

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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February 2, 2009

Congressional Research Service

Report RL30899

*IRS: STATUS OF RESTRUCTURING AND REFORM AT
THE OPENING OF THE 107TH CONGRESS*

Sylvia Morrison and Gary Guenther, Government and Finance Division

Updated March 22, 2001

Abstract. The Joint Committee on Taxation has completed complexity analyses on 10 bills since passage of the IRS Restructuring and Reform Act, and is preparing a report on the general complexity of the tax code. Some projects, however, will require more time to reach completion.

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Summary

Passage in July 1998 of the IRS Restructuring and Reform Act (H.R. 2676, P.L.105-206) required a number of significant changes in the way the service operates as well as a fundamental change in its culture. After two years of intensive work, IRS is well along in the process of converting itself to a user-friendly institution, which is one of the most difficult tasks the Restructuring Act (RRA) requires of it. The RRA was based fundamentally on the report of the National Commission on Restructuring the Internal Revenue Service. This commission was created by Congress in its FY1996 appropriations legislation (P.L.104-52) and funded for 15 months. The report of the commission, *A Vision for a New IRS*, recommended the establishment of an IRS oversight board, a change in the organizational structure of the service, and the encouragement of increased electronic filing, but it especially recommended intensified training for staff and more access to them for the public.

The service has completed most of the requirements of the RRA. The geographic structure of the agency has been changed to a functional one. The Oversight Board is in place. A list of 71 taxpayer protections and rights are being applied, although with difficulty in some cases, particularly in the case of relief for innocent spouses. The Office of the Taxpayer Advocate has opened the IRS door to negotiation of those tax obligations that impose hardship. IRS' staff has been assured that the sanctions for taxpayer abuse will not result in their removal unless they commit illegal acts willfully. The intent of this assurance was to prevent employees from being inhibited in doing their jobs for fear of loss of employment. Electronic filing is growing in acceptance among individual filers, but slowly. The matching grants for low-income tax clinics reached the cap of \$6 million in 2001. The century date change (Y2K) was handled without incident, supported by an appropriation of \$1.3 billion specifically for that purpose. The Joint Committee on Taxation has completed complexity analyses on 10 bills since passage of RRA, and is preparing a report on the general complexity of the tax code.

Some projects, however, will require more time to reach completion. Planning for any program is based on agency assumptions about how much funding it is likely to receive. The Commission on Restructuring recommended that funding be appropriated for the IRS every three years to make advance planning possible, but Congress has taken no action on this issue. The problem which 10 years ago precipitated the journey toward the restructuring law—inadequate computer technology—remains a problem for the agency, although work is in progress to replace the least useful computers. Perhaps the most urgent initiative underway at IRS is training. Every initiative taken under RRA requires retraining of experienced staff and new training for newcomers, the public, and tax preparers.

This report will not be updated.

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IRS: Status of Restructuring and Reform at the Opening of the 107th Congress

Events Leading to Passage of the Restructuring and Reform Act

A series of landmark events led to passage of the IRS Restructuring and Reform Act of 1998 (P.L. 105-206). First, in the early 1990s, Congress recognized that the 1960s era computers the IRS was using were out of date, and voted funding to replace them. The IRS spent \$4 billion on computers that were not geared to interact because the service had neglected to develop an overall design that would enable it to use new computers to their full capacity.¹ Members of Congress who were responsible for oversight of the IRS were upset about the wasted resources.

Second, monitoring of IRS activity by the General Accounting Office (GAO) by request of congressional Members and committees generated more than 40 GAO reports between 1991 and 1997 that were critical of IRS management, procedures, and performance.

Third, taxpayers complained about the difficulty of reaching an IRS adviser by telephone, about rude treatment by IRS staff, and about the burden placed on them by the Tax Compliance Measurement Program (TCMP), if they were selected for the random audit. Those who were selected were required to provide documentation for every entry in their most recent tax returns. In response to the outrage expressed by some subjects of a TCMP audit, Congress eliminated the funding for the program in the FY1996 appropriation, leaving the Internal Revenue Service without even a potential means of measuring compliance.²

The National Commission on Restructuring the Internal Revenue Service

In the summer of 1995, as part of the FY1996 Appropriations legislation for the Department of the Treasury (P.L.104-52), Congress established a one-year commission to consider the restructuring of the IRS. Senator John Kerrey and Representative Rob Portman were appointed co-chairmen. In addition to the co-

¹ The IRS needs interactive computers to make it possible for IRS staff to assemble all the information from a taxpayer's account on a single computer screen in order to discuss it with him, to make electronic filing feasible, to reduce overlapping communications, and speed both refunds and enforcement.

