



September 2018

TAX ADMINISTRATION

Opportunities Exist to Improve Monitoring and Transparency of Appeal Resolution Timeliness

GAO Highlights

Highlights of [GAO-18-659](#), a report to congressional committees

Why GAO Did This Study

The Taxpayer Bill of Rights entitles taxpayers with the right to appeal a decision of the Internal Revenue Service (IRS) in an independent forum. GAO was asked to review this administrative appeal process within IRS.

Among other things, this report (1) describes the IRS appeal process and staffing; (2) assesses how IRS monitors and manages the time to receive and resolve taxpayer appeals cases; and (3) evaluates the extent to which Appeals communicates customer service standards and assesses taxpayer satisfaction with the appeal process.

GAO reviewed IRS guidance, publications, and documentation on the appeal process. GAO analyzed IRS data for administrative appeal cases closed in fiscal years 2014 through 2017 to compare appeal case resolution time for different types of cases. GAO interviewed IRS officials and a non-generalizable sample of external stakeholders, including attorneys and accountants, knowledgeable about the appeal process. Among other things, GAO compared IRS actions to federal standards for internal control and customer service.

What GAO Recommends

GAO makes seven recommendations to help enhance controls over and transparency of the IRS appeals process (several of the recommendations are detailed on the following page).

View [GAO-18-659](#). For more information, contact Jessica Lucas-Judy at (202) 512-9110 or lucasjudy@gao.gov

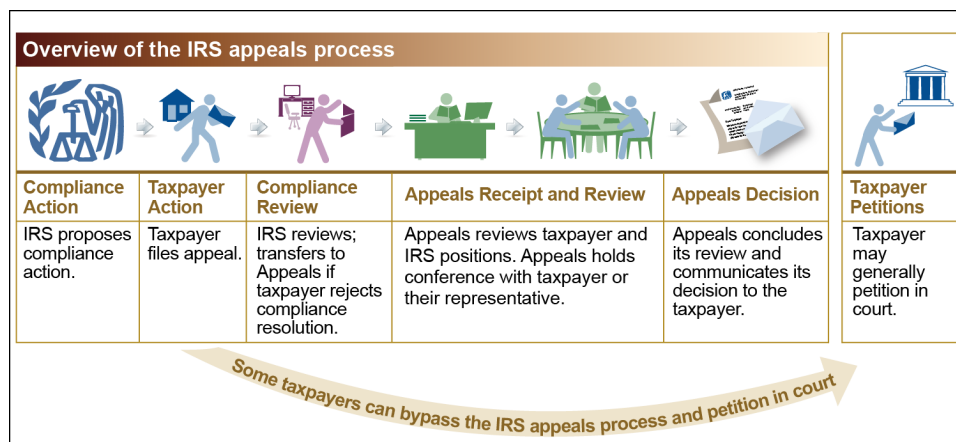
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What GAO Found

The Internal Revenue Service (IRS) has a standard process to resolve a diverse array of taxpayer requests to appeal IRS proposed actions to assess additional taxes and penalties or collect taxes owed. The process begins with a taxpayer filing an appeal with the IRS examination or collection unit proposing the compliance action and ends with a decision from the Office of Appeals (Appeals).



Source: GAO analysis of IRS appeals process. | GAO-18-659

Appeals must have staff with expertise in all areas of tax law to review taxpayer appeals. However, its staffing levels declined by nearly 40 percent from 2,172 in fiscal year 2010 to 1,345 in fiscal year 2017. Appeals anticipates a continued risk of losing subject matter expertise given that about one-third of its workforce was eligible for retirement at the end of last fiscal year.

Appeals monitors the number of days to resolve taxpayer appeals of examination, collection, and other tax disputes. However, IRS does not monitor the timeliness of transfers of all incoming appeal requests. GAO analysis showed that the time to transfer appeal requests from compliance units varied depending on the type of case (see table below).

Collections workstreams—taxpayer appeals where IRS (1) filed a notice of federal tax lien or proposed a levy (collection due process) or (2) rejected an offer to settle a tax liability for less than owed (offer in compromise).

- The Internal Revenue Manual (IRM), IRS's primary source of instructions to staff, requires transfer to Appeals within 45 days for the largest collection workstream. With manager approval, collection staff may have an additional 45 days to work with the taxpayer. Nearly 90 percent of collection appeals closed in fiscal years 2014 to 2017 were transferred to Appeals within 90 days.

Examination workstreams—taxpayer appeals of additional tax and penalty assessments IRS proposed based on its auditing of tax returns over a wide range of examination issues.

GAO recommends, among other things, that the Commissioner of Internal Revenue

- Establish timeframes and monitoring procedures for timely transfer of taxpayer appeals requests by examination compliance units to the Office of Appeals.
- Direct the Office of Appeals to regularly report and share with each compliance unit the data on the time elapsed between when a taxpayer requests an appeal to when it is received in the Office of Appeals.
- Provide more transparency to taxpayers on historical average total appeal resolution times.

GAO recommends, among other things, that the Secretary of the Treasury, consistent with its responsibilities under GPRAMA and Executive Orders for customer service, ensure that the Commissioner of Internal Revenue develops a mechanism to solicit and consider customer feedback on a regular basis on current and proposed IRS appeal policies and procedures.

Treasury and IRS agreed with GAO's recommendations, and IRS said it will provide detailed corrective action plans.

- IRS does not have an IRM requirement with guidelines and procedures for timely transfer for examination appeals. Accordingly, more than 20 percent of examination appeals closed in fiscal years 2014 to 2017 took more than 120 days to be transferred to Appeals. Delays in transferring appeals can result in increased interest costs for taxpayers.

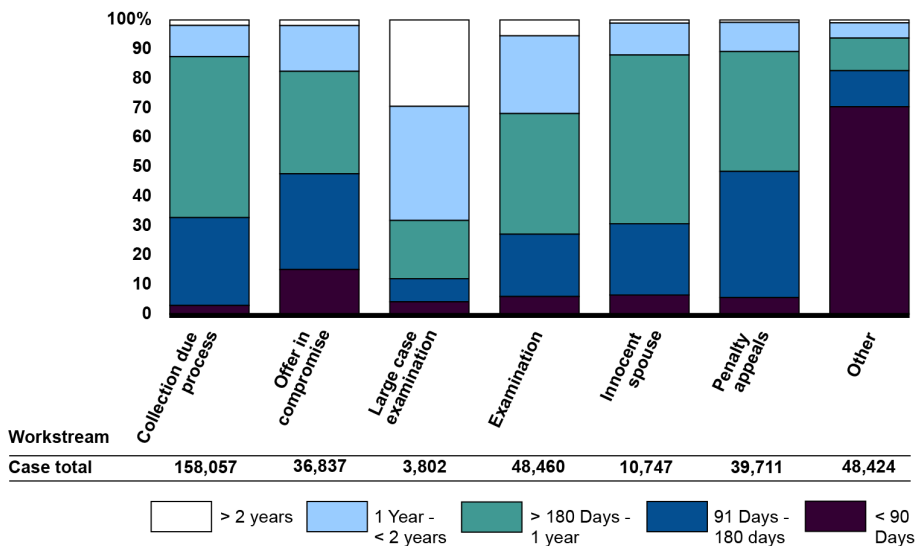
Average Days for Compliance Review by Workstream, Fiscal Years 2014-2017

| Appeal workstream | Average number of days | | Compliance share of total appeal resolution time |
|--------------------------|--------------------------------|------------------------------|--|
| | Compliance transfer to Appeals | Total appeal resolution time | |
| Collection workstreams | | | |
| • Collection due process | 59 | 252 | 23% |
| • Offer in compromise | 61 | 240 | 26% |
| Examination workstreams | | | |
| • Large case examination | 108 | 637 | 17% |
| • Examination | 105 | 337 | 31% |
| • Innocent spouse | 30 | 249 | 12% |
| • Penalty appeals | 100 | 220 | 45% |
| Other workstream | 39 | 101 | 38% |

Source: GAO analysis of Appeals Centralized Database System | GAO-18-659

Although Appeals maintains data on total appeal resolution time—from IRS receipt to Appeals' decision—such information is not readily transparent to IRS compliance units or the public. GAO analysis of IRS data found that, for fiscal years 2014 to 2017, about 15 percent of all appeal cases closed within 90 days (see figure below). About 85 percent of all cases were resolved within one year of when the taxpayer requested an appeal. Total resolution times differed by case type. However, without easily accessible information on resolution times, taxpayers are not well informed on what to expect when requesting an appeal.

Total Appeal Resolution Time by Workstream, Fiscal Years 2014-2017
Percentage of cases



Source: GAO analysis of Appeals Centralized Database System. | GAO-18-659

Although Appeals has customer a service standard and conducts a customer satisfaction survey, its standard and related performance results are not readily available to the public. Under the GPRA Modernization Act of 2010 (GPRAMA) and Executive Orders, the Department of the Treasury is responsible for customer service performance. Appeals conducts outreach to the tax practitioner community but does not regularly solicit input before policy changes. Without a mechanism, such as leveraging existing IRS advisory groups or alternatively developing its own advisory body, Appeals is missing an opportunity to obtain public input on policy changes affecting the taxpayer's experience in the appeal process.

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Abbreviations

| | |
|-------------------|---|
| Appeals | Office of Appeals |
| ACDS | Appeals Centralized Database System |
| AQMS | Appeals Quality Measurement System |
| FTE | Full-Time Equivalent |
| GPRA | Government Performance and Results Act |
| GPRAMA | GPRA Modernization Act of 2010 |
| IRM | Internal Revenue Manual |
| IRS | Internal Revenue Service |
| IRSAC | Internal Revenue Service Advisory Council |
| LB&I | Large Business and International |
| OMB | Office of Management and Budget |
| Restructuring Act | IRS Restructuring and Reform Act of 1998 |
| SB/SE | Small Business/Self-Employed |
| TE/GE | Tax Exempt and Government Entities |
| Treasury | Department of the Treasury |
| W&I | Wage & Investment |

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September 21, 2018

The Honorable Orrin Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Kevin Brady
Chairman
The Honorable Richard E. Neal
Ranking Member
Committee on Ways and Means
House of Representatives

The Taxpayer Bill of Rights gives taxpayers the right to appeal a decision of the Internal Revenue Service (IRS) in an independent forum. IRS expounded further on this right, stating that “taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals (Appeals’) decision.”¹ If taxpayers disagree with IRS decisions to assess additional tax or take collection action, they can generally bring their disputes before Appeals.

Appeals’ mission is to resolve taxpayer disputes, without litigation, on a basis which is fair and impartial to both the government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the IRS.² Appeals’ policy is to provide a prompt conference and decision in each case.³ Timely appeal decisions are important for (1) the taxpayer and IRS to know the amount of taxes owed or outcome of other tax matters in dispute, and (2) the Department

¹26 U.S.C. § 7803(a)(3)(E), and see also, Department of the Treasury, Internal Revenue Service, *Taxpayer Bill of Rights*, Pub. 5170, (July 2014), and Department of the Treasury, Internal Revenue Service, *Your Rights as a Taxpayer, Publication 1* (September 2017). This publication further explains 10 rights for taxpayers and the processes for examination, appeal, collection, and refunds.

²Internal Revenue Manual (IRM) Part 8, Chapter 1, Section 1.1.

³IRM Part 8, Chapter 1, Section 1.1.2.b.

of the Treasury (Treasury) to receive any additional revenue involved at the earliest practicable date.⁴

You asked us to review the IRS administrative appeal process, the time to resolve taxpayer appeals, and taxpayer satisfaction with the process. This report (1) describes the steps and staffing levels for the IRS appeal process and assesses the extent to which Appeals conducts workforce planning in a time of declining resources; (2) assesses how IRS monitors and manages the time to receive and resolve taxpayer appeals cases; and (3) evaluates the extent to which Appeals communicates customer service standards and assesses taxpayer satisfaction with the appeal process.

To describe the IRS administrative appeal process, we reviewed Internal Revenue Manual (IRM) sections that detail how IRS employees are to process appeal cases. We also reviewed the IRS website and IRS documents and publications that describe the appeal process and indicate how taxpayers are to file an appeal. We interviewed senior Appeals managers to understand how Appeals operates and how cases are processed when Appeals receives them. To understand the initial IRS receipt of taxpayer appeals, we interviewed IRS examination and collection officials in the Small Business/Self-Employed (SB/SE) and Wage and Investment (W&I) business operating divisions. These two IRS divisions accounted for 97 percent of appeal cases closed in fiscal year 2017. We interviewed Appeals administrative processing staff who receive and route cases in Appeals as well as customer service staff who handle taxpayer inquiries about the status of their appeals. We also analyzed data from the Appeals Centralized Database System (ACDS) for 346,038 appeals cases closed in fiscal year 2014 (the oldest complete year available) through fiscal year 2017 (the last complete fiscal year available at the time of our analysis).⁵ We used the data to calculate the percentage of taxpayers who had a representative with them through the process and to determine the percentage of cases that had a conference with appeals, including those with an in-person conference. We also conducted observational visits to Appeals locations in Philadelphia, Pennsylvania and Atlanta, Georgia to interview a non-generalizable group

⁴IRM Part 8, Chapter 1, Section 1.1.2.b.

⁵ACDS combines various database systems into one centralized web-based system used to track and document appeals case review, including time and progress of the workload, within the Office of Appeals. Our analysis excluded 439 cases to suppress small case counts and avoid disclosure of taxpayer information.

of Appeals frontline supervisors and staff who handle a diversity of appeals cases to better understand how appeals cases are assigned to staff, as well as the case review process. We selected these locations because they allowed us to interview Appeals frontline staff who work a wide variety of taxpayer appeals across all seven Appeals work categories.

To describe the staffing levels and assess the extent to which Appeals conducts workforce planning in a time of declining resources, we obtained and analyzed staffing information and reviewed the IRM section that explains the Appeals human capital programs and the IRS Strategic Workforce Planning Team. We interviewed Appeals and IRS human capital staff to better understand how they conduct workforce planning and reviewed documentation about the IRS Strategic Workforce Planning team's activities and timeframes. We then compared Appeals workforce planning activities to our key principles of effective workforce planning.⁶ We also reviewed a hiring tool Appeals uses to project case inventory based on historical case data and current staffing levels to determine workforce needs and interviewed Appeals managers about strategies and policies for maintaining staff skills.

To assess how IRS monitors and manages the time to receive and resolve taxpayer appeals cases, we reviewed IRS documents, including IRM sections, IRS procedures, and quarterly Appeals performance reports and monthly reports to the Commissioner of Internal Revenue. We compared the controls identified to federal standards for internal control.⁷ We interviewed IRS officials responsible for managing Appeals' review process as well as SB/SE and W&I officials managing initial appeals receipt for those compliance units. We reviewed the measures IRS uses to describe timeframes to resolve appeals, which quantify case review time in average days. Overall averages can be a broad measure and may be affected by outliers. Finally, we analyzed data from the ACDS for 346,038 appeals cases closed in fiscal year 2014 through fiscal year

⁶GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003). Based on GAO reports and testimonies, review of studies by leading workforce planning organizations, and interviews with officials from the Office of Personnel Management and other federal agencies, this report describes the key principles of strategic workforce planning agencies should address irrespective of the context in which planning is done.

⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

2017. We calculated and compared average appeal case resolution time for different types of cases. For purposes of this review, we determined that the ACDS data used in our analysis were reliable. Our data reliability assessment included reviewing relevant documentation, interviewing knowledgeable IRS officials, and reviewing the data to identify obvious errors or outliers.

