



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

13.1.2

MARCH 20, 2023

EFFECTIVE DATE

(03-20-2023)

PURPOSE

- (1) This transmits revised IRM 13.1.2, Taxpayer Advocate Case Procedures, Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98).

MATERIAL CHANGES

- (1) IRM 13.1.2.1, clarified that RRA 98 provisions were modified to reflect legislative updates where applicable.
- (2) IRM 13.1.2.2.1, TBOR content updated based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (3) IRM 13.1.2.4.3(2) added to provide guidance on responding to Taxpayers.
- (4) IRM 13.1.2.5, updated to include Taxpayer First Act procedural guidance and revised example #2.
- (5) IRM 13.1.2.5.2, revised section title to TAS Third Party Contact Notification, and clarified section by adding reference to IRM 13.1.4, a note and two examples.
- (6) Editorial, formatting, grammar, clarification, hyperlinks updated, and revision date changes were made throughout the document.

EFFECT ON OTHER DOCUMENTS

This revision supersedes IRM 13.1.2, dated October 5, 2020.

AUDIENCE

Taxpayer Advocate Service employees.

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Intake and Technical Support

13.1.2

Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98)

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13.1.2.1 (03-20-2023) Program Scope and Objectives

- (1) *Purpose.* The section provides TAS employees with information about provisions from the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98) that are relevant to their day-to-day duties.

Note: Some of the provisions in RRA98 have been subsequently modified by subsequent legislation. Where appropriate, references to that legislation are included.

- (2) *Audience.* These procedures apply to TAS Case Advocacy employees working TAS cases.
- (3) *Policy Owner.* The Executive Director Case Advocacy, Intake & Technical Support (EDCA-ITS), who reports to the Deputy National Taxpayer Advocate (DNTA).
- (4) *Program Owner.* The Director, Technical Analysis and Guidance (TAG), who reports to the EDCA-ITS.

13.1.2.1.1 (03-20-2023) Authority

- (1) Pursuant to IRC 7803(c), the Office of the Taxpayer Advocate (known as the Taxpayer Advocate Service (TAS)) shall assist taxpayers to resolve problems with IRS.

13.1.2.1.2 (03-20-2023) Responsibilities

- (1) All TAS employees are responsible for following the procedures set forth in this IRM when determining how to best advocate for taxpayers to facilitate relief and resolve taxpayer issues.

13.1.2.1.3 (03-20-2023) Program Reports

- (1) Reports to monitor the quality of TAS cases are derived from Taxpayer Advocate Management Information System (TAMIS) and the TAS Case Quality Review System (CQRS).
 - The CQRS generates monthly and fiscal year cumulative reports as well as specific queries for data analysis.
- (2) TAS conducts managerial reviews, as described in IRM 1.4.13.9, Managerial Reviews. Many of these reviews are designed to ensure TAS employees are taking actions with advocacy efforts to facilitate case resolution.

13.1.2.1.4 (03-20-2023) Terms

- (1) Exhibit 13.1.2-1 contains a list of terms used throughout this IRM.

13.1.2.1.5 (03-20-2023) Acronyms

- (1) The following table contains a list of acronyms and their definitions used throughout this IRM.

Acronym	Definition
OAR	Operations Assistance Request
RRA98	Restructuring and Reform Act of 1998
TAO	Taxpayer Assistance Order

Acronym	Definition
TBOR	Taxpayer Bill of Rights

13.1.2.1.6
(03-20-2023)

Related Resources

- (1) This is a list of relevant IRMs TAS employees will use in conjunction with this IRM:

- IRM 1.4.13.9, Managerial Reviews;
- IRM 9.3.1, Disclosure;
- IRM 10.5.1.6.9.4, Faxing;
- IRM 11.3.3, Disclosure to Designees and Practitioners;
- IRM 11.3.3.2.1, General Requirements for Disclosure to Designee of Taxpayer;
- IRM 13.1.5.6, Communicating Confidentiality Rules to Taxpayers and Taxpayers' Representatives;
- IRM 13.1.6.2, Oral Communication;
- IRM 13.1.18.3.1, Disclosure Issues and Taxpayer Authentication;
- IRM 13.1.15, Customer Complaints/RRA98 section 1203 Procedures);
- IRM 13.1.18.6, Initial Contact Completed by Case Advocate;
- IRM 25.27.1, Third Party Contact Program; and
- *TAMIS User Guide*.

13.1.2.2
(03-20-2023)

Background of RRA98

- (1) The Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98) became law when the President signed the legislation on July 22, 1998. This new law ushered in dramatic changes in tax law as well as in the structure and functioning of the Internal Revenue Service. The changes affecting IRS focus mainly on improving customer service and expanding taxpayer rights.