²The last TCMP data were gathered in 1988.

chairmen, the National Commission included 17 individuals³ whose professional experience included work for tax accounting firms, taxpayer associations, government agencies, union organizations, the U.S. Congress, data processing firms, and a former IRS commissioner. In June 1997, after a year in which the commission conducted 12 public hearings and over 500 private consultations with experts on the IRS, the commission published its report. Its recommendations were:⁴

- ! Congressional oversight of the IRS should be restructured and coordinated through a new entity that ensures that Members and staff have sufficient information to make informed decisions about tax administration and policy.
- ! A new Board of Directors to serve staggered five-year terms, appointed by the President (with Senate confirmation) and reporting directly to him, would provide executive branch oversight and continuity to the IRS. The Board would not intercede in matters of tax law, tax enforcement, or tax legislation.
- ! The Commissioner of Internal Revenue should be appointed for a five-year term and should have greater flexibility in hiring, firing, and salary decisions.
- ! The IRS should receive “stable funding for the next three years” to facilitate planning.
- ! The IRS must address training, operations, technology, culture, and taxpayer education if the IRS is to operate efficiently and with a customer focus.
- ! The IRS must update its technology and treat taxpayer information as a strategic asset to improve customer service and compliance.
- ! The IRS must develop a strategic plan to make electronic filing the preferred and most convenient means of filing for the majority of taxpayers within the next 10 years.
- ! Steps should be taken to improve taxpayers’ ability to recover damages for wrongful actions by the agency and considerable effort should be employed to prevent disputes before they occur.
- ! Simplification of the tax law is necessary to reduce taxpayer burden and to facilitate improved tax administration.

³A complete list of the commission members can be found in the following source: U.S. Congress. House Committee on Ways and Means. *Report of the National Commission on Restructuring the Internal Revenue Service: A Vision for a New IRS*. Washington, D.C. June 1997. [<http://www.house.gov/natcommirs/final.htm>].

⁴*Ibid.*

Passage of the 1998 IRS Restructuring and Reform Act

Soon after release of the commission's report in the summer of 1997, Representative Rob Portman, one of the two co-chairs of the National Commission, introduced H.R. 2292 in the 105th Congress, a bill which closely followed the recommendations of the commission. At the same time, Senator Bob Kerrey introduced a similar bill, S. 1093 in the 105th Congress. The commission's recommendations had not addressed the issue of whether the Commissioner of the IRS should be chosen by the President or by the new Oversight Board. The Portman and Kerrey bills gave the authority to the Oversight Board. House Ways and Means Committee Chairman Bill Archer considered it important that the President have the authority to name the Commissioner of the IRS. In committee, Chairman Archer offered an amendment in the nature of a substitute, which became H.R. 2676 in the 105th Congress. The House passed the Archer version of the bill on November 5, 1997.

Before the Senate had completed work on the bill, however, the Finance Committee held public hearings on the IRS, which effectively altered the tenor of the legislation. In hearing after hearing,⁵ witnesses described abuse at the hands of the IRS. Most of the witnesses were taxpayers; some were IRS personnel.⁶ Subsequent investigations by the Treasury Inspector General for Tax Administration (TIGTA) and by the GAO⁷ found the abuse charges alleged by the witnesses to be unsubstantiated, according to press reports.⁸

Many Members were appalled by the testimony, however. Determination among them that IRS agents must treat taxpayers with respect led to the addition to H.R. 2676 of strong protections for taxpayers. These included 71 Taxpayer Protection and Rights provisions, a declaration that willful abuse of taxpayers will be cause for dismissal (Sec. 1203), and creation of TIGTA to investigate abuses by IRS personnel. In addition, RRA enlarged and extended the power of the Office of the Taxpayer Advocate.