To evaluate the extent to which Appeals has and communicates customer service standards and assesses taxpayer satisfaction with the appeal process, we identified federal standards for customer service under the GPRA Modernization Act of 2010 (GPRAMA), as well as customer service-related Executive Orders, Office of Management and Budget (OMB) guidance, and internal control standards and compared IRS Appeals actions to those standards.⁸ We reviewed IRM documentation of the Appeals customer service standard and related measures from the Appeals Quality Measurement System (AQMS), as well as AQMS annual reports for fiscal years 2014 through 2017.⁹

To understand how Appeals obtains customer feedback, we reviewed the methodology for the annual Appeals customer satisfaction survey and analyzed survey reports for fiscal years 2016 through 2017 as well as focus group reports from fiscal years 2012 through 2014 (the last year IRS held these focus groups). We drew on results from the surveys and focus groups to describe factors that affect Appeals customer satisfaction. We interviewed Appeals managers and staff who handle cases to understand their views on factors that affect taxpayer satisfaction and understand how Appeals communicates service standards and measures customer satisfaction. We also conducted semi-structured interviews with 13 external stakeholders from law and accounting organizations who have represented a mix of higher- and lower-income individuals as well as corporations and other businesses to understand their experiences with the appeal process. To select interviewees with prior experience with IRS and its appeal process, we used a snowball sampling technique based on our review of IRS partner and stakeholder organizations, public comments about the appeals process, and referrals from initial

⁸Pub. L. No. 111-352, 124 Stat. 3866 (Jan. 4, 2011). GPRAMA significantly enhanced the Government Performance and Results Act of 1993 (GPRA), Pub. L. No. 103-62, 107 Stat. 285 (Aug. 3, 1993). [GAO-14-704G](#).

⁹AQMS is a system that uses key output measures from the appeals review process to assess organizational performance and serves as an internal tool for managers to use in determining strengths and weaknesses in the appeal process.

interviewees. Information from this sample of stakeholders is not generalizable.

We conducted this performance audit from February 2017 to September 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Enforcing tax laws helps IRS collect revenue from noncompliant taxpayers and, perhaps more importantly, promotes voluntary compliance by giving taxpayers confidence that others are paying their fair share. However, every year, taxpayers fail to pay hundreds of billions of dollars in taxes. This tax gap—the difference between tax amounts that taxpayers should pay and what they actually pay voluntarily and on time—has been a persistent problem for decades.¹⁰ In our 2017 High-Risk Report we continued to include Enforcement of Tax Laws as a high-risk area.¹¹ Key components of this high-risk area include both addressing the tax gap and improving tax compliance.

IRS has four business operating divisions responsible for enforcing tax law and providing taxpayer service to ensure taxpayer compliance, as shown in table 1. For this report, we refer to these divisions as compliance units and their staff as compliance staff.

¹⁰In 2016, IRS estimated that taxpayers voluntarily and timely paid about 81.7 percent of the taxes they should have for tax years 2008 to 2010, resulting in an average annual gross tax gap of \$458 billion for those years. IRS estimated that through late payments and enforcement actions, it will collect an additional \$52 billion annually for tax years 2008 to 2010. The average net tax gap—\$406 billion per year for those years—may never be collected.

¹¹Every 2 years, we report on agencies and program areas that are high risk due to their vulnerabilities to fraud, waste, abuse, and mismanagement or are most in need of transformation. Enforcement of tax laws was designated as a high-risk area in 1990, the first year we published a High-Risk List. See GAO, *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*, [GAO-17-317](#) (Washington, D.C.: Feb. 15, 2017).

Table 1: Overview of IRS Business Operating Divisions

| Business operating division | Enforcement responsibilities | Taxpayers served |
|--|--|--|
| Small Business/Self-Employed (SB/SE) | Audits individual and business tax returns to detect misreporting of income, employment, excise, estate, or gift taxes. SB/SE audits include field examinations (conducted from field offices) and correspondence audits conducted through the mail from campus locations. | Small businesses, self-employed, and corporations and partnerships with less than \$10 million in assets |
| | Collects delinquent taxes and secures delinquent tax returns. Automated collection is largely a call center operation from campus locations that uses automated calls and letters to remind taxpayers of their tax delinquency. Field collection contacts noncompliant individuals and business taxpayers face-to-face. | Individuals and businesses |
| Wage and Investment (W&I) | Audits individual tax returns to detect misreporting of income tax, primarily for refundable tax credits. All W&I audits are correspondence audits conducted through the mail from campus locations. | Individual taxpayers |
| Large Business and International (LB&I) | Audits business tax returns to detect misreporting of income, employment, and excise taxes. These are field examinations of taxpayer books and records. Audits income tax returns for individuals with assets or earnings of tens of millions of dollars or with international tax issues. These audits include field examinations and correspondence audits conducted through the mail. | Large corporations and partnerships with \$10 million or more in assets Individuals with high wealth or international tax issues |
| Tax Exempt and Government Entities (TE/GE) | Audits exempt organizations and government entities to detect misreporting of income, employment, or excise taxes and to ensure exempt organizations are operating in accordance with their exempt purposes. These audits include field examinations and correspondence audits conducted through the mail. | Retirement plans and trusts Tax-exempt organizations, such as charities, civic organizations, and business leagues Federal, state, and local governments; Indian tribal governments; and tax-exempt bond issuers |

Source: GAO analysis of Internal Review Service information. | GAO-18-659

Role of the Office of Appeals

Formed in 1927, Appeals is the only administrative function of IRS with authority to consider settlements of tax controversies and has the primary responsibility to resolve these disputes without litigation to the maximum extent possible.¹² IRS states that the appeal process is both less formal

¹²IRM Part 8, Chapter 6, Section 2.1.1. This report focuses on the IRS administrative appeal process. Appeals also offers alternative dispute resolution programs in which an Appeals staff member trained in mediation techniques serves as an impartial third party facilitating negotiations between taxpayers and IRS during examination or collection.

and costly than court proceedings and is not subject to judicial rules of evidence or procedure.¹³

The IRS Restructuring and Reform Act of 1998 (Restructuring Act) specified that IRS must provide an independent appeals function.¹⁴ Appeals carries out this function. Appeals is a separate unit within IRS, and its chief reports directly to the Commissioner of Internal Revenue. The Restructuring Act also prohibits communications between Appeals staff and other IRS functions without the taxpayer or representative being given an opportunity to participate. In 2016, IRS clarified that Appeals is separate from the IRS compliance functions, including examination and collection units, that initially review a taxpayer's case and that Appeals may return cases to compliance units when taxpayers provide new information for consideration.¹⁵

Appeal Eligibility

Taxpayers may appeal many IRS decisions, including tax collection actions and proposed tax assessments, with some exceptions.¹⁶ Taxpayers cannot appeal solely due to moral, religious, political, constitutional, conscientious, or other similar grounds.¹⁷ Taxpayers requesting appeals can range from individuals to large multinational corporations. IRS provides publications that explain taxpayer's rights for

¹³Internal Revenue Service, *Appeals – An Independent Organization*, accessed Sept. 11, 2018, <https://www.irs.gov/compliance/appeals/appeals-an-independent-organization>.

¹⁴Pub. L. No. 105-206, title I, § 1001(a)(4), 112 Stat. 685 (July 22, 1998), *codified at* 26 U.S.C. § 7801 note.

¹⁵Department of the Treasury, Internal Revenue Service, *Fact Sheet: IRS Clarifies Office of Appeals Policies*, (Updated October 1, 2016).

¹⁶26 C.F.R. §§ 601.105-106.

¹⁷26 C.F.R. § 601.106(b).

both examination and collection appeals.¹⁸ IRS also developed online self-help tools to help taxpayers understand what can be appealed.¹⁹

For collection actions, the Restructuring Act created a statutory right for collection due process appeals and provides an impartial review for taxpayers facing possible levies for collecting delinquent taxes or who have had a notice of federal tax lien filed against them.²⁰ IRS also offers a collection appeals program for a broader range of collection issues, such as when IRS rejects or terminates an installment agreement to pay taxes owed.²¹ In contrast, for examination decisions, the tax code does not provide statutory rights to administrative appeals. In certain circumstances, IRS will designate an examination issue for litigation and not offer access to the administrative appeal process.²² In other circumstances, IRS may decide not to refer cases docketed in the U.S. Tax Court to Appeals for settlement if it determines doing so will be in the best interest of sound tax administration.²³ For example, IRS may decide not to refer a docketed case to Appeals in cases (1) involving a significant issue common to other cases in litigation for which it is important that the IRS maintain a consistent position or (2) related to a case over which the Department of Justice has jurisdiction.²⁴

¹⁸Appeals rights for examinations are explained in Department of the Treasury, Internal Revenue Service, *Your Appeal Rights and How To Prepare a Protest If You Don't Agree*, Publication 5, (Jan. 1999) and Department of the Treasury, Internal Revenue Service, *Examination of Returns, Appeal Rights, and Claims for Refund*, Publication 556, (Sept. 2013). Appeals rights for collections are explained in Department of the Treasury, Internal Revenue Service, *Collection Appeal Rights*, Publication 1660, (Feb. 2014).

¹⁹The tools can be found on the IRS website at <https://www.irs.gov/compliance/appeals/appeals-online-self-help-tools>, accessed Sept. 11, 2018.

²⁰Pub. L. No. 105-206, § 3401, *codified at*, 26 U.S.C. §§ 6320 and 6330.

²¹IRM Part 8, Chapter 24, Section 1. IRS Publication 1660 explains collection issues that can be appealed under the collection appeals program.

²²IRM Part 33, Chapter 3, Section 6 lays out the designation procedure. IRS officials told us that from March 2007 to August 2018, the agency had designated fewer than 10 cases for litigation.

²³26 C.F.R. §601.106, and IRS Rev. Proc. 2016-22, Sec. 3.03.

²⁴IRS Rev. Proc. 2016-22, Sec. 3.03.

Appeal Workstreams

Appeals' workload is organized into seven workstreams based on similarities in case characteristics. Two workstreams involve collection appeals where IRS is pursuing taxpayers who failed to fully pay taxes and penalties owed. Four workstreams include a wide range of examination appeals where IRS is proposing additional tax and penalty assessments based on auditing tax returns. The last workstream covers other cases that do not fit into the collection and examination workstreams. Figure 1 below provides an overview of the appeal workstreams, including which IRS business operating divisions transfer the cases to Appeals.

Figure 1: Overview of IRS Appeal Workstreams

| Appeal workstream | IRS Business Operating Division | | | | |
|---|---------------------------------|---------------------|----------------------------------|------------------------------------|------------------------------|
| | Small Business Self Employed | Wage and Investment | Large Business and International | Tax Exempt and Government Entities | Other IRS Units ^a |
| Collection - Cases where IRS is pursuing taxpayers, including individuals, businesses, as well as government and tax-exempt entities, who failed to fully pay taxes and penalties due. | | | | | |
| Collection Due Process - A collection case where a taxpayer appeals an IRS filing of notice of federal tax lien on property or proposed levy of wages or assets. ^b | ✓ | | | | |
| Offer in Compromise - A collection case where a taxpayer appeals IRS rejection of the taxpayer's offer to settle a tax liability for less than the full amount owed. ^c | ✓ | | | | |
| Examination - Cases where IRS audited individual and business tax returns to detect misreporting of income, employment, excise, estate, or gift taxes owed or reviewed an organization's tax-exempt status. | | | | | |
| Examination - An examination case where a taxpayer, including individuals, small businesses, as well as government and tax-exempt entities, appeals IRS' findings and proposed assessment of additional taxes owed. Also, a case where a tax exempt entity appeals IRS revocation of tax-exempt status. | ✓ | ✓ | | ✓ | |
| Large Case Examination - An examination case where a large corporate taxpayer appeals IRS' findings and proposed assessment of additional taxes owed. ^d | | | ✓ | | |
| Penalty Appeals - A case where a taxpayer appeals IRS rejection of relief to abate penalties for a failure to file, failure to pay, and failure to deposit. Also, a taxpayer may appeal penalties for a failure to file, failure to pay, and failure to deposit assessed before the taxpayer had the opportunity to dispute the penalties. ^e | ✓ | ✓ | ✓ | | |
| Innocent Spouse - A case where a taxpayer appeals IRS denial of the taxpayer's request to claim innocent spouse relief. An innocent spouse is a taxpayer who filed a joint return with a spouse or ex-spouse and sought specific relief of tax, interest and penalties. Also, a case where a non-requesting spouse appeals IRS granting innocent spouse relief to the requesting spouse. | ✓ | | ✓ | | |
| Other - Cases not included in the collection and examination workstreams. | | | | | |
| Other - These include appeals of other tax disputes including requests for abatement of interest, trust fund recovery penalty and miscellaneous penalty appeals, as well as tax disclosure cases. | ✓ | ✓ | ✓ | ✓ | ✓ |

Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

^aOther IRS units include the Office of Professional Responsibility and disclosure offices.

^bThis workstream excludes collection due process timeliness determination and collection appeals program cases, which are included in the other workstream.

^cThis workstream excludes collection appeals program cases, which are included in the other workstream.

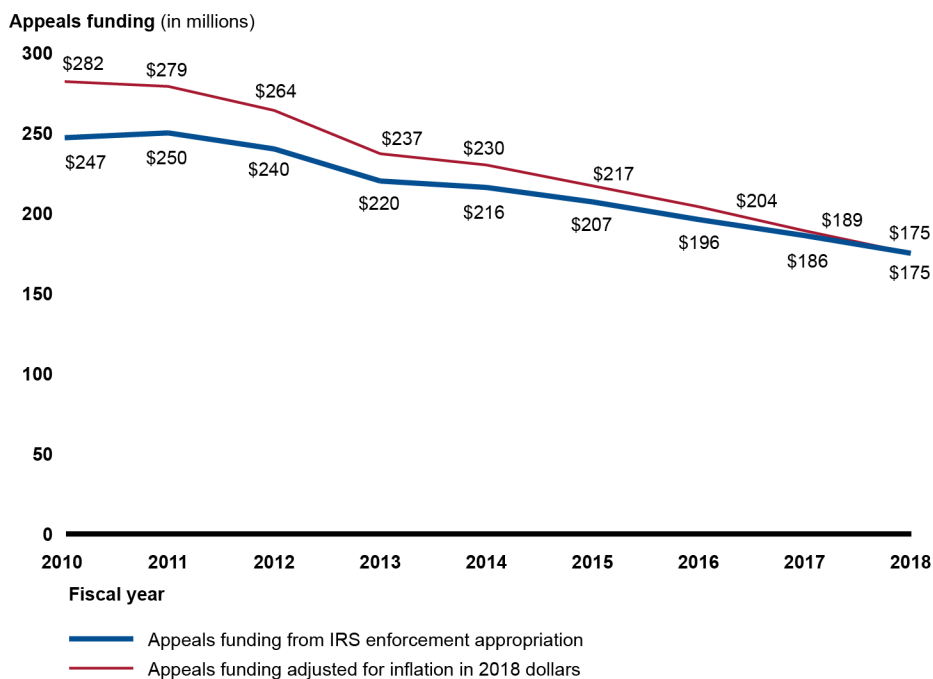
^dFor this report, we combined the Appeals industry case and coordinated industry case workstreams into a large case examination workstream.

^eThis workstream contains cases for penalties that have already been assessed.

Appeals Funding and Workload

While Appeals is separate from IRS's examination and collection compliance functions, its budget is part of the IRS enforcement budget appropriation. From fiscal year 2010 to fiscal year 2018, Appeals represented about 4 percent of the IRS enforcement budget appropriation. Appeals' funding has decreased by 29 percent since 2010 to \$175 million in 2018 (see fig. 2). Adjusting for inflation, Appeals funding has decreased 38 percent since 2010.