13.1.2.2.1
(03-20-2023)

Taxpayer Bill of Rights

- (1) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.
- (2) When appropriate, TAS should reference these Rights when advocating through Operations Assistance Requests (OARs) and Taxpayer Assistance Orders (TAOs).

13.1.2.3
(03-20-2023)

Highlights of RRA98

- (1) RRA98 provides tax relief, such as:
- Reduction of the long-term capital gains holding period;
 - Education incentives;
 - Principal residence gain exclusions;
 - Individual Retirement Accounts provisions; and
 - Estate & Gift provisions.
- (2) Other RRA98 provisions provide expanded rights or privileges in areas such as:
- Low income taxpayer clinic matching grant program;
 - Interest calculations for taxes and refunds;

- Liens, levies, seizures;
- Audit criteria;
- Tip reporting;
- Offers in compromise & installment agreements;
- New “Due Process” requirements;
- More inclusive innocent spouse provisions; and
- Third party summonses.

(3) RRA98 provisions that affect all or many IRS employees are:

- Disciplinary provisions for employee misconduct. (See IRM 13.1.15, Customer Complaints/RRA98 section 1203 Procedures);
- Rules for making third party contacts;
- Rules for employees identifying themselves to taxpayers;
- Statutory Notices of Deficiency (90-day letters) are required to inform taxpayers of their rights to contact a local TAS office as well as the location and phone number of the appropriate office; and
- Prohibition on the use of any tax protester designation to describe the taxpayer.

(4) Some RRA98 provisions that affect TAS employees:

- Direct reporting of local taxpayer advocates to the National Taxpayer Advocate (NTA) (or delegate);
- Phone, fax, electronic communication, and mailing address separate from those of IRS;
- Requirement for the NTA to develop guidance for TAS case criteria;
- Statement on organizational independence; and
- Discretion to withhold information from IRS.

13.1.2.4
(03-20-2023)
**RRA98 Provisions in the
Taxpayer Advocate
Service (TAS)**

(1) The following sections contain guidance to TAS employees on specific provisions of RRA98.

13.1.2.4.1
(03-20-2023)
Identify Yourself

(1) RRA98, section 3705 requires all employees to identify themselves upon initially contacting a taxpayer or representative. The first opportunity for TAS employees to identify themselves occurs when they initially make telephone contact with their customers to clarify case issues and provide the customer with planned actions.

(2) Immediately upon telephone contact or face-to-face contact provide your:

- title (e.g., Mr., Mrs., Ms., Miss),
- and last name, **OR**
- first and last name, **OR**
- first initial and last name, **AND**
- **SmartID 10-digit number.**

Note: If your last name is hyphenated or you have two last names on your ID, you must use as stated on your federally issued identification badge.

- (3) If you do not make telephone contact, your initial letter to the customer must contain the above identifying information. This will satisfy the requirements of this section of the law. See IRM 13.1.18.6, Initial Contact Completed by Case Advocates, IRM 13.1.6.2, Oral Communication, and IRM 21.1.1.4, Communication Skills, for additional information. See *TAS Letters and Communications*.

13.1.2.4.2
(03-20-2023)

Inform Taxpayer of TAS's Independence

- (1) IRC 7803(c) requires TAS employees to inform customers of the independence of the Taxpayer Advocate Service and the reporting requirements to Congress through the National Taxpayer Advocate. At an appropriate time during the initial telephone contact, make the following statement (or something similar):

"The Taxpayer Advocate Service organization operates independently of any other Internal Revenue Service office and reports directly to Congress through the National Taxpayer Advocate. This independence allows us to work more effectively as advocates for taxpayers."

- (2) If telephone contact is not made, **this statement of independence must be included in written correspondence or during a face-to-face meeting.**

13.1.2.4.3
(03-20-2023)

Inform Taxpayer of TAS Confidentiality

- (1) IRC 7803(c)(4)(A)(iv) states TAS may, at the discretion of the LTA, not disclose to IRS contact with, or information provided by, such taxpayer. See IRM 13.1.5.6, Communicating Confidentiality Rules to Taxpayers and Taxpayers' Representatives for additional information.

- (2) At an appropriate time during the initial telephone contact, make the following statement (or something similar): "The Internal Revenue Code gives the Taxpayer Advocate Service the discretion not to disclose certain information to IRS. To provide you the assistance or relief you are requesting, however, the Taxpayer Advocate Service will likely have to disclose to IRS at least some of the information you provide in order to advocate on your behalf."

