addressing this, has strengthened their team.

We believe that the Administration and Congress needs to understand that this is a difficult program, it is not going to be all successes. There are going to be some bumps in the road. You need to understand it. You need to hold the IRS responsible for doing a quality job, but also have some patience and to provide adequate funding for them to get the job done.

Chairman HOUGHTON. Let me switch the subject matter. I want to talk about attitude. There is some disturbing evidence that you brought up that 25 percent of the people who file returns now feel that it may be acceptable to cheat on those returns? And also, from an internal standpoint, that was an indication that the attitude of the people in the IRS was not up to what you would hope it to be.

Mr. LEVITAN. Well, first let me talk about taxpayer attitudes. We did a survey last summer where we had a survey organization go out and ask four questions. Two of those questions had been asked in prior surveys by the IRS.

Chairman HOUGHTON. One of the survey questions indicated that a number of taxpayers who believe it is not at all acceptable to cheat on income tax declined from 87 percent in 1999 to 75 percent in 2001.

Mr. LEVITAN. That was the most concerning result of that questionnaire. This was a one-time survey. We are not sure that it is a real trend but we are concerned about it. We are going to repeat this survey this summer. If that trend continues then we think it is a concern.

It is a well-known fact that enforcement activity at the IRS has declined significantly. We believe that there very well may be an attitude that, hey, I can cheat, the guy down the street is cheating, you know, the IRS isn't doing much checking, maybe I can try to do this. We are concerned if that is the case and we think that it needs to be looked at and addressed.

Chairman HOUGHTON. Do you think the lack of checking has something to do with the fact that we are not doing the audits the way we used to?

Mr. LEVITAN. I think there are a lot of factors that may be causing this attitude. I think the complexity of the Tax Code certainly doesn't help it. I think the fact that we are doing less auditing, and it is well known that we are doing less auditing, may have an impact on it.

We believe that the IRS should be doing more auditing than they are doing now and that they need additional resources to do that.

In addition, we feel that they should be doing smarter auditing. We believe that they should be doing more and better document matching. For example——

Chairman HOUGHTON. That can be done all within the confines of their present budget?

Mr. LEVITAN. No. The level of what they do is to a great extent impacted by their budget. They get an amount of money, there are certain things that they have to do. They have to process the tax returns. They need to provide some level of service and do enforcement. But when there is more and more work and less people and limited new technology to make them more efficient, what happens is they get less of the work done. That will be greatly helped as we get new technology to make them more efficient. But that will take time. They also can do more and better document matching with such things like K-1s in a more budget effective manner. But the number of people they have to do this work, which has been declining for the past decade, has certainly impacted it.

Chairman HOUGHTON. Okay. Mr. Foley, would you like to ask another question? I have got one more question. This is an important Board. It is a brand new Board. You are the head of it. What is the most important thing you can do this next year?

Mr. LEVITAN. The most important thing that we can do this next year is to assist in choosing a new Commissioner that can lead this organization in the way that it needs to be led.

Chairman HOUGHTON. Thank you very much, Mr. Levitan. Thank you very much for your patience.

Thank you, Mr. Foley. Good to be with you. Hearing adjourned.

[Whereupon, at 3:42 p.m., the hearing was adjourned.]

[A submission for the record follows:]

Statement of the Hon. Richard E. Neal, a Representative in Congress from the State of Massachusetts

Mr. Chairman and Mr. Coyne, I am pleased that you have invited the Taxpayer Advocate, Ms. Olson, to testify today on her annual report, which includes many suggestions for simplifying the Code.

I can think of no more worthy cause than reducing Tax Code complexity, benefiting millions of taxpayers.

You may be interested to know that the Advocate recently completed a particularly difficult case on behalf of one of my constituents.

I look forward to working with her and the Members of the Committee to find a legislative solution to this case and other important taxpayer issues.