Figure 2: IRS Office of Appeals Funding, Fiscal Years 2010-2018



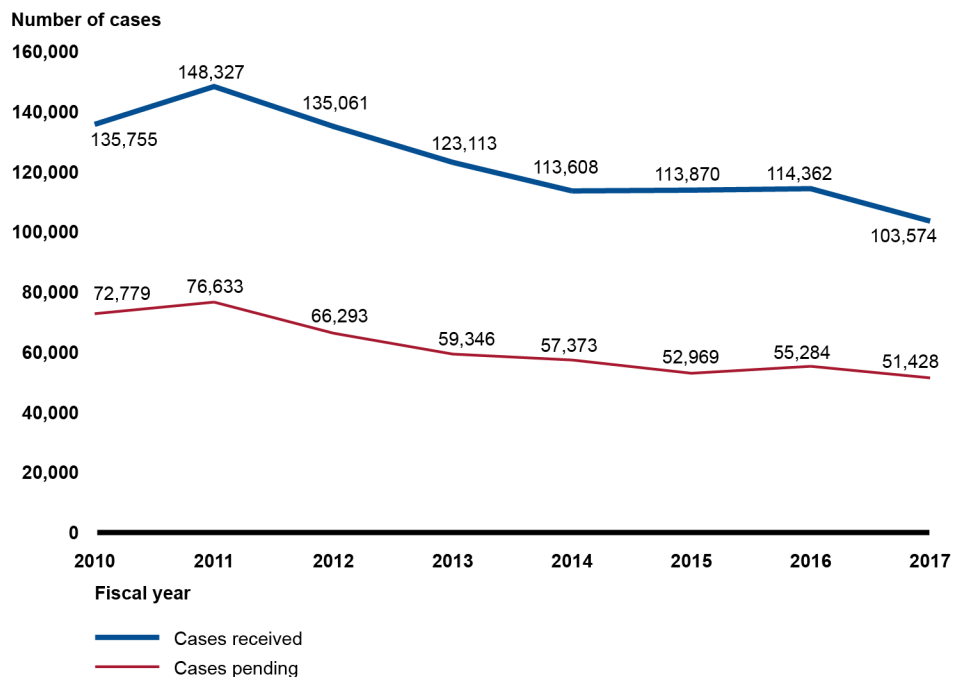
Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

Note: Inflation adjustments were made using Bureau of Economic Analysis data for 2010-2017 and Congressional Budget Office projections for 2018 of the fiscal year chain weighted gross domestic product price index.

Over this same time period, Appeals received fewer cases as IRS enforcement activities declined. For example, the individual examination (or audit) coverage rate declined by about 50 percent from fiscal years

2010 to 2017. Also, the number of notices of federal tax liens filed declined by nearly 60 percent over the period. Faced with declining budgetary resources, IRS compliance units can prioritize and select fewer taxpayers to examine or pursue collection action. Appeals officials said their office generally must work every case received. Appeals aims to close approximately the same number of cases each year as it anticipates receiving during the year. Appeals closure rate—or the number of cases it resolved divided by the number it received in a year—improved from 98 percent for fiscal year 2010 to 103 percent for fiscal year 2017. Annual closure rates for 2017 varied by workstream, ranging from 72 percent for the innocent spouse workstream to nearly 109 percent for the examination workstream.²⁵ Figure 3 shows the total number of cases received and pending at year end since fiscal year 2010.

Figure 3: Office of Appeals Inventory, Cases Received and Pending, Fiscal Years 2010-2017



Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

²⁵A closure rate greater than 100 percent reflects that Appeals closed more cases in a year than it received from compliance units and reduced the year end count of cases pending.

Note: Numbers reflect both cases in the IRS administrative appeal process as well as court cases with Appeals for settlement prior to trial. Data for each fiscal year reflect the number of cases received during the year and the count of cases pending at year end.

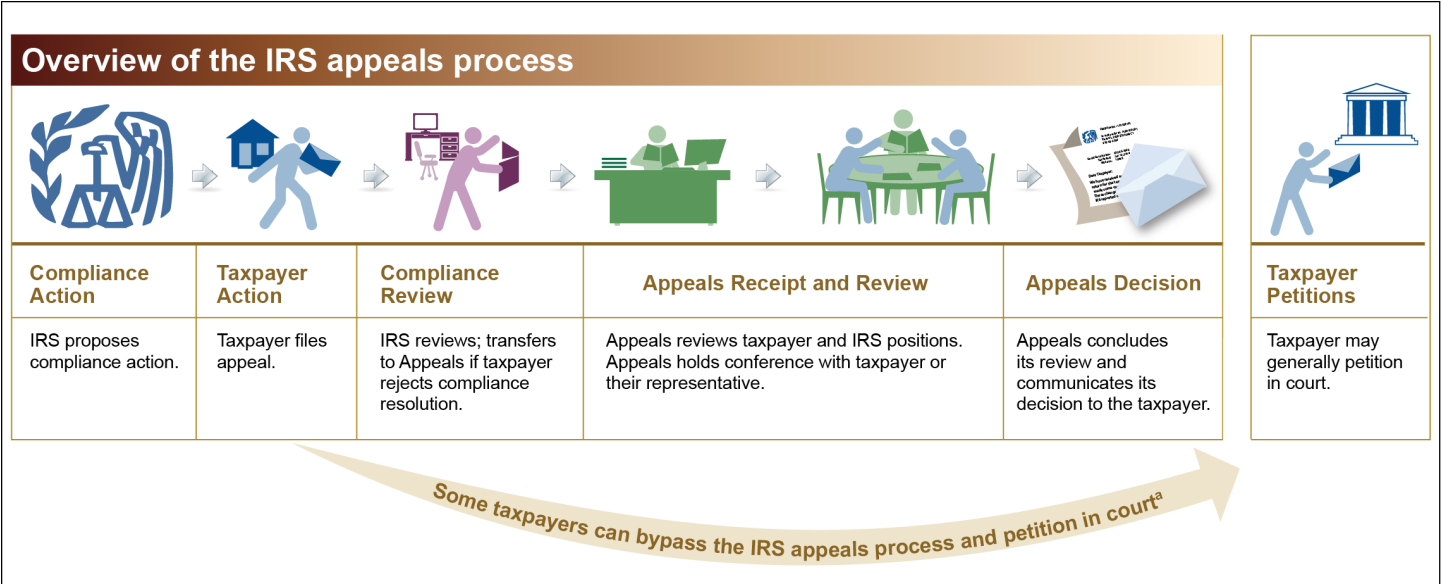
Appeals Has a Standard Process to Resolve Diverse Taxpayer Cases but Has Not Assessed Critical Skills Gaps in Its Declining Workforce

IRS Uses a Standard Process to Resolve Taxpayer Appeals

The diverse array of appeal requests across IRS compliance units that flow into Appeals workstreams follows the same standard process. As illustrated in figure 4, the appeal process involves multiple steps, beginning with a taxpayer filing an appeal of a proposed IRS compliance action and ending with a decision from Appeals. If the taxpayer and IRS cannot reach agreement through the appeal process, the taxpayer may have the case reviewed in federal court if eligible. While certain types of cases must go through the appeal process before review by a court, others may bypass it and taxpayers may directly petition IRS's proposed actions in federal court.²⁶

²⁶Collection due process issues under 26 U.S.C. §§ 6320(b) and 6330(d) must be considered by Appeals before review by a court. 26 C.F.R. §§ 301.6320-1(f)(2) Q&A-F3 and 301.6330-1(f)(2) Q&A-F3.

Figure 4: Overview of the IRS Appeal Process



Source: GAO analysis of IRS Appeals process. | GAO-18-659

^aA court case that has not gone through the administrative appeal process generally will go to the Office of Appeals for possible resolution.

Compliance action. For proposed examination actions to assess additional taxes and penalties or collection actions, such as filing a notice of federal tax lien or proposing a levy to collect delinquent taxes, IRS notifies the taxpayer in writing about the proposed compliance action and explains their appeal rights. The notification states that the taxpayer has 30 days to file an appeal and includes a list of IRS publications and other information on how to file an appeal.

Taxpayer action. Within 30 days from the compliance notification, taxpayers who disagree with the IRS proposed action must send a formal written request to appeal. The appeal request must include:

- the taxpayer’s name and address, and a daytime telephone number;
- a statement that the taxpayer wants to appeal the IRS findings to the Appeals Office;
- a copy of the letter showing the proposed changes and findings that the taxpayer does not agree with;
- the tax periods or years involved;

-
- a list of the changes that the taxpayer does not agree with, and why the taxpayer does not agree;
 - the facts supporting the taxpayer's position on any issue that the taxpayer does not agree with;
 - the law or authority, if any, on which the taxpayer is relying; and
 - a signature on the written protest, stating that it is true, under the penalties of perjury.²⁷

Taxpayers may choose to represent themselves or have professional representation before Appeals. A representative must be a federally authorized practitioner, who can be an attorney, certified public accountant, or enrolled agent authorized to practice before the IRS.²⁸

Low-income taxpayers or those who speak English as a second language may be eligible for free or low cost representation from a Low Income Taxpayer Clinic.²⁹ Based on our analysis of ACDS data for appeal cases closed from fiscal year 2014 through 2017, 57 percent of taxpayers had a representative and 43 percent were taxpayers representing themselves. The share of appeal cases with taxpayers representing themselves varied significantly across the workstreams, ranging from 18 percent for large case examination appeals to 95 percent for innocent spouse appeals.

Taxpayers are instructed to send their appeal and supporting material to the examination or collection compliance unit that proposed the action. IRS states sending the appeal request directly to the Office of Appeals will result in delays and may result in the appeal not being considered a timely request.

Compliance review. Compliance staff work directly with the taxpayer to try to resolve the issue once they determine a taxpayer is requesting an appeal. This may involve multiple interactions by telephone or

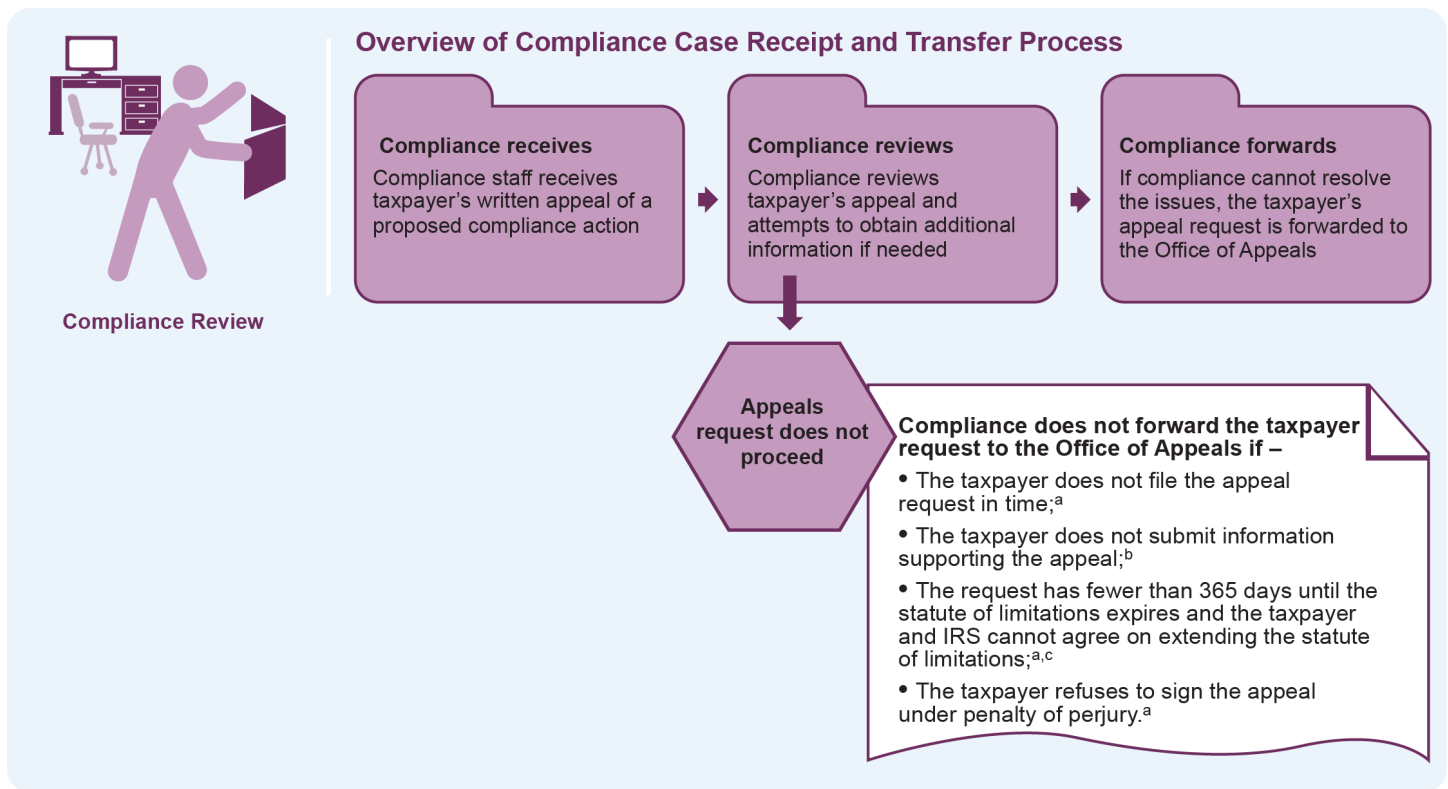
²⁷26 C.F.R. § 601.105(d)(1)-(2); Department of the Treasury, Internal Revenue Service, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree*, Publication 5, (January 1999).

²⁸An enrolled agent is an individual who has, either through past service and technical experience at IRS or by demonstrating special competence through a written examination, earned the ability to represent taxpayers before IRS. An unenrolled preparer may be a witness at an appeals conference, but not a representative.

²⁹Low income taxpayer clinics are operated by nonprofit organizations or academic institutions. Although these clinics receive partial funding from the IRS, clinics, their employees, and their volunteers are completely independent of the IRS.

correspondence. Compliance staff will review any new information submitted by the taxpayer as they attempt to resolve open collection or examination matters. Figure 5 illustrates the steps compliance staff are to follow when they receive an appeal.

Figure 5: Overview of Compliance Review and Transfer



Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

^aNot applicable for collection due process appeal request. If the taxpayer does not request a collection due process hearing within the 30-day period, the taxpayer may still be entitled to an equivalent hearing with Appeals but will not have any appeal rights allowing the taxpayer to file for judicial review of the equivalency hearing determination. 26 C.F.R. § 301.6330-1(i).

^bA taxpayer requesting an offer in compromise appeal does not need to submit additional information.

^cA statute of limitations extension can be for a fixed date or open-ended.

If compliance staff cannot reach agreement with the taxpayer, the compliance unit forwards the appeal request and documentation from the taxpayer along with the proposed compliance action documentation to Appeals. Appeals provides a case routing tool on the IRS intranet with instructions and addresses for compliance staff transferring appeal documentation to an Appeals location. In general, taxpayer appeals

related to examination and collection campus cases are transferred to an Appeals campus location.³⁰ Appeals for field examination and collection cases are transferred to an Appeals office near the taxpayer's location. Compliance staff may not forward an appeal request to Appeals if the taxpayer did not file the request in time or refuses to sign the appeal under penalty of perjury, among other reasons.

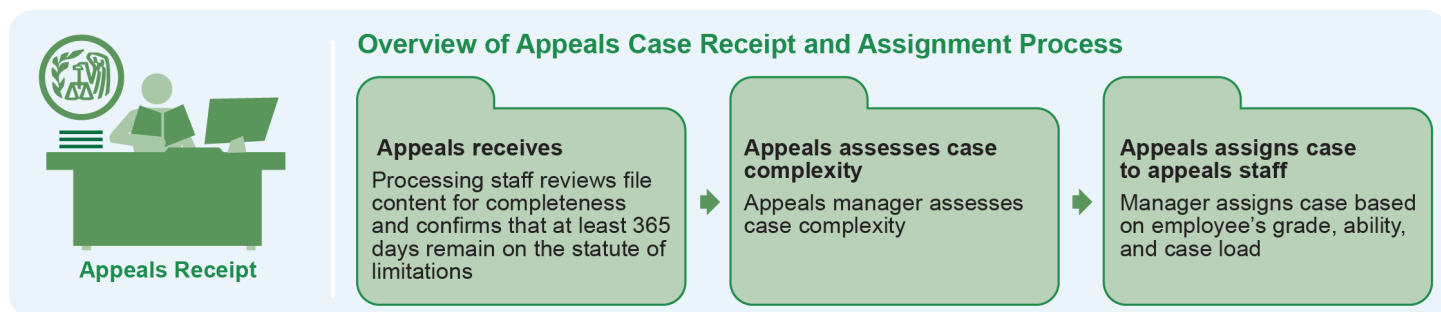
Appeals receipt and review. Figure 6 provides an overview of how Appeals receives and assigns cases. Upon receipt of an appeal, Appeals processing staff log each appeal case into the ACDS used to control and track cases in Appeals inventory. Most appeal cases arrive from compliance as paper files, and Appeals is working to receive certain collection cases electronically.³¹ For examination cases, Appeals processing staff also check that sufficient time remains for Appeals to complete its review. Generally, examination cases must have at least 365 days remaining on the assessment statute expiration date when the case is received in Appeals.³²

³⁰Campuses, formerly called service centers, are facilities where IRS performs various operations, such as processing tax returns, handling taxpayer calls, and conducting correspondence audits. Appeals also has staff in those IRS locations.