On July, 1998, President Clinton approved the Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206). President Clinton said that

⁵One of the most influential hearings was U.S. Senate. Committee on Finance. *Practices and Procedures of the Internal Revenue Service*. Sept. 23, 24, and 25, 1997, Senate Hearing 105-190.

⁶For examples from the testimony, see the above cited Senate hearing, and CRS Report RL30536, *IRS Restructuring and Tax Law Compliance* by Sylvia Morrison, updated Sept. 5, 2000, pp. 9-10. Also see CRS report RL30770, *IRS Employees: Termination of Employment for Misconduct* by Barbara L. Schwemle, December 14, 2000.

⁷The reports were confidential and are not publicly available. But the contents were reported in the press as well as in *Tax Notes*, April 24, 2000, p. 463.

⁸*Tax Notes*. "Secret GAO Report Is Latest To Discredit Roth's IRS Hearings." April 24, 2000, p. 463.

this law would “give the American people the IRS they deserve.”⁹ But, he also stated that “clearly there is more to do to build an IRS for the 21st Century.”¹⁰

Major Components of the Legislation to Restructure and Reform the IRS

P.L. 105-206 (RRA) consists of 11 major components. First, the RRA changed the administrative structure of the IRS from a geographic structure based on regions to a functional structure based on the differing characteristics of the various classes of taxpayers.

Second, the law created an IRS Oversight Board whose duties include reviewing the budget and formulating long-term strategies for the IRS. The board is composed of nine members, of whom six must be “private life members.” These six are appointed by the President with the advice and consent of the Senate to serve staggered five-year terms. Of the remaining three members, one is an employee spokesperson, another the Secretary of the Treasury, and a third is the IRS Commissioner. Board members must submit financial disclosure reports, and may never intervene on behalf of any taxpayer. The board meets twice monthly, and members are paid \$30,000 annually.¹¹

Third, subsection (b) of Section 1203 of the RRA specified 10 categories of serious misconduct, which, if committed willfully, and only if willfully, may lead to termination. They are as follows:¹²

- ! Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer’s home, personal belongings, or business assets;
- ! Providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;
- ! With respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of (A) any right under the Constitution of the United States, or (B) any civil right established under title VI or VII of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, section 501 or 504 or the Rehabilitation Act of 1973, or title I of the Americans With Disabilities Act of 1990;
- ! Falsifying or destroying documents to conceal mistakes made by an employee with respect to a matter involving a taxpayer or taxpayer representative;

⁹Donmoyer, Ryan J. With Last Blast of Fanfare, Clinton Signs IRS Reform, *Tax Notes*, July 27, 1998, p. 415.

¹⁰*Ibid.*

¹¹P.L. 105-206.

¹²*Ibid.*

- ! Assault or battery on a taxpayer, taxpayer representative, or other employee of the IRS, but only if there is a criminal conviction or a final judgment by a court in a civil case with respect to the assault or battery;
- ! Violations of the Internal Revenue Code of 1986, Department of the Treasury regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the IRS;
- ! Willful misuse of the provisions of section 6103 [provisions protecting taxpayer privacy] of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;
- ! Willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed (including any extensions) unless such failure is due to reasonable cause and not to willful neglect;
- ! Willful understatement of federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and
- ! Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

If a staff member deliberately breaks these rules, the IRS Commissioner may exercise discretion as to whether termination is appropriate, or some other personnel action should be taken.¹³

Fourth, the RRA expands taxpayer protection and rights, of which 71 are spelled out, intended to give the taxpayer a firmer and clearer foundation on which to defend himself against IRS charges of non-compliance. The rights and protections include the following:

- ! The provision on burden of proof cancels the presumption that the IRS is always correct in its determinations, and under certain specific conditions, places the burden of proof upon the service.
- ! The cap on small claims in the Tax Court is raised from \$10,000 to \$50,000.
- ! Civil damages up to \$1 million may be awarded to a taxpayer who is wrongfully financially injured by the IRS.
- ! The three-year time limit on claiming refunds is suspended if the taxpayer is disabled during that period.

¹³For more complete information, see CRS Report RL30770, *IRS Employees: Termination of Employment for Misconduct*.