13.1.2.4.4
(03-20-2023)

Significant Hardship

- (1) RRA98 1102(c) expanded the circumstances under which a TAO may be issued by providing that a TAO may be issued if the taxpayer is suffering or about to suffer a significant hardship as a result of the way the internal revenue laws are being administered by IRS. The legislation provided that a significant hardship shall include the following:
- a. An immediate threat of adverse action;
 - b. A delay of more than 30 days in resolving the taxpayer's account problems;
 - c. The incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or
 - d. Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted. See IRC 7811(a)(2).
- (2) *Treas. Reg. 301.7811-1(a)(4)(ii)* further defines significant hardship to mean "a serious privation caused or about to be caused to the taxpayer as the result of the particular manner in which the revenue laws are being administered by IRS. Significant hardship includes situations in which a system or procedure fails to operate as intended or fails to resolve the taxpayer's problem or dispute with IRS."

- (3) TAS is required to make a determination of significant hardship on all cases. See IRM 13.1.18.9, Making an IRC 7811 Significant Hardship Determination.

13.1.2.5
(03-20-2023)
Third Party Contacts

- (1) **RRA98 section 3417 initially added IRC 7602(c)**, which specifies requirements for third party contacts (TPCs). IRS must notify taxpayers before they make contact with third parties with respect to the determination or collection of the tax liability. These contacts include issuance of a levy or a summons to someone other than the taxpayer. Prior to the Taxpayer First Act (TFA) amendment, IRC 7602(c) required IRS to provide a “reasonable notice in advance”. TFA 1206(a) amended IRC 7602(c), to require IRS provide the TPC notice only when it intends to make a TPC during the period specified in the notice, which may not exceed one year, and it provides the notice at least 45 days in advance of making the contact. Additionally, the TFA change clarified the TPC notice cannot be provided as part of an existing IRS notice; thus, the prior IRS practice of including generic language in Publication 1, Your Rights as a Taxpayer, is no longer legally permissible. Refer to the following IRM sections for additional information:

- IRM 11.3.3, Disclosure to Designees and Practitioners;
- IRM 11.3.3.3, Disclosure to Third Parties Based Upon Taxpayer Request for Assistance; or
- IRM 25.27.1, Third Party Contact Program.

- (2) IRC 7602(c)(3)(C) specifically exempts Criminal Investigation from the requirements when such third party contacts are made during an investigative contact. For more information on third party contacts when a case is in Criminal Investigation see IRM 9.3.1, Disclosure.

- (3) Examples of third party contacts include:

Example: An employee or an agent of IRS contacts a person other than the taxpayer and asks questions about a specific taxpayer with respect to the determination or collection of that taxpayer’s federal tax liability.

Example: A summons issued to anyone other than the taxpayer under exam such as a bank, credit card processor or an employer.

- (4) The following types of contact **ARE NOT** considered third party contacts:
- a. Searches made on computer databases that do not require any kind of personal involvement at the other end (e.g., LEXIS-NEXIS, Information America);
 - b. Contacts made with government officials to obtain information that is available to the public, e.g., contacting the Postal Service to obtain a taxpayer’s current address;
 - c. Information received from a third party where the third party **initiated** the contact, (Information may be received from a third party but not provided to the third party unless disclosure requirements are met, and then it becomes a third party contact unless another exception applies);
 - d. Formal exchange agreements between the United States and foreign countries or possessions to share tax information;

- e. Exchanges of information via programs such as the State Income Tax Levy Program and the Federal Payment Levy Program;
 - f. Contacts with individuals who have a valid Power of Attorney for the taxpayer. See IRM 13.1.23.3.1.1, Authority Granted by Power of Attorney (Form 2848 and Other Comparable Documents);
 - g. Contacts made for the purpose of obtaining information regarding an industry or market segment where specific taxpayers have not yet been identified;
 - h. Contacts made by IRS employees during litigation if the contact relates to a matter and issue being litigated;
 - i. Contacts made with other IRS employees, including employees of the Office of Chief Counsel or the Department of Justice, acting within the scope of an employee's official duties; or
 - j. Contacts made as the result of unsolicited requests for payoff of a Notice of Federal Tax Lien or to respond to requests for information regarding the priority of a lien.
- (5) Questions regarding whether or not a contact meets the third party notification requirements should be discussed with your manager, lead case advocate or technical advisor.
- (6) **IRS employees must comply with all disclosure laws. Even though a contact may be excepted from IRC 7602(c), which prescribes third party contact requirements, disclosure laws do apply in all situations.**
- (7) Contacts made via three-way calling after the taxpayer is on the line are excepted from the requirements of IRC 7602(c) because taxpayer authorization is implicit in this situation.
- (8) Under IRC 7602(c)(3)(A), contacts that the taxpayer has authorized are excepted from the notice and record keeping requirements of IRC 7602(c). Taxpayer authorization should be documented in TAMIS history.
- (9) Refer to IRM 13.1.23.3, General Disclosure Rules for specific disclosure and taxpayer authentication procedures while working a TAS case.