³¹Appeals has coordinated with SB/SE to electronically receive collection appeals program cases in the other workstream. Since fiscal year 2015, Appeals has had a pilot to receive a limited number of collection due process cases electronically. In October 2017, Appeals expanded the pilot to receive an increased number of these collection appeals electronically.

³²IRM Part 8, Chapter 21, Section 3.1.1. Estate tax appeal cases and certain excise tax claim appeals must have at least 270 days remaining on the assessment statute expiration date, and these expiration dates cannot be extended. See, 26 U.S.C. § 6206; IRM Part 8, Chapter 21, Section 3.1.3.2, IRM Part 8, Chapter 21, Section 3.1.3.22, and IRM Part 4, Chapter 24, Section 8.1.2.

Figure 6: Overview of Appeals Case Receipt and Assignment Process



Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

An Appeals manager is to assess a case's complexity and difficulty to determine how to assign the case.³³ The manager is to consider the factual and legal complexity of the case issues and the level of conference negotiation skills needed to handle the case. The manager also is to consider whether the case has industry-wide implications or the decision would potentially affect other taxpayers and overall voluntary compliance. Generally, Appeals employees with higher skill levels and expertise are expected to be assigned more complex cases.

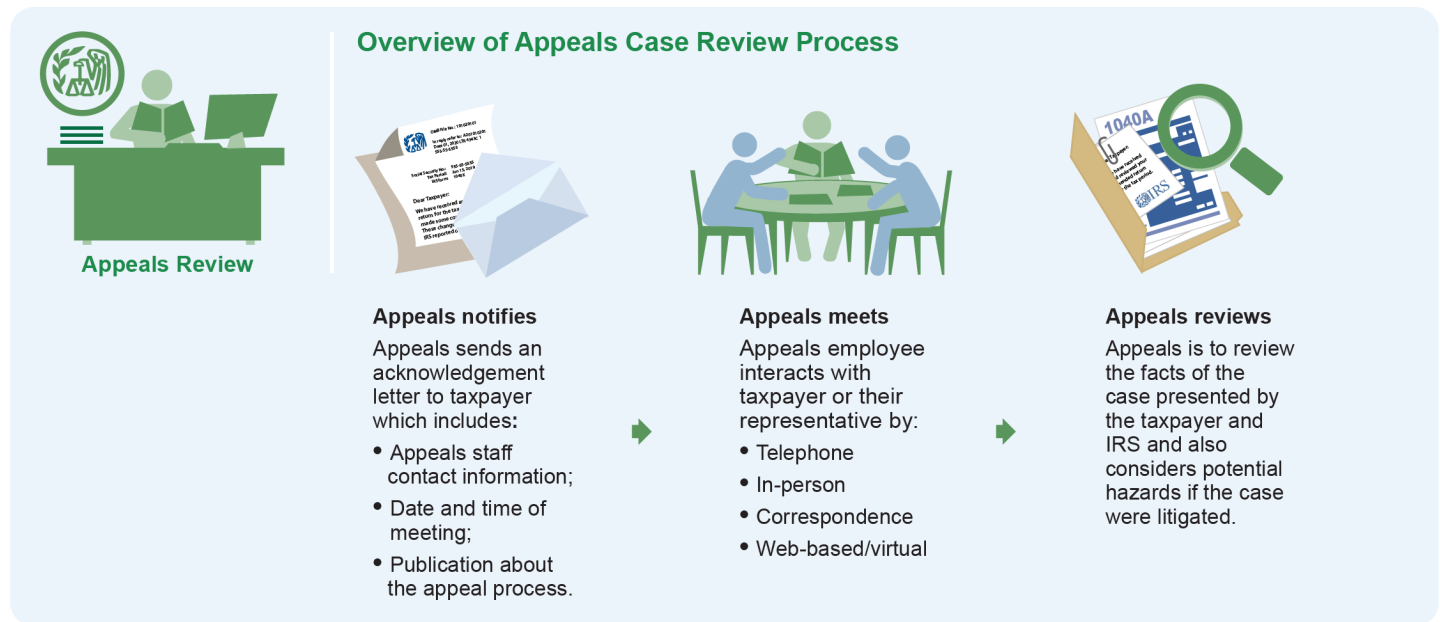
The manager is then to assign the case to an Appeals staff person based on the employee's grade level, ability, and case load. The Appeals employee leading the case may also draw on support from Appeals technical specialists, such as engineers and economists. For the large case examination workstream, an Appeals team case leader may oversee multiple Appeals employees working a large appeal case with highly complex issues and disputed amounts of \$10 million or more.

Figure 7 provides an overview of the Appeals case review process once a case is assigned to an Appeals employee. First, the Appeals employee sends a letter to the taxpayer with information about the appeal process and schedules a meeting. The letter details what additional material is needed, if any, and explains that a determination will be made on the information provided if there is no further contact from the taxpayer. The letter states that Appeals is independent from IRS compliance offices and refers to Publication 4227—Overview of the Appeals Process. Finally, the

³³IRM Part 1, Chapter 4, Section 28.

letter mentions that the taxpayer may be asked to participate in an Appeals customer satisfaction survey after they have completed the appeal process.

Figure 7: Overview of Appeals Case Review Process



Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

Appeals offers conferences to provide taxpayers with an opportunity to present their position (see fig. 7). Based on our analysis of ACDS data for appeal cases closed, about 87 percent of appeal cases that were closed in fiscal year 2014 through 2017 had a conference.³⁴ Most conferences are held by telephone which can be a quick and efficient means for taxpayers to resolve their issues. Appeals campus locations conduct telephone conferences because these locations currently are not configured to accommodate in-person conferences. Appeals may be able to resolve some taxpayer appeals with mail correspondence only. For

³⁴An appeal case may not have a conference if the taxpayer does not respond to schedule a conference or fails to appear for a scheduled conference, or if IRS determines that a conference is not necessary. Based on our analysis of ACDS data for appeal cases closed, the other workstream accounted for about 40 percent of all appeal cases that were closed without a conference in fiscal years 2014 to 2017.

perspective, about 10 percent of appeal cases that were closed and also had a conference from fiscal year 2014 through 2017 did so only by correspondence, and the penalty workstream accounted for nearly two-thirds of those appeal cases.

Appeals also holds in-person conferences, usually at an Appeals office. Alternatively, under its conference policy as of August 2018, Appeals staff can meet taxpayers in a mutually convenient location when the taxpayer, representative, or business is beyond a certain distance from an Appeals office.³⁵ In-person conferences may be used, among other things, for reviews involving substantial books and records, judging the credibility of witnesses, or accommodating with a taxpayer with a special need, such as disability or hearing impairment. Based on our analysis of ACDS data for appeal cases closed, about 6 percent of appeal cases that were closed from fiscal year 2014 through 2017 had an in-person conference, although this varied significantly by workstream. About half of the large case examination appeals closed over the period had in-person conferences, whereas about 3 percent of appeal cases closed in the collection due process, innocent spouse, and penalty workstreams had in-person conferences.

As of August 2018, Appeals had revised its policy on in-person conferences twice since October 2016. Prior to that, campus appeal cases were transferred to a field office when taxpayers requested a face-to-face conference. For fiscal year 2017, Appeals limited in-person conferences to appeal cases meeting specific criteria, such as involving those with substantial books and records to review or where the taxpayer has special needs that can only be accommodated with an in-person conference. Appeals managers had final approval on granting taxpayer requests for in-person conferences. In October 2017, Appeals further revised its policy stating it would attempt to schedule in-person conferences requested by taxpayers for field appeal cases at a time and location reasonably convenient for both the taxpayer and Appeals. Appeals stated it was intending to strike the right balance between making in-person conferences available to taxpayers and ensuring the process is efficient and workable for Appeals.

³⁵As of June 2018, Appeals officials said they had no staff presence in nine states: Delaware, Idaho, Kansas, Montana, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. They also said Appeals had a small staff presence with three or fewer employees in eight states: Alaska, Arkansas, Hawaii, Iowa, Maine, Mississippi, Nebraska, and West Virginia.

Appeals also offers virtual technology interaction to potentially allow more taxpayers, especially those in remote locations, to have an option other than a phone conference. Using IRS virtual service delivery capacity, Appeals staff at campus locations can conduct virtual conferences with taxpayers who schedule to use video terminals at some taxpayer assistance centers. In August 2017, Appeals began piloting web-based virtual conferences.

If taxpayers provide Appeals with new information or evidence, or raise a new issue that requires additional investigation or analysis, Appeals will return the case to the originating compliance unit for further review. After a compliance unit transfers a case to Appeals, communication between compliance staff and Appeals staff is generally restricted without the taxpayer or representative being given an opportunity to participate.

In line with its mission to resolve cases prior to litigation, Appeals is authorized to review the facts of the case considering the hazards that would exist if the case were litigated.³⁶ Appeals is the only IRS unit authorized to consider hazards of litigation when deciding whether to allow taxes and penalties. This means that Appeals may recommend a fair and impartial resolution somewhere between fully sustaining and fully conceding the compliance unit's proposal that reflects the probable result in the event of litigation.

Appeals decision. Appeals makes a decision on a taxpayer's case after weighing evidence from the compliance unit and the taxpayer. Appeals determines whether IRS compliance decisions correctly reflect the facts, as well as applicable law, regulations, and IRS procedures. To resolve an examination appeal case, Appeals may (1) agree with the IRS examination compliance unit and fully sustain its recommended assessment, (2) disagree and reduce the recommended assessment to partially sustain the assessment, or (3) fully concede to the taxpayer's position and not sustain the assessment. To resolve a collection appeal case, Appeals may (1) agree with and sustain the proposed enforcement action, (2) disagree and modify the proposed action (e.g., propose an installment agreement rather than a levy) or defer collection, or (3) fully concede to the taxpayer's position and not sustain the collection action.

³⁶26 C.F.R. § 601.106(f)(2). Hazards of litigation are a substantial uncertainty (1) as to how the courts would interpret and apply the law, (2) about the court's likely factual findings, or (3) about the admissibility or weight that would be given to a specific item of evidence. Hazards of litigation are not considered for collection cases.

This is the final decision by Appeals. Once Appeals makes its decision, it informs the taxpayer in writing and also IRS. Taxpayers dissatisfied with Appeals' decision may file a petition in tax court if they are eligible.³⁷

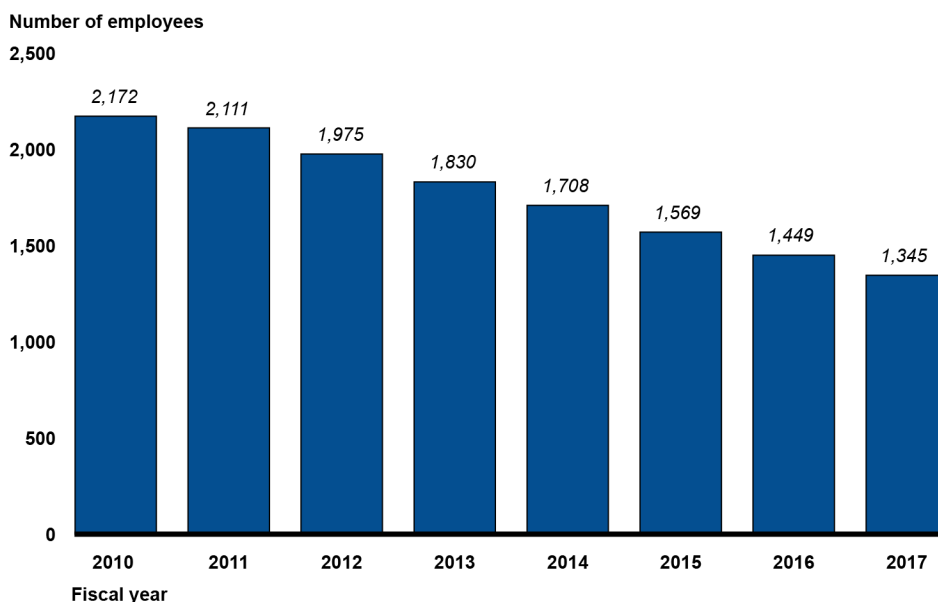
Appeals Has Not Conducted a Skills Gap Analysis

To handle the diverse array of taxpayer appeals across all workstreams, IRS relies on an Appeals workforce that must have sufficient numbers of staff with expertise in all areas of tax law. However, Appeals experienced nearly a 9 percent annual attrition rate from fiscal year 2015 to fiscal year 2017 and projects a similar attrition rate for fiscal years 2018 and 2019. As shown in figure 8, Appeals staffing levels have declined from 2,172 in fiscal year 2010 to 1,345 in fiscal year 2017, nearly a 40 percent decrease.³⁸ As previously noted, Appeals workload also decreased over this period of time as IRS examination and collection enforcement activity declined.

³⁷Certain appeal cases are not eligible to petition in tax court. For example, when IRS has accepted a taxpayer's offer in compromise, taxpayers waive their right to challenge the tax debt in court.

³⁸Appeals reports the total number of Appeals employees in its Business Performance Review, which is a quarterly review conducted by the IRS for each business unit that reviews organizational performance, key initiatives, risks, budget, staffing and other considerations. The number of employees can differ from a full-time equivalent (FTE) measure. FTEs represent the total number of hours worked based on IRS payroll data divided by the number of compensable hours applicable to each fiscal year.

Figure 8: Appeals Staffing Levels, Fiscal Years 2010-2017



Source: GAO analysis of Internal Revenue Service information. | GAO-18-659

Appeals anticipates a continued risk of losing subject matter expertise given that a large share of its workforce is eligible for retirement. According to an Appeals report, at the end of fiscal year 2017, about one-third of the Appeals workforce was eligible for retirement. Moreover, Appeals officials reported that close to half of the staff who are critical to Appeals' mission—including those who handle the most complex cases—were eligible for retirement. Based on our analysis of ACDS data for appeal cases closed, these types of cases accounted for about one-third of appeal cases closed in fiscal years 2014 through 2017.

Gaps in available staff with critical skills and training can result in delays resolving appeal cases. For example, in fiscal year 2017 Appeals received an increased number of innocent spouse appeals, and officials told us they initially lacked sufficient numbers of trained staff ready to review those cases. As of April 2018, the time from receipt by Appeals to case closing for the innocent spouse workstream had increased by 39 percent over the same time period in 2017—from 205 days to 285 days. In response, Appeals was training additional staff and is working to resolve the increased volume of cases.

Appeals has taken action to mitigate the risk of having a sufficient number of staff needed to handle its workload. Appeals has a tool that draws on historical ACDS case data to project the number of Appeals staff needed to review the numbers and types of case receipts expected from IRS compliance units. From fiscal year 2014 through fiscal year 2017, Appeals requested and received approval to hire 292 employees. In November 2017, IRS changed its policy to allow business units funded from IRS's enforcement budget, including Appeals, to manage their own staff levels in certain instances provided they do not exceed their fiscal year staff limits. Under this policy, Appeals will be able to hire staff as its workforce declines due to attrition. While the steps Appeals has taken can be useful stopgap measures, they are not substitutes for nor do they replace the longer-term benefits of strategic workforce planning and conducting critical skills gap analysis.