- ! Suspension of interest and penalties if the IRS fails to notify the taxpayer that payment is overdue.
- ! Due process must be observed in IRS collection actions, including liens and levies.
- ! Taxpayer communication with a person authorized to deal with the IRS, such as an accountant, may be held as privileged.
- ! Tax bills may be reduced through offers-in-compromise, which the IRS is required to offer to any delinquent taxpayer, and which are subject to negotiation.
- ! Relief for innocent spouses is made more widely available than in the past.
- ! Elimination of the interest differential on overlapping periods of interest on tax overpayments and underpayments.

Fifth, the Taxpayer Advocate, a management position created in 1996 by the Taxpayer Bill of Rights 2, became a more powerful office. Previously the advocate's primary duty was to collect information about reoccurring tax collection problems for publication in a required June report to be submitted to the House Committee on Ways and Means and the Senate Committee on Finance. Since the passage of RRA, the Taxpayer Advocate has additional responsibilities. He (or she) is now required to appoint and train a taxpayer advocate for each American state, all of whom will report directly and only to the Washington office. The advocate also now serves as the final appeal official in the IRS with the power to issue a taxpayer assistance order (TAO) to reduce or restructure payments due from a taxpayer, if he believes the requirements made of the taxpayer will cause "significant hardship" for the taxpayer's family. The advocate must continue to evaluate problems that come before him, creating a prioritized list of the 20 most serious problems to present to an annual joint meeting of the tax writing committees, the oversight committees, and the appropriations subcommittees for the Treasury, under the sponsorship of the Joint Committee on Taxation.

Sixth, the RRA created a new position, the Treasury Inspector General for Tax Administration (TIGTA). Its main function is to guard against internal malfeasance, but it also watches for external threats to the integrity of the service. The TIGTA must appoint a Deputy Inspector General for inspections and one for auditing.

Seventh, the RRA examined "IRS performance flexibilities." This section of contains the provision that prohibits supervisors from using enforcement actions or dollar goals as criteria for evaluating the performance of employees. In addition, the Commissioner, under this section, has "critical pay authority" to hire up to 40 individuals who have rare but critical technical skills, paying them above the federal scale in amounts that are not more than the \$186,300 salary of the Vice President.

Eighth, the issue of electronic filing was examined. The IRS has been described as "drowning in paper." With the goal of having 80% of tax forms filed electronically by 2007 the Secretary of the Treasury is required by RRA to devise a strategic plan

to eliminate barriers to filing electronically and to keep the business of filing competitive. He must also assemble an Electronic Commerce Advisory Group who will aid the Commissioner and Congress by advising on methods for keeping filing services private and competitive.

Ninth, the RRA established matching grants up to \$100,000 each for law clinics for the poor and non-English speaking taxpayers. The clinics must be attached to accredited law schools or schools of accounting. The grants may total up to \$6 million each year.

Tenth, the RRA required that the records of the administration of the IRS be made available to the National Archives, upon written request of the Archivist, in order that a determination may be made as to which records should be retained and which destroyed.

Eleventh, the Joint Committee on Taxation is required to undertake a complexity analysis of any new law under consideration in committee that will substantially affect individuals or small businesses. Each analysis is to be delivered to the House Ways and Means and Senate Finance Committees for inclusion in their committee reports or conference report on the bill under consideration.

Which Requirements of the Law Have Been Met?

The first change required by the law is that the service be organizationally restructured. The formerly geographic structure of the service, which had been in effect since 1952, was required to be changed. Instead of being divided into regional offices, the new structure provides four national divisions that ultimately report to Washington. This is intended to reduce the layers of management as well as points of entry for taxpayers.

The four divisions are:

The Wage and Investment Division - Led by Commissioner John Dalrymple and Deputy Commissioner John Duder. The wage and investment division serves those taxpayers whose income comes from wages and returns on savings. The division serves about 90 million filers, who represent 115 million taxpayers. This is the largest group of taxpayers, and the group, owing to withholding from wages, who have traditionally had the best compliance record according to the IRS.

The Small Business/Self-Employed Division - Led by Commissioner Joseph Kehoe and Deputy Commissioner Dale Hart. This division serves 40 million taxpayers who are fully or partially self-employed, or are small businesses with assets less than \$5 million. According to IRS, this group of taxpayers has the lowest compliance rate because there are no records of its earnings except those that they themselves keep, and because nothing is withheld from their incomes. This group of taxpayers has a larger package of forms to file in fulfillment of more complex laws that apply to this group. One goal of the division is to support the task of form preparation by sending out educational materials, working with tax practitioners and offering personal advice to filers at regional and local walk-in service offices.

