

STRENGTHEN TAXPAYER RIGHTS BEFORE THE OFFICE OF APPEALS

Legislative Recommendation #36

Require That at Least One Appeals Officer and One Settlement Officer Be Located and Permanently Available in Each State, the District of Columbia, and Puerto Rico

PRESENT LAW

IRC § 7803(e) establishes the Internal Revenue Service Independent Office of Appeals (Appeals) to resolve controversies between taxpayers and the IRS without litigation.

Section 3465(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 provides: “The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.”

REASONS FOR CHANGE

Twelve states and Puerto Rico currently have no Appeals or Settlement Officers with a post of duty within their borders.¹ These states are Alaska, Delaware, Idaho, Kansas, Maine, Montana, North Dakota, New Mexico, Rhode Island, South Dakota, Vermont, and Wyoming. The IRS takes the position that its current staffing satisfies the statutory requirement by providing for “circuit riding” on at least a quarterly basis to states lacking a permanent Appeals field office.

As a practical matter, however, “circuit riding” does not provide taxpayers who request in-person hearings with timely service and does not ensure that Appeals and Settlement Officers are familiar with local conditions. Taxpayers and their representatives regularly complain about the difficulty of obtaining convenient and timely in-person access to Appeals and Settlement Officers. During fiscal year 2018, for example, non-docketed cases involving in-person conferences remained in Appeals’ inventory for more than twice as long (394 days) as Appeals cases overall (194 days).²

In addition, Appeals’ ability to effectively pursue administrative case resolutions often depends on the Appeals or Settlement Officer’s familiarity with prevailing economic circumstances and other local factors impacting taxpayers in a given geographic region. Appeals and Settlement Officers who live elsewhere and visit a state for an occasional hearing often do not have this familiarity.

¹ Generally, Appeals Officers are assigned to cases associated with the IRS Examination function, whereas Settlement Officers are assigned to Collection cases.

² Appeals response to TAS fact check request (Nov. 21, 2018).

RECOMMENDATION

- Amend IRC § 7803(e) to require that at least one Appeals Officer and one Settlement Officer be located and permanently available in each state, the District of Columbia, and Puerto Rico.³

³ For legislative language generally consistent with this recommendation, see Taxpayer Bill of Rights Enhancement Act, S. 1793, 115th Cong. § 502 (2017).