We have identified that key principles of effective workforce planning include that an agency must define the critical skills that it will need to meet its strategic goals and achieve its mission in the future. An agency must then develop strategies tailored to address staffing and skills gaps in its workforce, including how to acquire, develop, and retain staff to meet its goals.³⁹ We have previously reported that mission-critical skills gaps within the federal workforce pose a high risk to the nation and that individual agencies must take steps to address skills gaps.⁴⁰ We have also reported on the need to close government-wide mission critical skills gaps and to develop strategies to help agencies meet their missions in an era of highly constrained resources.⁴¹

Agencies that do not conduct a critical skills gap analysis risk significant negative effects. We have previously reported that in a time of declining resources, it is important for top management to take actions that ensure the agency maintains capacity—including its workforce—in order to

³⁹ [GAO-04-39](#).

⁴⁰ [GAO-17-317](#).

⁴¹ *Federal Workforce: OPM and Agencies need to Strengthen Efforts to Identify and Close Mission-Critical Skills Gaps*, [GAO-15-223](#) (Washington, D.C.: Jan. 30, 2015), and *Human Capital: Strategies to Help Agencies Meet Their Missions in an Era of Highly Constrained Resources*, [GAO-14-168](#) (Washington, D.C.: May 7, 2014).

achieve its mission.⁴² Once skill gaps are identified, strategies should be tailored to address the gaps.

Appeals has identified knowledge loss and maintaining expertise during a time of declining staff levels as one of its top risks in its Business Performance Reviews. Although it has not conducted a skills gap analysis, Appeals has identified that maintaining expertise in all areas of tax law is essential because it must have staff trained to work a diverse array of appeal cases across all workstreams. Many Appeals staff who review appeal cases, including those who conduct in-person conferences, are in the appeals officer job series critical to Appeals' mission. As of July 2018, about 60 percent of the Appeals workforce was in this job series.

As of September 2018, Appeals is participating in a larger IRS effort to address workforce planning. IRS states that its workforce planning is to involve an integrated and systematic process for identifying current and future human capital needs, the competencies that align with future organizational goals, and the strategies to be implemented to reduce the gaps.⁴³ Created in 2017, the IRS Workforce Planning Council is comprised of representatives from all business units, including Appeals. The council is to share workforce planning activities and best practices across IRS and assist in developing the IRS strategic workforce plan. The council is working to develop an agency-wide workforce plan, which will include identifying gaps between current and projected workforce needs and developing strategies to close the gaps.

According to IRS human capital officials responsible for workforce planning, a service-wide strategic workforce planning effort will include identifying skills and competency gaps in mission critical occupations. Initially planned for the middle of fiscal year 2018, the initiative was delayed as of September 2018, according to IRS human capital officials. IRS units redirected resources to implementation of Public Law 115-97—commonly referred to by the President and many administrative documents as the Tax Cuts and Jobs Act—and requested an extension.⁴⁴

⁴²GAO, *Declining Resources: Selected Agencies Took Steps to Minimize Effects on Mission but Opportunities Exist for Additional Action*, [GAO-17-79](#) (Washington, D.C.: Dec. 20, 2016).

⁴³IRM Part 6, Chapter 250, Section 2.1.

⁴⁴To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (Dec. 22, 2017).

IRS human capital officials also told us the workforce planning team lost resources due to attrition and anticipated the initiative would be complete in the third quarter of fiscal year 2019. Appeals officials told us that they expected to begin their activities once the IRS planning tools are in place.

While the broader Treasury and IRS initiatives will benefit Appeals with longer-term strategic workforce planning, Appeals faces ongoing challenges in achieving its goal and may be unable to mitigate the risk of maintaining staff expertise. Gaps in the Appeals workforce could delay the timely review of Appeals cases. The large share of its staff who are critical to the mission who are eligible for retirement underscores the importance of conducting critical skills gap analysis for Appeals. Given Appeals' unique role in ensuring taxpayers' administrative option to dispute most IRS decisions, it is important for Appeals to have the tax expertise necessary to review appeals cases across multiple workstreams. These factors underscore the importance of Appeals conducting a skills gap analysis in coordination with Treasury and IRS human capital efforts to ensure Appeals immediate skill needs are reflected in broader agency planning.

IRS Does Not Monitor Timeliness of Transfers of All Incoming Appeal Requests and Appeals Does Not Communicate Total Resolution Times to Taxpayers

Appeals Has a Data-Driven Process and Measures to Track and Manage Case Workstreams

Within the standard process that all appeal cases follow, Appeals has developed a series of process measures that use ACDS data to monitor the amount of time for a case to move through an Appeals workstream. These measures track the number of days from Appeals receipt through the appeal review process to when a case is closed in ACDS. Appeals also measures the amount of time for compliance units to transfer appeals cases. For the purpose of this report, total appeal resolution time

is the length of time from when a taxpayer submitted the appeal request to IRS to when the case is closed in ACDS.

Appeals managers use ACDS to monitor progress staff have made reviewing each case assigned to them, including holding a conference with the taxpayer and reaching a decision to resolve the appeal. ACDS inventory reports allow managers to monitor total employee time per case and determine if a case has not had any activity recorded for 60 days. Appeals officials explained that the process measures are indicators that assist in making management decisions and identifying data driven process efficiencies to control workflow within each workstream. For example, an Appeals manager may use the ACDS data to address case review backlogs and offer assistance to help expedite case review. Appeals reports its review time measure by workstream in its monthly performance report to the Commissioner of Internal Revenue.

IRS Does Not Always Transfer Collection Appeals on a Timely Basis and Does Not Monitor Incoming Examination Appeals or Time to Transfer to Appeals

The IRS website states that if a taxpayer has not heard from Appeals and it has been more than 120 days since the request was submitted, the taxpayer should contact the IRS office to which they sent their appeal request. According to IRS examination and collection officials we interviewed, compliance unit staff attempt to resolve all taxpayer requests and work with taxpayers to obtain additional information if needed and answer questions about pending compliance actions. According to Appeals officials, there are different levels of case complexity across the workstreams.

For appeal cases closed from fiscal years 2014 through 2017, table 2 shows the average number of days from when IRS received a taxpayer appeal to when the compliance unit completed its review and transferred the case file to Appeals. Across the appeals workstreams, the compliance review time varied from 30 days for innocent spouse appeals to 108 days for large case examination appeals. Any delay during compliance review adds to the total time to resolve an appeal. As shown in table 2, compliance review accounted for about a quarter of the total resolution time for collection appeals. Among the examination workstreams, the compliance review share of total resolution time ranged from 12 percent for innocent spouse appeals to about 45 percent for penalty appeals.

Table 2: Average Days for Compliance Review and Share of Total Appeal Resolution Time for Appeal Cases Closed, Fiscal Years 2014-2017

| Workstream | Number of appeal cases | Average number of days | | Compliance share of total appeal resolution time |
|---------------------------------------|------------------------|---|------------------------------|--|
| | | Compliance review and transfer to Appeals | Total appeal resolution time | |
| Collection workstreams | | | | |
| • Collection due process ^a | 158,057 | 59 | 252 | 23% |
| • Offer in compromise ^b | 36,837 | 61 | 240 | 26% |
| Examination workstreams | | | | |
| • Large case examination | 3,802 | 108 | 637 | 17% |
| • Examination | 48,460 | 105 | 337 | 31% |
| • Penalty appeals | 39,711 | 100 | 220 | 45% |
| • Innocent spouse | 10,747 | 30 | 249 | 12% |
| Other | 48,424 | 39 | 101 | 38% |

Source: GAO analysis of Appeals Centralized Data System data. | GAO-18-659

Note: The average number of days varied from the median number of days, suggesting that outliers increased the average review time.

^aA collection case where a taxpayer appeals an IRS filing of notice of federal tax lien or proposed levy of wages or assets.

^bA collection case where a taxpayer appeals IRS rejection of the taxpayer's offer to settle a tax liability for less than the full amount owed.

Collection Appeals

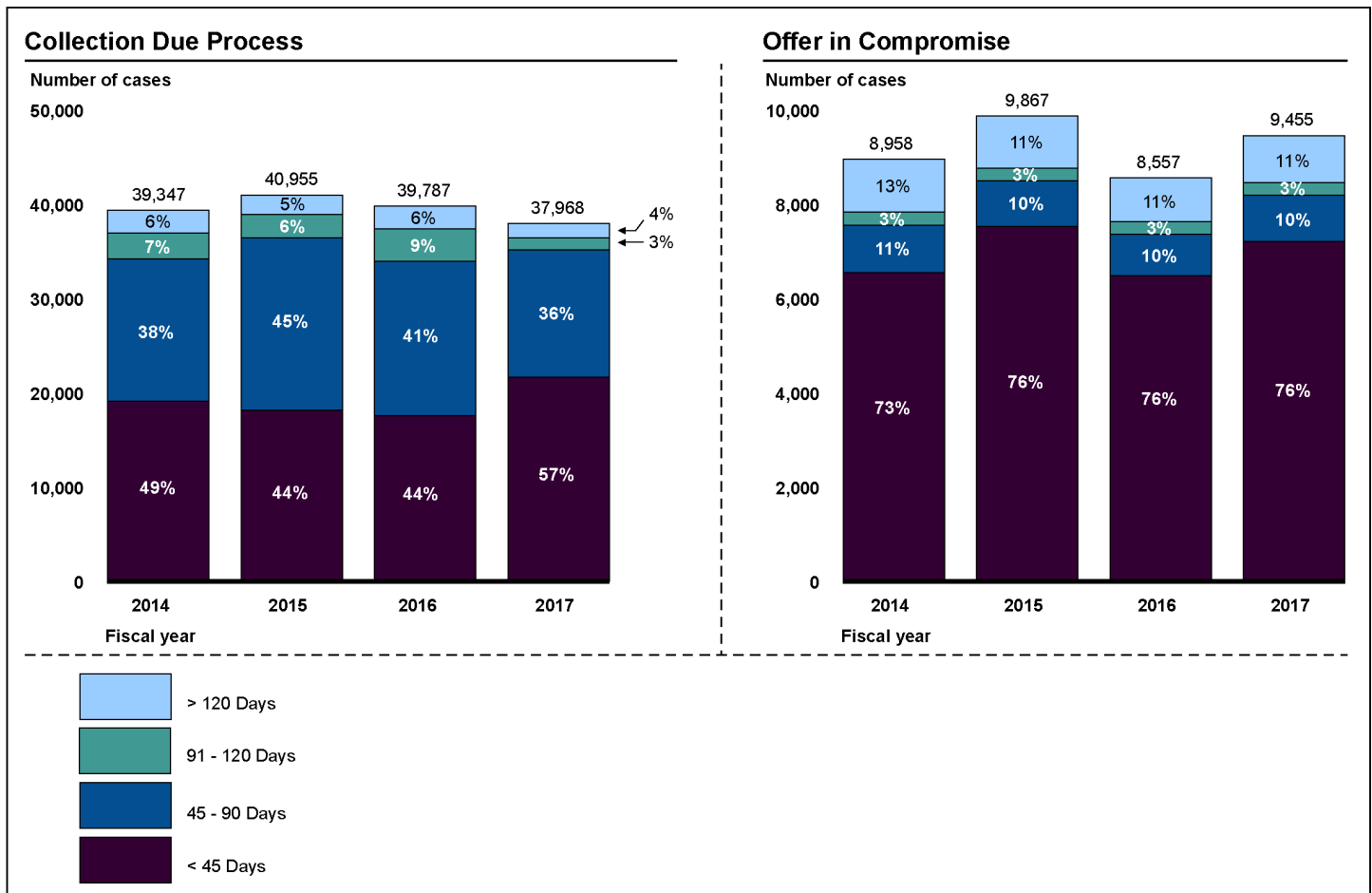
According to the IRM, IRS requires SB/SE collection units to review collection due process appeals within a 45 day period of receipt of the taxpayer requests.⁴⁵ The 45 calendar days after receipt of an appeal request includes time to ensure completeness of the request, obtain additional information if necessary, and transfer the request to Appeals. Collection unit staff reviewing appeal requests may experience delays with taxpayers submitting additional material to support their requests. With management approval, collection units may have an additional 45 days to continue working with the taxpayer to resolve the collection issue in dispute. The IRM time requirement does not specifically apply to offer in compromise collection appeals.

According to our analysis of ACDS data for appeals closed in fiscal years 2014 to 2017, the majority of collection due process appeals were transferred within the IRM time requirements. In fiscal year 2017, approximately 57 percent of collections due process appeals were

⁴⁵IRM Part 5, Chapter 1, Section 9.

transferred in less than 45 days and approximately 93 percent of these cases were transferred within 90 days. However, IRS did not always transfer collection due process appeals in a timely manner. For collection due process appeal cases closed in fiscal year 2017, approximately 4 percent (1,559) of these collection appeals took more than 120 days to be transferred to Appeals (see fig. 9).

Figure 9: Average IRS Collection Case Transfer Time to Office of Appeals for Appeal Cases Closed, Fiscal Years 2014-2017



Source: GAO analysis of Appeals Centralized Database System Data. | GAO-18-659

Note: Appeal cases closed by Appeals in a fiscal year may have been transferred from compliance units in prior fiscal years. The average number of days varied from the median number of days, suggesting that outliers increased the average review time. Percentages may not total to 100 due to rounding.

As shown in figure 9, the majority of offer in compromise collection appeals were also transferred within 90 days, even though the IRM time requirement applies specifically for collection due process appeals. Approximately 11 percent (995) of these collection appeals took more than 120 days to be transferred to Appeals in fiscal year 2017.

Delays in transferring collection due process appeals, in turn, affect prompt resolution for the taxpayer and IRS. Each tax assessment has a collection statute expiration date of 10 years after the assessment. When a taxpayer appeals a collection action within 30 days of receiving the notice, IRS suspends further collection activity until Appeals decides the case. When the IRS suspends the collection statute for a period longer than its policy allows, this means that the taxpayer can face a longer period where IRS can collect the balance owed.

Standards for Internal Control in the Federal Government states that management should establish and operate monitoring activities to monitor internal controls. Management should evaluate the results and remediate any identified deficiencies.⁴⁶

SB/SE collection tracks the number of collection due process appeals that are not transferred to Appeals within 45 days of receipt from the taxpayer. SB/SE collection officials told us that they do not have reports or tools to systematically track transfer times for other types of collection appeals. Although SB/SE has the capacity to identify how long collection due process appeals have been waiting, collection officials we interviewed acknowledged that they do not always monitor whether they are meeting the transfer time requirement. For non-docketed cases closed in fiscal year 2017, the deficiency in transferring nearly 1,600 collection due process appeals more than 120 days after receipt points to the lack of monitoring. Evaluating the existing tracking reports for collection due process appeals and remediating deficiencies in collection staff following procedures would be a key step to achieve timely transfer of these collection appeals.

Examination Appeals

Unlike the requirements for collection due process cases, the IRM does not establish timeframes for compliance review and transfer of taxpayer appeals of examination disputes. According to Appeals officials, examination cases can have many issues, and the level of review to try to

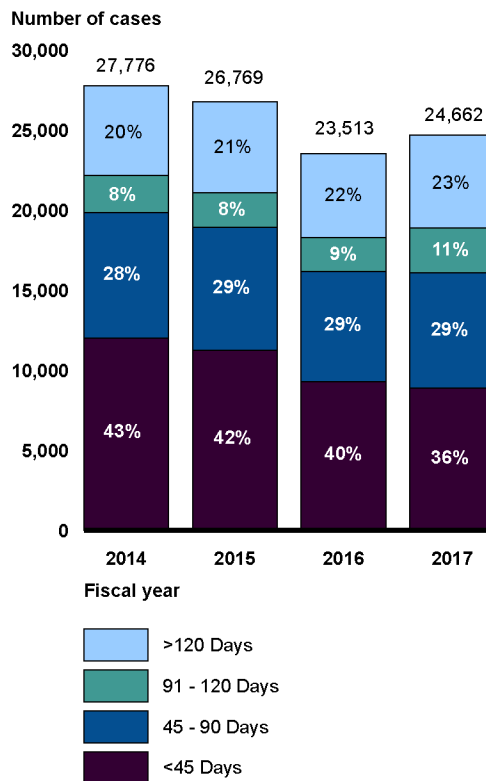
⁴⁶[GAO-14-704G](#).

resolve examination issues can be significant prior to the taxpayer appeal request being transferred to Appeals. Review procedures differ across the business operating divisions.