Large and Mid-Size Businesses - Led by Commissioner Larry Langdon and Deputy Commissioner Deborah Nolan. This division serves 210,000 corporations, each with more than \$5 million in assets.

Tax Exempt/Government Entities - Led by Commissioner Evelyn Petschek and Deputy Commissioner Darlene Berthod. This division covers three groups: employee plans, (tax) exempt organizations, and government entities. These add up to 3 million taxpaying entities.

Creation of the Oversight Board, a task for which the RRA assigned joint responsibility to the President and the Senate, proved more time-consuming than expected. The restructuring law, which was signed by the President on July 22, 1998, required the list of nominees to be sent to the Senate by January 22, 1999. However, the members of the board were not sworn in until September 29, 2000.

The members of the Oversight Board “have a wide range of expertise, including government budget and procurement matters, the needs of small business and large corporations, customer service, debtor and creditor law, technology management and the representation of IRS employees.”¹⁴ The members are:

- ! Chairman: Larry R. Levitan, former partner Arthur Andersen & Company/Anderson Consulting (for a five-year term),
- ! George L. Farr, former Vice-Chairman of American Express (a four-year term),
- ! Nancy Killefer, Director, McKinsey and Company, former Treasury Department Assistant Secretary for Management and Chief Financial Officer (five-year term),
- ! Charles Kolbe, Chairman of the Board, Red Oak Hereford Farms (three-year term),
- ! Steve H. Nickles, professor, Wake Forest University School of Law and the Babcock Graduate School of Management (for a four-year term),
- ! Robert M. Tobias, former President of the National Treasury Employees Union (for a five-year term),
- ! Karen Hastie Williams, partner, Crowell and Moring (for a three-year term.)

Termination of Employment for Misconduct (Section 1203 provisions listed on page 5) is a part of the RRA that gives force to the statement of Taxpayer Advocate Val Oveson that the management of IRS wants to change the goal of the IRS from “protecting the interests of the government” to “balancing the interests of

¹⁴U.S. Congress. Report of the Joint Committee on Taxation relating to the Internal Revenue Service, as Required by the IRS Reform and Restructuring Act of 1998. April 28, 2000, JCX-46-00, p. 32.

the government with the interests of the taxpayer.”¹⁵ Taken together with the provisions defining Taxpayer Protections and Rights, the 10 conditions for dismissal give the RRA an unambiguously serious tone.

One negative result of the new policy came about when in 1999 collections officers were faced with the prohibitions against abusing taxpayers while they were still unsure how serious the service would prove to be about omitting revenue statistics from staff evaluation. Although the fear engendered by Section 1203 was somewhat mitigated by Commissioner Rossotti’s repeated, clear statement that the prohibited behavior would incur dismissal only if it was willful, and not simply a misjudgment or misunderstanding, many enforcement officers feared losing their jobs, and in the year 1999, revenues from enforcement dropped steeply.¹⁶

Taxpayer Protection and Rights. Of the 71 new or modified taxpayer protection and rights provisions guaranteed to taxpayers by the RRA, the provision broadening the requirements for relief for innocent spouses seems to be the one the IRS is finding most difficult to implement either fully or quickly.¹⁷ The reasons are, first, that the administrative process the IRS used to implement the old innocent spouse provision had to be reorganized very quickly to deal with the entirely new requirements of RRA. The provisions of the new law are more numerous, more complex, and because of required waiting periods, take longer to implement. For example, meeting the requirements of the new law requires that the IRS contact the spouse accused of error, giving him or her 45 days to reply, and then weigh the differences in the testimony of the two separated or divorced spouses. To date, more than 94% of the claims received are for pre-1998 tax years.

In 1998, the news that Congress might pass a liberalized innocent spouse law gave hope to so many people that four months before passage of the law—a period in which the neither the exact provisions of the law were known nor whether any law would be passed—3,000 requests for consideration had reached the IRS. Six months after passage, as of February 2000, the IRS had received a total of 63,906 requests and is now receiving on average 2,800 new requests per month¹⁸.