In its examination quality standards, SB/SE field examination has national standard timeframes, which include 20 days from the receipt of a taxpayer appeal request to close the examination case and then 10 days for SB/SE technical services to transfer the file to Appeals. IRS officials acknowledged that SB/SE field does not always meet its 30-day timeframe standard for appeal transfers, in part, because examiners must review any new information submitted with a taxpayer's appeal request.

Our analysis of ACDS data showed that about two-thirds of all examination appeals closed in fiscal years 2014 through 2017 had been transferred from IRS examination compliance units within 90 days. However, nearly a quarter of examination appeals took more than 120 days to be transferred to Appeals (see fig. 10).

Figure 10: Average IRS Examination Case Transfer Time to Office of Appeals for Appeals Cases Closed, Fiscal Years 2014-2017



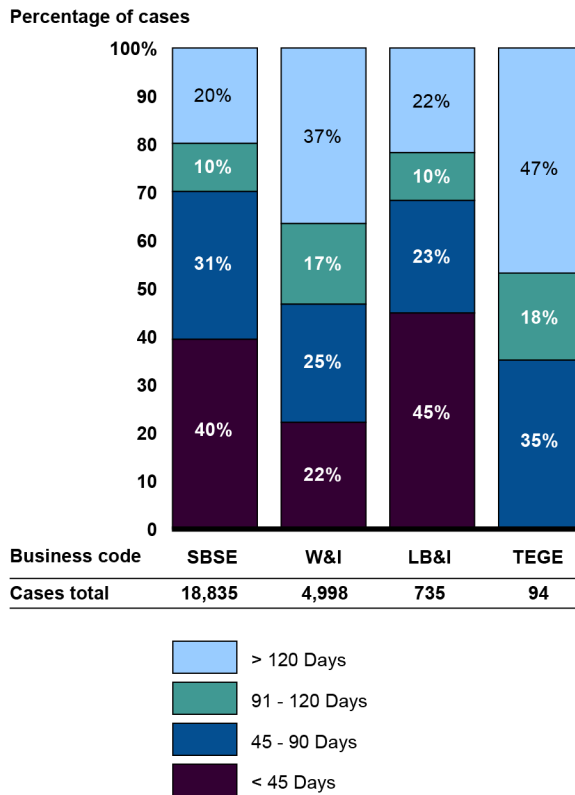
Source: GAO analysis of Appeals Centralized Database System Data. | GAO-18-659

Note: Appeal cases closed by Appeals in a fiscal year may have been transferred from compliance units in prior fiscal years. The average number of days varied from the median number of days, suggesting that outliers increased the average review time. Percentages may not total to 100 due to rounding.

As shown in figure 11, transfer times for examination appeals varied across IRS examination compliance units. For appeal cases closed in fiscal year 2017, more than two-thirds of examination appeals originating in SB/SE and LB&I were transferred by those units within 90 days. For examination appeals originating in W&I, less than half were transferred within 90 days, and 37 percent took more than 120 days to transfer. TE/GE transferred fewer appeals than the other units, but nearly half of TE/GE appeals took more than 120 days to be transferred to Appeals.⁴⁷

⁴⁷IRM Part 4, Chapter 75, Section 17 requires mandatory review of all exempt organization cases before transfer to Appeals.

Figure 11: Average Examination Case Transfer Time from IRS Business Operating Divisions to Office of Appeals, Fiscal Year 2017



Source: GAO analysis of Appeals Centralized Database System Data. | GAO-18-659

Note: Appeal cases closed in a fiscal year by Appeals may have been transferred from compliance units in prior fiscal years. The average number of days varied from the median number of days, suggesting that outliers increased the average review time. Percentages may not total to 100 due to rounding. Small Business/Self-Employed (SB/SE) transfers included appeal cases in the examination, penalty appeal, and innocent spouse workstreams. Wage and Investment (W&I) transfers included appeal cases in the examination and penalty appeal workstreams. Large Business and International (LB&I) transfers included appeal cases in the large case examination and penalty appeal workstreams. Tax Exempt and Government Entities (TE/GE) transfers included appeal cases in the examination workstream. TE/GE had fewer than 10 cases in the <45 Days category and therefore these data are suppressed from the analysis.

Delays in transferring examination appeal requests can result in increased costs for taxpayers because interest continues to accumulate on the tax liability during the appeal process. Further, taxpayers unsure of the status of their appeals, particularly those over 120 days, may generate additional calls and correspondence with IRS—further tying up other IRS staff to respond to inquiries on appeals experiencing delayed transfer.

IRS examination officials in SB/SE and W&I, which accounted for 97 percent of all examination appeals closed in fiscal year 2017, said that their compliance units do not specifically track incoming appeal requests and the time spent on initial appeal review within compliance. In effect, appeal requests resolved during compliance review would be reflected as compliance cases closed in the examination information systems. As a result, IRS does not maintain readily available data on the total number of examination appeal requests received and how many are resolved during initial review by compliance.

IRS campus examination officials we interviewed said that taxpayer correspondence delays contribute to increased time to identify and transfer correspondence examination appeals for SB/SE and W&I. A taxpayer request for an appeal arrives like any other taxpayer correspondence related to ongoing correspondence examinations. However, according to W&I campus examination officials, taxpayer requests may sit for months before they are identified as an appeal. Once compliance unit staff determine an examination dispute cannot be resolved in their unit, the appeal request will be transferred to Appeals. SB/SE and W&I examination officials we spoke with said the steps to transfer the files to Appeals take about 5 to 10 days.

IRS examination officials we interviewed explained that they cannot readily track information on the number of days between the taxpayer's request for an appeal to when the case was transferred to Appeals. They explained that it could require looking case by case in the examination systems. SB/SE and W&I officials we interviewed were not aware of any feedback from Appeals about the timeliness of the appeals requests transferred from their units.

Although Appeals has this information, it does not include compliance transfer time information in its own monthly performance reports to the Commissioner of Internal Revenue. Also, Appeals officials said that they historically have not provided ACDS compliance transfer time data to IRS compliance units. Appeals has quarterly coordination meetings with the various IRS compliance units to discuss how compliance plans may affect projected appeal case volumes as well as technical training opportunities. Appeals officials said that information about transfer times has been shared at prior meetings but is not a standing agenda item. As a result, Appeals and compliance units do not consistently review performance data on the amount of time for compliance units to transfer taxpayer cases to Appeals.

Critical information about the time it takes to transfer cases from compliance units is collected by Appeals as part its process measures but has not been shared within IRS, including with other units involved in the appeal process. The ongoing coordination meetings between Appeals and IRS compliance units could present a valuable opportunity to share data about the length of time it takes for cases to be transferred to Appeals. Sharing this information could be a low-cost first step to help IRS examination units understand their current performance and how compliance review factors into total appeal resolution time.

Standards for Internal Control in the Federal Government also states that management should define objectives in specific terms so they are understood at all levels of the entity. This involves clearly defining what is to be achieved, who is to achieve it, how it will be achieved, and the time frames for achievement. Internal control standards require that controls be documented, and an agency's documentation of them should be properly managed and maintained.

IRS requires primary sources of guidance with an IRS-wide or organizational impact—such as policy documents, procedures, and guidelines—to be included in the IRM.⁴⁸ This requirement is intended to ensure that IRS employees have the approved policy and guidance they need to carry out their responsibilities in administering the tax laws. The absence of defined timeframes for the initial compliance review and documented controls over incoming examination appeals make it difficult to hold IRS units accountable for ensuring timely transfer to Appeals.

Appeals Case Review Times Vary Across Workstreams

The IRM specifies that Appeals should complete a conference with a taxpayer in a timely manner and make a prompt decision to resolve the dispute.⁴⁹ This enables the taxpayer to know with the least amount of delay the final IRS decision about the amount of tax liability or other issue in dispute. It also results in Treasury receiving any additional revenue involved at the earliest practicable date.

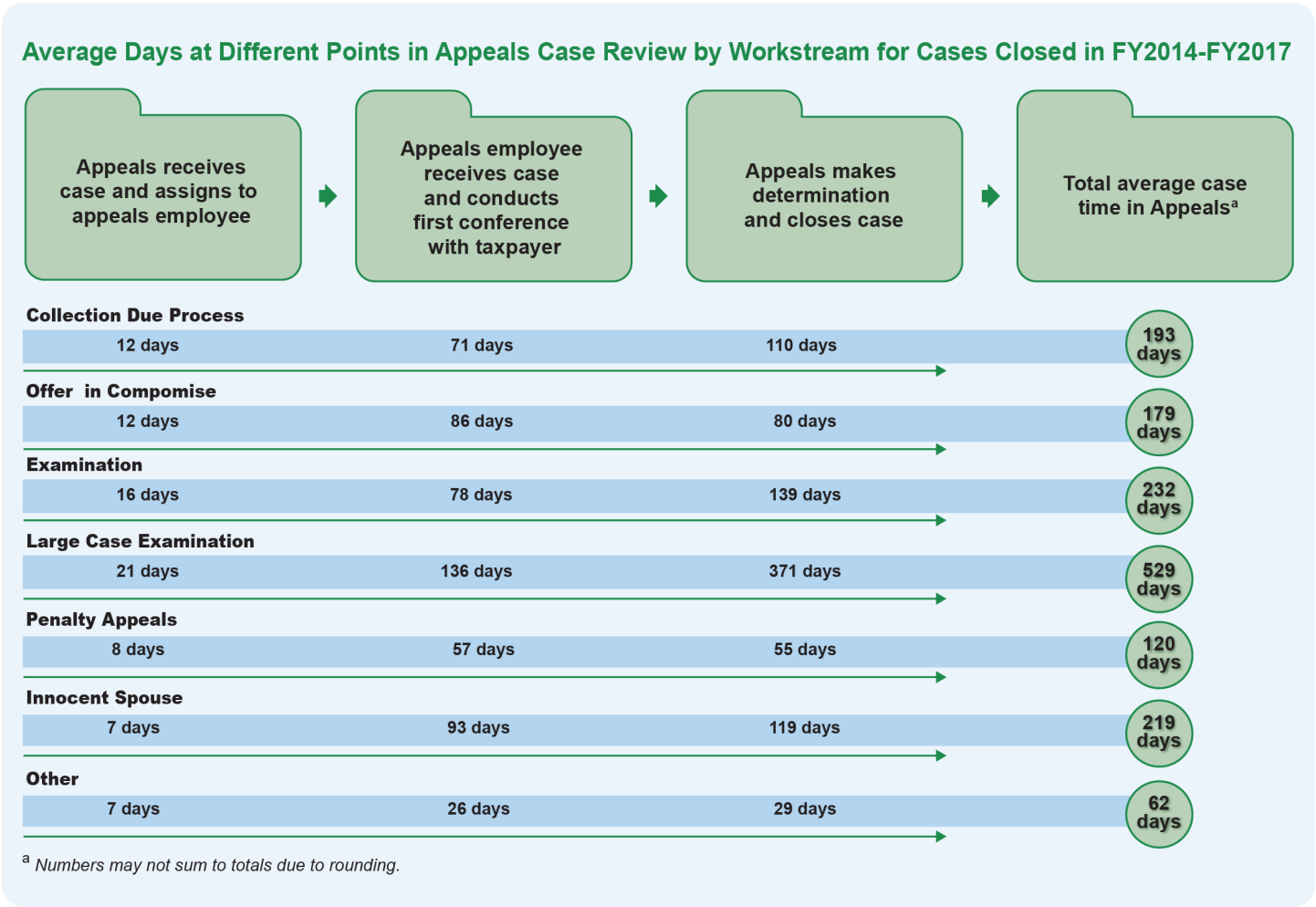
Within Appeals, the time from Appeals receipt to a decision closing the case varies across the Appeals workstreams, as shown in figure 12. For fiscal years 2014 to 2017, collection due process—the workstream with

⁴⁸IRM Part 1, Chapter 11, Section 2.2.

⁴⁹IRM Part 8, Chapter 6, Section 1.4 and IRM Part 8, Chapter 1, Section 1.1.

the highest volume of closed cases—averaged 193 days to resolve a case within Appeals. Average appeals review time for large case examination appeals, the smallest volume, averaged 529 days.

Figure 12: Average Days for Appeals Review by Workstream for Cases Closed, Fiscal Years 2014-2017



Source: GAO analysis of Appeals Centralized Database System data. | GAO-18-659

Note: The average number of days varied from the median number of days, suggesting that outliers increased the average review time.

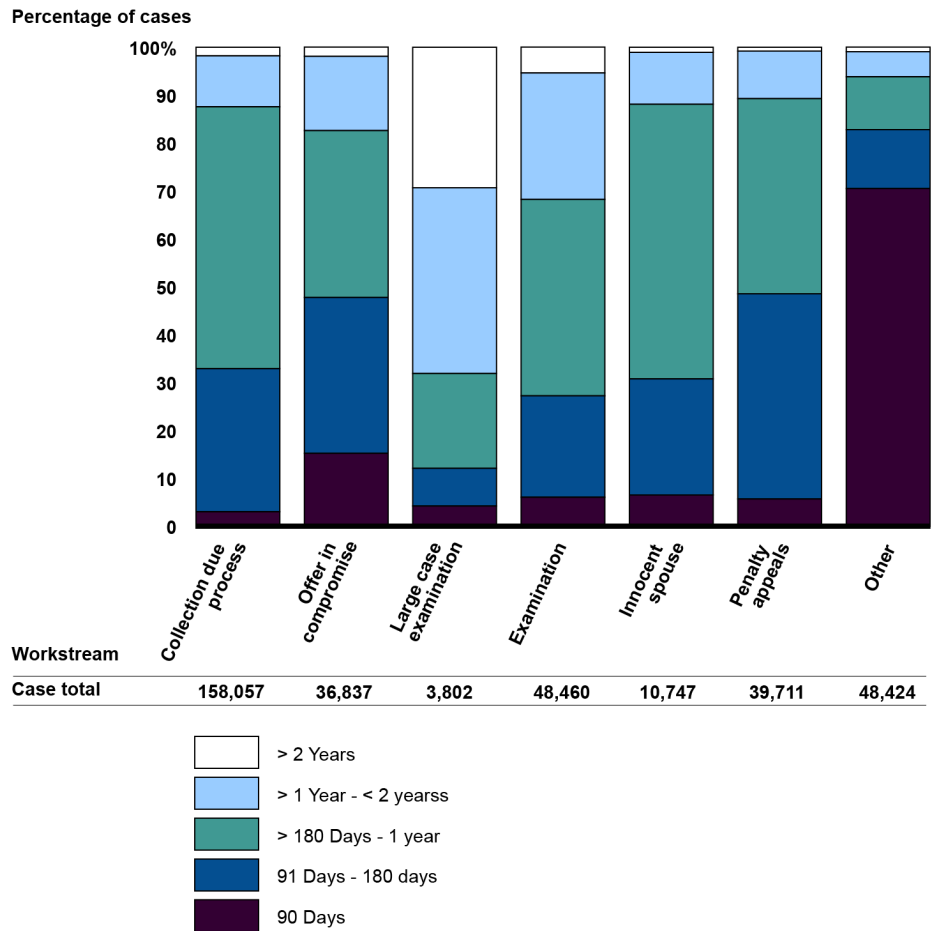
Transparency for Taxpayer
Total Resolution Time Is
Limited

Although IRS states on its website that it takes anywhere from 90 days to 1 year for Appeals to resolve a case, this generic timeframe does not reflect the total resolution time counting from when a taxpayer requests an appeal to when a final decision is made. Further, this timeframe does

not provide perspective on the range of resolution times across different types of appeals. According to our analysis of ACDS data of appeal cases closed from fiscal year 2014 through 2017, about 15 percent of all appeal cases closed within 90 days. Approximately 85 percent of all cases were resolved within 1 year of when the taxpayer requested an appeal. However, over that same period, approximately 15 percent of all appeal cases took more than one year in total to resolve, and of these, approximately 2 percent of all closed cases took more than 2 years to resolve.

Total resolution times varied considerably across the Appeals workstreams, as shown in figure 13. The share of cases closed within 90 days ranged from approximately 3 percent for the collection due process workstream to 71 percent for the other workstream. The share of appeals cases closed within a year ranged from approximately 30 percent for the large case examination workstream to approximately 90 percent for the other workstream.

Figure 13: Percentage of Cases Closed by Total Appeal Resolution Time by Appeals Workstream, Fiscal Years 2014-2017



Source: GAO analysis of Appeals Centralized Database System. | GAO-18-659

Note: The average number of days varied from the median number of days, suggesting that outliers increased the average review time.

Information about actual total appeal resolution times is not shared with taxpayers. Office of Appeals welcome letters include Appeals staff contact information and a conference date, if applicable, but do not provide total average appeal resolution time. According to the external stakeholders we interviewed, no formal communication of total appeal resolution time is shared with the taxpayer or their representative. Responses to a focus group of taxpayer representatives who went through the appeal process conducted by Appeals in 2014 shared a similar perspective. Focus group participants indicated that the

acknowledgement letters did not contain enough or accurate information to set expectations. Additionally, these focus group participants noted that Appeals staff did not inform them how long the appeal process was expected to take.

Critical information about total appeal resolution time is not shared with taxpayers. Without easily accessible information, taxpayers are not well informed on what to expect when choosing to request an appeal. Taxpayers may not understand how few appeals are likely to be resolved within 90 days. Faced with the general timeframe that Appeals will resolve cases in about a year, other taxpayers may choose to forgo their opportunity to appeal rather than risk interest accumulating during the appeal process.⁵⁰

Standards for Internal Control in the Federal Government states that management should externally communicate necessary quality information to achieve the entity's objectives. Government entities should report this information to government leaders and regulators, as well as the general public.

Feeling uninformed about appeal case wait times has been a consistent theme with taxpayers and their representatives both in IRS's customer satisfaction surveys and our interviews with external stakeholders.⁵¹ Total resolution time information, such as historical averages, may be especially valuable to taxpayers when considering that interest continues to accrue on tax amounts in dispute while appeals are being reviewed. In January 2017, we recommended that IRS develop and maintain an online dashboard to display customer service standards and performance information such that it is easily accessible and improves the transparency of its taxpayer service.⁵² Similarly, more detailed information on total average resolution times specific to different workstreams could

⁵⁰IRS Publication 556 explains that a taxpayer may stop interest from accruing by sending IRS money to cover all or part of the tax amount involved. A taxpayer may send either a deposit in the nature of a cash bond or a payment of tax.

⁵¹Factors affecting appeal customer satisfaction and dissatisfaction are discussed further below.

⁵²GAO, *2016 Filing Season: IRS Improved Telephone Service but Needs to Better Assist Identity Theft Victims and Prevent Release of Fraudulent Refunds*, [GAO-17-186](#) (Washington, D.C.: Jan. 31, 2017). IRS agreed with our recommendation, and as of September 2018, we continue to monitor IRS implementation.

provide a more transparent view of the amount of time a taxpayer can expect to receive a decision on their case from Appeals.

Appeals Does Not Make Customer Service Standard Clear to Taxpayers, and It Does Not Have a Mechanism to Consider External Customer Input on Policy Changes

Appeals Measures Its Customer Service Standard Internally, but Does Not Make Performance Results Available to Taxpayers

GPRAMA requires that agencies, in this case the Treasury, establish a balanced set of performance indicators to be used in measuring progress toward performance goals, including goals for customer service.⁵³ Executive Order 13571 stated that agencies set clear customer service standards and expectations, including, where appropriate, performance goals for customer service required by GPRAMA.⁵⁴ Customer service standards should inform customers what they have a right to expect when they request services.⁵⁵ The President's Management Agenda highlights

⁵³Pub. L. No. 111-352, § 3, 124 Stat. 3866, 3868 (Jan. 4, 2011) *codified at* 31 U.S.C. § 1115(b)(6).

⁵⁴Exec. Ord. No. 13571, § 2(c) (Apr. 27, 2011), *Streamlining Service Delivery and Improving Customer Service*, 76 Fed. Reg. 24,339, 24,339-40 (May 2, 2011).

⁵⁵Memorandum on Customer Service, 31 Weekly Comp. Pres. Doc. 456 (Mar. 22, 1995) (released by Office of the Press Secretary on Mar. 23, 1995).

the importance of customer service through its cross-agency priority goal of Improving Customer Experience with Federal Services.⁵⁶

In response to GPRAMA, Executive Orders, and other policies, Treasury and IRS have taken steps to define customer service targets and align them to Treasury's and IRS's strategic and performance plans.⁵⁷ As part of the Appeals Quality Measurement System (AQMS) review process outlined in the IRM, Appeals defines its standard for customer service as whether Appeals has: (1) timely communications with the taxpayers in an appropriate, professional manner; (2) addressed the taxpayers' needs; and (3) respected the taxpayers' rights.⁵⁸ AQMS lays out the internal attributes and internal measures which track progress towards Appeals customer service standard (see table 3).

Table 3: Attributes and Internal Measures for Appeals Customer Service and Taxpayer Rights Standard

| Customer service attributes | Examples of internal measures |
|--|---|
| Taxpayer or representative kept appropriately informed of the status of the case | <ul style="list-style-type: none"> • Ensure there is evidence that initial contact letter or substantive initial phone contact was made • Ensure initial letter or substantive initial phone contact made within 45 dates of the Appeals employee receiving the case • Ensure status of case communicated from date of assignment until Appeals completed the case |
| Advise taxpayer of rights and provide customer service | <ul style="list-style-type: none"> • Ensure publications and notices, including Publication 4227—An Overview of the Appeals Process, are provided to the taxpayer • Ensure taxpayers understand that interest accrues while their case is in Appeals |
| Written communication is appropriate | <ul style="list-style-type: none"> • Ensure the taxpayer receives all written correspondence |
| Taxpayer is given adequate time to present their case | <ul style="list-style-type: none"> • Ensure the taxpayer is given at least 10 business days to respond to information requests |

⁵⁶According to the Presidential Management Agenda released in March 2018, cross-agency priority goals are a tool used by leadership to accelerate progress on a limited number of presidential priority areas where implementation requires active collaboration among multiple agencies. Long-term in nature, cross-agency priority goals drive cross-government collaboration to tackle government-wide management challenges affecting most agencies. As a subset of presidential priorities, cross-agency priority goals are used to implement the President's Management Agenda and are complemented by other cross-agency coordination and goal-setting efforts. Cross-agency priority goals are updated or revised every 4 years with each presidential administration's term.

⁵⁷GAO, *2015 Tax Filing Season: Deteriorating Taxpayer Service Underscores Need for a Comprehensive Strategy and Process Efficiencies*, [GAO-16-151](#) (Washington, D.C.: Dec. 16, 2015).

⁵⁸IRM Part 8, Chapter 1, Section 7.3.1.

| Customer service attributes | Examples of internal measures |
|---|---|
| Ensure taxpayer privacy and communication guidelines are followed | <ul style="list-style-type: none">• Ensure guidelines are followed prohibiting communication between Appeals staff and other IRS functions without the taxpayer or representative present |

Source: GAO analysis of Appeals Quality Measurement System information. | GAO-18-659

The performance results for the customer standard are shared as part of the annual AQMS report with Appeals executives and employees. For fiscal years 2014 through 2017, Appeals internal measures reflect that its customer service performance exceeded 86 percent annually.

Appeals also makes a written commitment to taxpayers about what they can expect during the appeal process. IRS Publication 4227—An Overview of the Appeals Process—explains that taxpayers should expect the Office of Appeals to: (1) be fair and impartial; (2) be courteous and professional; (3) listen to their concerns; (4) explain their appeal rights and the appeal process; (5) be responsive; and (6) allow the taxpayer reasonable time to respond to any requests for information. Appeals officials explained that this publication, last updated in 2013, is included in the acknowledgement letter taxpayers receive from the Office of Appeals.⁵⁹

However, most Appeals customers who participated in a focus group conducted by the Office of Appeals in 2014 said that they did not thoroughly review the Appeals acknowledgement letter and its enclosures, which includes Publication 4227.⁶⁰ Therefore, relying on sharing this publication enclosed in the first letter the taxpayer receives may not be an effective mechanism to make this commitment known to taxpayers.

Further, the official customer service standard and the related attributes and measures are not transparent to the public, and the performance results are not publicly reported. Taxpayer representatives with whom we spoke were not aware of the Appeals customer service standards

⁵⁹Department of the Treasury, Internal Revenue Service, *Overview of the Appeals Process Brochure*, Publication 4227 (October 2013) and <https://www.irs.gov/compliance/appeals/what-can-you-expect-from-appeals>, accessed Sept. 11, 2018.

⁶⁰In 2014, as part of its annual customer service survey, Appeals contracted to have a series of focus groups with taxpayers who participated in the appeals review process. As a result of input from focus groups, Appeals has made the initial taxpayer acknowledgement letter more substantive.

outlined in the IRM and explained that publications included with letters from Appeals, such as Publication 4227, are often not read by taxpayers. Taxpayer representatives we interviewed also said that customer service standards are not discussed in conferences with taxpayers.

Standards for Internal Control in the Federal Government outlines that management should externally communicate necessary quality information to achieve an entity's objectives.⁶¹ Key elements of effective customer service standards say that making customer service standards publicly available is a key element to improve those standards and the related services.⁶²

While Appeals articulates its customer service standard in the IRM and uses AQMS to internally measure customer service delivery, the standard and related results are not available on the Appeals website and not shared during interactions with taxpayers. According to Appeals officials, Appeals, like the rest of IRS, does not publish its customer service standard or explain how performance against the standard is measured. However, as a separate entity within IRS, Appeals has an opportunity to make customer service standards and related outcomes available to the public. Without standards clearly and explicitly communicated, taxpayers may not know what to expect, when to expect, and from whom to expect interactions surrounding the appeal process.

Likewise, Appeals does not make its customer service performance results public, and Appeals officials said this is consistent with IRS practice. However, in 2017, we recommended that IRS take similar actions to make customer service standards and performance information easily accessible and improve the transparency of its taxpayer service.⁶³

⁶¹[GAO-14-704G](#).

⁶²GAO, *Managing for Results: Selected Agencies Need to Take Additional Efforts to Improve Customer Service*, [GAO-15-84](#) (Washington, D.C.: Oct. 24, 2014). This report identifies key elements of effective customer service standards that would allow agencies to better serve the needs of their customers. The key elements were based on reviewing the purposes and requirements of the GPRA Modernization Act of 2010 and Executive Orders: to set performance targets or goals, measure performance against the set targets or goals, and communicate such information to customers.

⁶³See [GAO-17-186](#). We recommended that IRS develop and maintain an online dashboard to display customer service standards and performance information such that it is easily accessible and improves the transparency of its taxpayer service. IRS agreed with our recommendation, and as of September 2018, we continue to monitor IRS implementation.

Measuring performance allows organizations to track their progress and gives managers crucial information on which to base their organizational and management decisions. The absence of publicly reported standards and related performance information does not allow customers to understand what to expect for the services they seek.

Appeals Annual Customer Satisfaction Survey Identifies Factors That Affect Taxpayer Satisfaction

Annual Customer Satisfaction Survey Process

Appeals conducts an annual survey to assess customer satisfaction with the appeal process over time and to identify areas where Appeals can do more to improve customer service. According to Appeals officials, Appeals has conducted a customer satisfaction survey for over a decade. The annual survey yields an overall customer satisfaction score as well as qualitative written comments on the appeal process. Appeals contracts with a vendor to manage the survey sample selection based on Appeals ACDS closed case data; pre-survey notification; management of the online survey; telephone follow-up with non-respondents; and analysis of the survey data.

The survey vendor sends potential respondents pre-notification invitations to complete the survey and follow-up attempts to connect with potential respondents. In fiscal years 2015 and 2016, the response rate was 36 percent and 33 percent, respectively. In fiscal year 2017, Appeals surveyed 1,447 out of approximately 107,000 possible customers with a response rate of 37 percent. According to OMB Standards and Guidelines for Statistical Surveys, agencies are to design surveys to achieve the highest practical rates of response and conduct a statistical test for potential bias if the expected response rate is below 80 percent.⁶⁴ The

⁶⁴Agencies must appropriately measure, adjust for, report, and analyze unit and item nonresponse to assess their effects on data quality and to inform users. Response rates must be computed using standard formulas to measure the proportion of the eligible sample that is represented by the responding units in each study, as an indicator of potential nonresponse bias. OMB, *Standards and Guidelines for Statistical Surveys*, (Washington, D.C.: Sept. 2006).

vendor provides a comparison of frequencies to understand any overrepresentation in survey responses of certain taxpayer types or for different workstreams within Appeals. For example, according to the vendor's comparison of frequencies for the fiscal year 2017 survey (the most recent available at the time of our work), fewer survey responses were received from taxpayers who went through the collection due process workstream—the workstream with the highest volume of cases—than were in the population of potential respondents.

Information about Customer Satisfaction

The customer satisfaction survey annual report details the analysis of the survey results and summarizes significant changes in satisfaction over time, as well as customer satisfaction by categories such as taxpayer type and the length of the appeal process. Appeals reports overall customer satisfaction in its performance reports to the Commissioner of Internal Revenue. For appeal cases closed in fiscal years 2014 through 2017, about two thirds of taxpayers who responded to the survey were satisfied overall with the appeals process.

According to the fiscal year 2017 annual survey report, customers who have higher rates of satisfaction: (1) have professional representation; (2) agree with the outcome of their case; and (3) have shorter case cycle time.⁶⁵ The 2017 report also states that customers were most satisfied with the degree of respect shown and the professionalism of the Appeals staff. Customers were least satisfied with the consideration of information presented and the length of the appeal process.

The annual survey also identifies the drivers of satisfaction with the appeal process which, Appeals officials said, helps Appeals determine which specific attributes of the appeal process have the most impact on overall customer satisfaction. The 2017 survey identified the drivers of overall satisfaction including: (1) how well Appeals listened to information taxpayers presented related to their case and (2) how well Appeals considered information taxpayers presented.

Taxpayer representatives we interviewed identified similar factors that affect how satisfied their clients are with the appeal process. Their responses generally corroborated the drivers of satisfaction identified in the annual customer satisfaction survey analysis. For example, taxpayer

⁶⁵The survey results refer to Appeals time from appeal request to case closed per ACDS data.

representatives explained that their clients are more satisfied when they feel their perspectives have been heard and the Appeals staff had an open mind about the case. The representatives we interviewed also stated that the amount of time, as well as transparency about the amount of time, it takes Appeals to respond to a taxpayer's case is significant to satisfaction with the appeal process.

Appeals' Use of Customer Satisfaction Survey Information

According to Appeals officials, the customer satisfaction survey is one tool to assess customer satisfaction, and the survey information is part of the overall information that Appeals uses in management decisions. The national survey report is shared with the executive level staff each year and survey results may be shared with staff. Appeals reports annual overall customer satisfaction survey scores, along with other data on business results, employee engagement, and staffing, in its performance reports to the Commissioner of Internal Revenue. According to Appeals officials, information from the customer satisfaction survey has been used to improve Appeals procedures and interactions with taxpayers, including changes to correspondence templates to improve comprehension and readability, and how Appeals schedules taxpayer conferences.

Appeals Conducts Outreach but Does Not Have a Mechanism to Solicit Customer Input to Inform Prospective Policy Changes

Each year, Appeals conducts outreach presentations at tax practitioner conferences to share information about its policy and procedures, including recent changes or new initiatives that affect taxpayers and the tax practitioner community.⁶⁶ Appeals officials told us that Appeals, in recent years, has also used these outreach presentations as an opportunity to solicit input from the attendees about the appeal process and implementation of operational or policy changes. According to Appeals officials, they obtain feedback at outreach sessions and place an emphasis on listening to commentary from the tax practitioner community. Taxpayer representatives we interviewed generally corroborated this and said that they saw improvement in their ability to communicate with Appeals and offer feedback on recent policies.