Office of the Taxpayer Advocate and Taxpayer Assistance Orders (Section 1102). The Office of the Taxpayer Advocate grew from a 1976 program in the IRS called the Problem Resolution Program. In 1996, the Taxpayer Ombudsman of that

¹⁵Taxpayer Advocate Service. Statement of W. Val Oveson for the Joint Annual Review of the Internal Revenue Service Restructuring and Reform Act of 1998. May 3, 2000.

¹⁶For details on the decline in collections, see Library of Congress, Congressional Research Service. CRS report RL30536, *IRS Restructuring and Tax Compliance* by Sylvia Morrison, Updated Sept. 5, 2000.

¹⁷Other taxpayer protection provisions that have inspired applications too numerous for the service to process in a timely manner at present staff levels are offers-in-compromise, and leveling of interest rates on debt to the IRS. For more details, see General Accounting Office, *Tax Administration: IRS’ Implementation of the RRA’ Taxpayer Protection and Rights Provisions*, GAO/GGD-00-85, April 2000.

¹⁸Source: IRS Legislative Liaison Office, Jan. 15, 2001 by telephone.

program was replaced (under Taxpayer Bill of Rights 2) with the Taxpayer Advocate (TA). RRA gave the office real power for the first time to reverse decisions made through the appeals process within the IRS in cases where the TA determined, under prescribed regulations, that hardship would strike the delinquent taxpayer and his or her family unless tax relief were granted.

The RRA also charged the Taxpayer Advocate with the responsibility to name and train a taxpayer advocate in each state who will report directly and only to him, a task that has been completed.

Twice annually, the Taxpayer Advocate must appear before and report to a hearing of the Senate Finance Committee and the House Ways and Means Committee as well as the House and Senate Appropriations Subcommittees that oversee funding for the Treasury, and the oversight committees in both houses, plus the Joint Committee on Taxation. The reports contain a record of the activities of the Office of the Advocate and a listing of the tax problems that cause most difficulties for taxpayers. The problem that took first place on the list in 1999 and 2000 was tax law complexity.

Treasury Inspector General for Tax Administration (TIGTA) is a new office created by the RRA to investigate irregularities among IRS staff or those seeking to corrupt IRS staff. The TIGTA is also responsible for the security of IRS computer systems and for in-house audits. Its first major task was to investigate allegations of irregularities carried out by IRS enforcement agents that were made in the Senate Finance Committee hearings immediately preceding passage of the RRA. According to TIGTA and the GAO, none of the allegations made in the hearing could be substantiated.¹⁹

Between November 1999 and May 2000, the TIGTA issued 47 final audit reports of IRS departments, and investigated over 1,600 allegations of criminal wrongdoing and administrative misconduct. TIGTA reported in its semiannual report that IRS is not in full compliance with RRA in that some supervisors (96) were reported to have used enforcement results in employee evaluations. The TIGTA report also noted that fraudulent filings for refunds continue to be a problem, especially in the Earned Income Tax Credit (EITC) program.²⁰

To receive complaints of wrongdoing by IRS employees, TIGTA operates a toll-free number, an e-mail account, and a central post office box, all of which are put to use in compiling a central file of complaints. Maintenance of the file is a requirement of RRA.²¹

¹⁹*Tax Notes*, "Secret GAO Report is Latest to Discredit Roth's IRS Hearings," April 24, 2000.

²⁰Treasury Inspector General for Tax Administration, *Semiannual Report to the Congress: April 1, 1999 - Sept. 30, 1999*. Publication 3372.

²¹*Ibid.*

Personnel Flexibilities. The practice of using amounts collected as a standard by which to evaluate employees has been forbidden, according to the GAO,²² since 1988. Nonetheless, until passage of RRA, amounts collected continued to play an important role in many personnel evaluations.²³ A 2000 report by TIGTA²⁴ indicates that in some instances, the practice of evaluating by collection dollars persists.