Outreach presentations at tax practitioner conferences present an opportunity to obtain feedback and input on prospective policy changes as well. According to taxpayer representatives that we interviewed, while Appeals executives have more openly solicited feedback on policy

⁶⁶Tax practitioner communities include accounting and legal professionals who represent taxpayers and their interests.

changes, the outreach requests for feedback usually took place after the policy decision was made and implemented. For example, in October 2016 Appeals changed its policy to limit the availability of in-person appeal conferences. Appeals officials explained that this policy change was based on its data showing that for many appeal cases transferred to field staff to accommodate taxpayer requests for in-person conferences, the taxpayers ultimately chose to have phone conferences. Appeals officials acknowledged that they had not solicited public input beforehand and had received negative feedback that this was an unpopular change. As a result of feedback from the tax practitioner community at outreach events as well as written comments, in October 2017, Appeals revised its policy and will now attempt scheduling in-person conferences requested by taxpayers for field appeal cases.

In its efforts to obtain feedback from the tax practitioner community at conferences, Appeals has attempted to be inclusive of tax practitioners representing a range of taxpayer types and income levels. According to Appeals officials, Appeals obtained feedback from the Low Income Taxpayer Clinics and conducted outreach sessions at their 2017 annual conference. However, soliciting feedback at professional association meetings for accountants and attorneys means that the opportunity to provide comments to Appeals is limited to those in attendance at the conferences. One taxpayer representative we interviewed said that he was not sure how he could submit suggestions or input to Appeals other than by attending a conference where Appeals executives were present and solicited feedback from attendees. Further, several taxpayer representatives we interviewed explained that taxpayers representing themselves without professional representation face greater challenges in the appeal process. Outreach relying on professional conferences may not be inclusive of all taxpayer experiences and may miss opportunities to understand the perspectives of individual and small business taxpayers navigating without professional assistance.

IRS has formal advisory committees that provide forums to discuss issues with tax administration or taxpayer issues.⁶⁷ Among these, the Internal Revenue Service Advisory Council (IRSAC) provides an opportunity for

⁶⁷A federal advisory committee must comply with the Federal Advisory Committee Act. Among other things, the Federal Advisory Committee Act requires that each agency establish uniform administrative guidelines and management controls for its advisory committees. Pub. L. No. 92-463, § 8, 86 Stat. 770, 773 (Oct. 6, 1972), *codified, as amended*, at 5 U.S.C. app. 2, §8.

members to provide public perspective on IRS policies and procedures and recommends policies with respect to emerging tax administration issues.⁶⁸ Conveying the public's perception of IRS activities to the Commissioner, the IRSAC charter states that it is to be comprised of individuals who bring substantial, disparate experience and diverse backgrounds to the Council's activities. IRSAC reports that its membership is balanced to represent the taxpaying public, the tax professional community, small and large businesses, state tax administration, and the payroll community.

Although its role is to focus on broad policy matters, IRSAC recently took action to comment specifically on recent changes to Appeals policy and operations. In its 2017 public report, IRSAC commented on attendance of IRS compliance and counsel personnel at Appeals conferences with taxpayers. IRSAC stated that ensuring the independence of Appeals from the operating divisions is indispensable to Appeals' achieving its mission.

Executive Order 13571, building on GPRAMA requirements, stated that agencies, in this case Treasury, should establish "mechanisms to solicit customer feedback on Government services" and that agencies use "such feedback regularly to make service improvements."⁶⁹ In its strategic plan, IRS outlines a strategic goal to collaborate with external partners proactively to improve tax administration.⁷⁰

Appeals has identified engaging with stakeholders to improve the taxpayer experience in Appeals as a fiscal year 2018 organizational goal. Appeals officials we interviewed said that Appeals' approach is to test and learn, and that they anticipate issues and complaints will continue to happen as future policy changes are implemented.

While outreach is one way to get practitioner reaction as new policies are rolled out, other mechanisms could serve as a way to receive regular customer feedback and to hear the public's perspective and observations

⁶⁸Other IRS advisory councils that convene external stakeholders for feedback on IRS operations and tax policy issues include: Advisory Committee on Tax Exempt and Government Entities; Art Advisory Panel; Electronic Tax Administration Committee; Information Reporting Program Advisory Committee; and Taxpayer Advocacy Panel.

⁶⁹Exec. Ord. No. 13571, § 2(c) (Apr. 27, 2011), *Streamlining Service Delivery and Improving Customer Service*, 76 Fed. Reg. 24,339, 24,339-40 (May 2, 2011).

⁷⁰Internal Revenue Service Strategic Plan, Fiscal Year 2018-2022.

about both current operations as well as proposed IRS policies, programs, and procedures. For example, IRS already uses advisory groups as another way to engage with external partners via open, two-way, external reporting lines for assistance with receiving and analyzing customer feedback as well as offering a mechanism to solicit public input before policies are finalized and implemented.

Without an effective mechanism to regularly consider and review customer feedback and policy changes before implementation, Appeals is missing an opportunity to obtain public input on policy changes that can substantially affect the taxpayer's experience in the appeal process. Possible mechanisms could include leveraging existing IRS advisory resources, exploring development of an Appeals advisory body, or offering a public comment capacity, such as an email address. Engaging with external stakeholders could offer opportunities for Appeals to gain insight on how to bring transparency to its customer service standards and measures along with providing ongoing assistance with considering results from the annual customer satisfaction survey. This would enhance Appeals' ongoing efforts to improve customer satisfaction with planned service improvements or policy changes and make modifications where appropriate.

Conclusions

Each year, Appeals resolves a diverse array of taxpayer appeals of IRS enforcement actions and decisions. Faced with a declining workforce, Appeals has identified that maintaining skills and expertise necessary to review its case load is a top risk to achieving its mission. High retirement eligibility rates underscore the importance for Appeals to be positioned to identify any gaps in the skills of its workforce. Conducting a skills gap analysis specific to Appeals mission needs is a key step towards developing a strategy to help ensure Appeals will retain the necessary tax expertise to review appeals cases across multiple workstreams.

Time spent by IRS compliance units on initial review of taxpayer appeals of IRS collection and examination actions can represent a significant portion of the total appeal resolution time. For appeal cases closed in fiscal year 2017, approximately 4 percent of collection appeals cases and nearly one quarter of examination appeal requests took more than 120 days to be transferred from IRS to Appeals. Delays in transferring requests to Appeals affect prompt resolution for the taxpayer and IRS. Additional monitoring of collection transfer time requirements together with establishing transfer time guidelines and procedures for examination

appeal review could improve appeal review timeliness and overall taxpayer experience.

Appeals maintains data on the time taken to transfer appeals and monitors the progress and time to resolve appeals within its diverse workstreams. Sharing these performance data within IRS could shed light on actual transfer times and aid compliance units in improving and establishing related controls to ensure more timely transfer. Increasing the transparency of total case resolution time with more detailed information by Appeals workstream would improve taxpayers' understanding about what to expect when choosing to request an appeal.

Improving the taxpayer experience with the appeals process also depends on clarity on customer service standards and related performance results. Under GPRAMA and Executive Orders, Treasury is responsible for customer service performance. Publicly stating what service taxpayers should expect and from whom sets the stage for a customer-focused appeals process where taxpayers can feel their story is heard. This also helps fulfill Treasury's customer service responsibility. Appeals has demonstrated its willingness to analyze customer satisfaction feedback. IRS and Appeals share goals to work with stakeholders, and Appeals has acted to address practitioner reactions to operational changes underway. Developing a mechanism to leverage public input on future policy and procedure proposals would better position Appeals to bolster customer service and effectively implement changes to improve the taxpayer experience.

Recommendations for Executive Action

We are making the following five recommendations to IRS and two recommendations to the Department of the Treasury.

The Commissioner of Internal Revenue should direct the Chief of Appeals, in coordination with the IRS Human Capital Office, to conduct a skills gap analysis specific to Appeals mission needs and develop a strategy for mitigating any identified gaps. (Recommendation 1)

The Commissioner of Internal Revenue should evaluate the existing monitoring for collection due process appeal requests and address deficiencies in collection staff meeting the requirement for timely transfer to the Office of Appeals. (Recommendation 2)

The Commissioner of Internal Revenue should establish timeframes and monitoring procedures for timely transfer of taxpayer appeals requests by

examination compliance units to the Office of Appeals. (Recommendation 3)

The Commissioner of Internal Revenue should direct the Chief of Appeals to regularly report and share with each compliance unit the data on the time elapsed between when a taxpayer requests an appeal to when it is received in the Office of Appeals. (Recommendation 4)

The Commissioner of Internal Revenue should provide more transparency to taxpayers on historical average total appeal resolution times. This could include publishing average total resolution times by workstream on an Office of Appeals web page as well as including total expected times in the Appeals welcome letter. (Recommendation 5)

The Secretary of the Treasury, consistent with its responsibilities under GPRAMA and Executive Orders for customer service, should ensure that the Commissioner of Internal Revenue takes action to make Appeals customer service standards and performance results more transparent to the public. This could include publishing customer service standards and related performance measure results on the Office of Appeals web page on IRS.gov. (Recommendation 6)

The Secretary of the Treasury, consistent with its responsibilities under GPRAMA and Executive Orders for customer service, should ensure that the Commissioner of Internal Revenue takes action to develop a mechanism to solicit and consider public input and customer feedback on a regular basis on current and proposed IRS appeal policies and procedures. This could include leveraging existing IRS advisory bodies or establishing an Office of Appeals advisory body representing the taxpaying public, the tax practitioner community, and businesses to solicit customer perspectives. (Recommendation 7)

Agency Comments and Our Evaluation

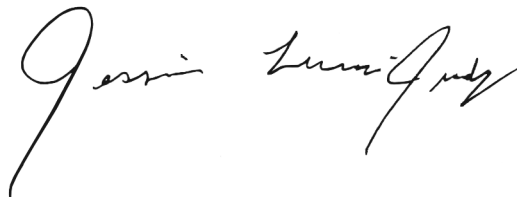
We provided a draft of this report to the Commissioner of Internal Revenue and the Secretary of the Treasury for review and comment. In its written comments, reprinted in appendix I, IRS agreed with our five recommendations directed to it and plans to provide detailed corrective action plans in its 60-day letter response to Congress. IRS also provided technical comments, which we incorporated where appropriate.

In an email from the audit coordinator in the Office of the Deputy Chief Financial Officer, Treasury agreed with our two recommendations directed to it. During the agency comment period, we modified language

in recommendations 6 and 7 to clarify Treasury's role and responsibilities for customer service. Treasury agreed to monitor IRS's actions to make Appeals customer service standards and performance more transparent as part of its coordination of the President's Management Agenda cross-agency priority goal for customer experience. Treasury plans to monitor IRS's actions to develop a mechanism to solicit public input on appeal policies and procedures as part of the audit management process.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of the Treasury, the Commissioner of Internal Revenue, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9110 or LucasJudyJ@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff making key contributions to this report are listed in appendix II.

A handwritten signature in black ink, reading "Jessica Lucas-Judy". The signature is fluid and cursive, with the first name "Jessica" written in a larger, more prominent script than the last name "Lucas-Judy".

Jessica K. Lucas-Judy
Director, Tax Issues
Strategic Issues

Appendix I: Comments from the Internal Revenue Service



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

August 30, 2018

Ms. Jessica K. Lucas-Judy
Director, Tax Issues
Strategic Issues Team
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Lucas-Judy:

Thank you for providing the draft report "Tax Administration: Opportunities Exist to Improve Monitoring and Transparency of Appeal Resolution Timeliness" (GAO-18-659, JC #101656). We appreciate the opportunity for IRS and the Department of the Treasury to review and respond to the draft.

We are pleased that the Government Accountability Office recognized the important role that the Office of Appeals plays in tax administration. Notwithstanding a significant decline in staffing and budget in recent years, in fiscal year 2017, we heard and resolved over 100,000 taxpayer appeals.

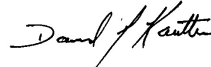
The mission of Appeals is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the IRS. To fulfill this mission, we are constantly innovating our processes and procedures. For example, as your report acknowledges, we recently implemented paperless processes to expedite the movement of certain types of case files. We continue to expand the ability of taxpayers to have an in-person appeals conference if they prefer that over a telephone conference. And, we are piloting the use of web-based videoconferencing for taxpayers who seek to meet with us "face-to-face" without physically traveling to an Appeals office location. Stakeholder feedback from taxpayers, tax practitioners, and other IRS functions has been essential to ensuring that our initiatives meet the needs of taxpayers, and we appreciate your recognition that Appeals has increased its efforts recently to obtain feedback on our policies.

2

We appreciate your recommendations and agree that there is always room for improvement in assessing skills gaps, reducing the time it takes to receive taxpayer appeals, and sharing customer satisfaction results. As indicated in the enclosure, we agree with your first five recommendations and are reviewing them carefully. We have referred the sixth and seventh recommendations to the Department of the Treasury for response. We will provide detailed corrective action plans in our 60-day letter response to Congress.

Again, thank you for the report and the valuable feedback. We provided technical comments on the draft separately. If you have questions, please contact me, or a member of your staff may contact Donna C. Hansberry, Chief, Office of Appeals at 202-317-8649.

Sincerely,



David J. Kautter
Acting Commissioner

Enclosure

Enclosure

**GAO Recommendation and the IRS and Treasury Responses to
GAO-18-659 Draft Report Tax Administration: Opportunities Exist to Improve
Monitoring and Transparency of Appeal Resolution Timeliness (JC #101656)**

Recommendation:

1. The Commissioner of Internal Revenue should direct the Chief of Appeals, in coordination with the IRS Human Capital Office, to conduct a skills gap analysis specific to Appeals mission needs and develop a strategy for mitigating any identified gaps. (Recommendation 1).

Comment:

IRS agrees with Recommendation 1.

Recommendation:

2. The Commissioner of Internal Revenue should evaluate the existing monitoring for collection due process appeal requests and address deficiencies in collection staff meeting the requirement for timely transfer to the Office of Appeals. (Recommendation 2).

Comment:

IRS agrees with Recommendation 2

Recommendation:

3. The Commissioner of Internal Revenue should establish timeframes and monitoring procedures for timely transfer of taxpayer appeals requests by examination compliance units to the Office of Appeals. (Recommendation 3).

Comment:

IRS agrees with Recommendation 3.

Recommendation:

4. The Commissioner of Internal Revenue should direct the Chief of Appeals to regularly report and share with each compliance unit the data on the time elapsed between when a taxpayer requests an appeal to when it is received in the Office of Appeals. (Recommendation 4).

Comment:

IRS agrees with Recommendation 4.

2

Recommendation:

5. The Commissioner of Internal Revenue should provide more transparency to taxpayers on historical average total appeal resolution times. This could include publishing average total resolution times by workstream on an Office of Appeals web page as well as including total expected times in the Appeals welcome letter. (Recommendation 5).

Comment:

IRS agrees with Recommendation 5.

Recommendation:

6. The Secretary of the Treasury should ensure that the Commissioner of Internal Revenue takes action to make Appeals customer service standards and performance results more transparent to the public. This could include publishing customer service standards and related performance measure results on the Office of Appeals web page on IRS.gov. (Recommendation 6).

Comment:

The IRS has referred this recommendation to Treasury.

Recommendation:

7. The Secretary of the Treasury should ensure that the Commissioner of Internal Revenue takes action to develop a mechanism to solicit and consider public input and customer feedback on a regular basis on current and proposed IRS appeal policies and procedures. This could include leveraging existing IRS advisory bodies or establishing an Office of Appeals advisory body representing the taxpaying public, the tax practitioner community, and businesses to solicit customer perspectives. (Recommendation 7).

Comment:

The IRS has referred this recommendation to Treasury.

Appendix II: GAO Contact and Staff Acknowledgements

GAO Contact

Jessica K. Lucas-Judy, Director, Tax Issues, Strategic Issues, (202) 512-9110 or LucasJudyJ@gao.gov

Staff Acknowledgments

In addition to the contact named above, MaryLynn Sergent (Assistant Director), Keith O'Brien, (Analyst-in-Charge), James Cook, and Steven Flint, made key contributions to this report. Shea Bader, Jehan Chase, Lisa Pearson, Robert Robinson, Cynthia Saunders, and Tatiana Winger also provided support.

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