Negotiation between the IRS and the National Treasury Employees Union (NTEU) is now underway to establish new “critical job elements” (standards) according to which employee performance is to be evaluated. The amount of revenue brought in by an employee is prohibited for use as a standard. The new elements will begin trial usage at the IRS on July 1, 2001, and, if found to be satisfactory, will be made permanent on October 1, 2001.²⁵

Electronic Filing. In October 2000, the IRS added eight new members to its Electronic Tax Administration Advisory Group so that when the two-year terms of some of the current members run out in December 2001, the new members will ensure continuity.²⁶ The group serves as a public forum for discussion of electronic tax administration issues, supporting the goal of encouraging taxpayers to communicate electronically with the IRS. The new committee members are all executives from the tax-filing community who cannot only give technical advice, but also help ensure that the systems for filing electronically can be contributed to by multiple companies who will be in competition for the business.

The RRA sets the goal of the electronic filing program at 80% (of all filers) filing electronically by 2007. The IRS reports that as of May 2000, 77% of individual returns were still filed on paper. No data are available for business filers.²⁷

For the first time in 2001, the total of matching grants to tax clinics for low-income taxpayers and non-English speakers reached the \$6 million cap. In 2000, the grants totaled \$5 million and in 1999 totaled \$1.5 million. The grants, given only to clinics associated with accredited law schools or schools of accounting, are distributed this year among 38 states and the District of Columbia, and are limited to \$100 thousand per clinic.

Records of IRS Administration are to become more accessible to National Archives (NARA). The Archivist had been entitled under prior law to examine each IRS record to determine whether it should be retained or discarded. The IRS has been

²²General Accounting Office, Letter to Sen. William Roth, Chairman of Finance Committee, Feb. 28, 2000, GAO/GGD--00--71R.

²³TIGTA. Semiannual Report, op. cit.

²⁴*Ibid.*

²⁵Telephone conversation Jan. 5, 2000, with a representative of the National Treasury Employees Union.

²⁶IRS Press Release. New Members Selected for IRS Electronic Tax Administration Advisory Committee. IR-2000-73. Oct. 20, 2000.

²⁷Internal Revenue Service. E-mail from Statistics Department, Jan. 4, 2001.

reluctant to turn over records because of concern about failure to meet its obligations under the privacy laws (Section 3605, IRC). The RRA now requires IRS to give NARA access, but only upon request of the U.S. Archivist.

Under RRA, the Joint Committee on Taxation is required to make an analysis of the complexity of potential new tax laws that affect small businesses or individuals to a significant extent. The analysis is to be delivered to the House Committee on Ways and Means and/or the Senate Committee on Finance for inclusion in the committee or conference report concerning the bill in question. Since January 1, 1999, when the law came into effect, the JCT has completed and delivered 10 such analyses.²⁸ The Joint Committee on Taxation is also now working on an overall analysis of the complexity of the present tax code, which is expected to be available in spring 2001.

The RRA required IRS to consider the century date change, known as Y2K, as high priority and authorized funding to be devoted specifically to Y2K. At a cost of \$1.3 billion, the IRS made the necessary computer changes without incident. There have been no problems stemming from the date change.

What Remains To Be Done?

In the two and one-half years that have elapsed since passage of the RRA, every provision and requirement has received attention at the IRS. Some projects are well underway. Others will require more time to complete.

The issue that began the drive to improve services at the IRS—computers—remains a problem. While the IRS is now working with a systems consultant, there is apparently no firm schedule for acquiring and installing a complete computer system.

A very important initiative underway at the IRS—one that must be continued—is training, because every element of the RRA requires training for implementation. The change of attitude toward the public, the walk-in and call-in information services, increased electronic filing, response to taxpayer appeals and effective enforcement all require training, which will require funding.

In February 2001, the IRS issued figures showing a decline in the audit rate to less than one-half of one percent in fiscal year 2000. IRS Commissioner Rossotti expressed concern about the decline in the audit rate.

Rossotti blamed the drop in exam and collection activity on several factors, including the long-term decline in staffing, the need to assign compliance staff to customer service duties during the filing season, and added responsibilities brought on as a result of the Internal Revenue Service Restructuring and Reform Act of 1998.²⁹

²⁸Joint Committee on Taxation. Telephone conversation, Jan. 20, 2001.

²⁹Bergin, Christopher, IRS Audit Rate Takes Another Dramatic Drop, *Tax Notes*, vol. 90, no. 8, Feb. 19, 2001, p. 982.

He also asserted that “clearly, the declines we’ve seen in the past few years need to stop or the fairness and effectiveness of our tax system will be undermined.”³⁰

³⁰*Ibid.*