13.1.2.5.1
(03-20-2023)
**Identifying a Previous
Third Party Notification**

- (1) Before making a third party contact (e.g., employer or property owner), the TAS employee should review the case file to determine if the taxpayer has received the required notification.

The taxpayer ***has received the required notification*** if any of the following apply:

- a. The taxpayer or representative has received a Letter 3164-J or Letter 3164-J(SP); Third Party Contact;
- b. IDRS reflects a TC971 Action Code (AC) 610-617;
- c. If the taxpayer or representative signed Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order); or
- d. History shows taxpayer or representative provided oral authority.

13.1.2.5.2
(03-20-2023)
**TAS Third Party Contact
Notification**

- (1) Form 911 has a paragraph which provides the taxpayer authorization for making third party contacts and, if signed, waives the notice requirements of IRC 7602(c).

Note: When the TAS employee must contact a bank or landlord to verify the facts of the taxpayer's circumstances to expedite a release of levy or to expedite a refund, prior notice of third party contact must be provided unless a signed authorization for third party contact is received, e.g., signed Form 911 is received.

(2) IRC 7602(c)(1) as amended by the TFA, requires that the IRS;

- Issue advance notice of third-party contacts;
- Intend, at the time such notice is issued, to contact third parties (the notice must state this intent);
- Specify in the notice the time period, not to exceed one year, within which IRS intends to make the third-party contact(s); and
- Send the notice at least 45 days before contact with a third party.
- Upon request, the IRS will provide the taxpayer with a list of third parties that have been contacted.

Note: A TAS employee will rarely be required to provide taxpayers with prior notification that third parties may be contacted. First, when the taxpayer signs Form 911 this requirement is waived. Second, the purpose of the contact by TAS must be to determine or collect the taxpayer's federal tax liability.

Example: A taxpayer calls TAS to assist with an underreported income issue, stemming from gambling winnings and withholding being incorrectly reported. The taxpayer did not provide a signed Form 911. TAS contacts a casino to obtain verification of the gambling winnings and withholding. Since verification of income and withholding is needed to determine the taxpayer's tax liability and the taxpayer did not provide TAS with a signed Form 911, the requirement to notify the taxpayer of the third party contact is required.

Example: A taxpayer signs and sends a Form 911 requesting TAS assistance with an examination issue. The TAS employee must secure additional documentation from a third party to help the taxpayer substantiate deductions claimed on their tax return. Since the taxpayer provided TAS with a signed Form 911, the requirement to notify the taxpayer of the third party contact is waived.

(3) If the taxpayer has not received a previous third party contact notification, taxpayers can be notified of a third party contact in the various ways:

a. **Oral Authority** - Third Party Contact Notification

- If a joint return, each spouse/representative must be notified;
- Input TC 971 AC 616 on each spouse if applicable to record notification of a third party contact; and
- Document taxpayer or representative notification in TAMIS.

b. **Mailing** - Third Party Contact Notification

- Prepare Letter 3164-J, (Taxpayer Advocate) Third Party Contact Letter, or Letter 3164-J (SP), (Taxpayer Advocate) Third Party Contact Letter Spanish version;
- Include the TAS employee's telephone number and unique identification number on the letter;
- Input TC 971 AC 616 on each spouse if applicable, to record notification of a third party contact;
- Send a separate letter to each spouse/representative on jointly filed returns;
- Wait 45 calendar days from the issue date of the letter prior to making any third party contacts;
- Send the letter to the taxpayer's address of record (even if prior mail is returned undeliverable); and

Note: If a new address for the taxpayer is located, the employee must update ENMOD in accordance with IRM 13.1.4 , TAS Authorities, (TAS cannot update BMF addresses or joint accounts without both taxpayer signatures and must consider any open controls on IMF), and mail Letter 3164-J, to the new address.

- Document taxpayer notification in TAMIS.

c. **Faxing** - Third Party Contact Notification

- See IRM 10.5.1.6.9.4, Faxing;
- Wait 45 calendar days from the issue date of the fax prior to making any third party contacts;
- Input TC 971 AC 616 to record notification of a third party contact; and
- Document taxpayer notification in TAMIS.

d. **Hand Delivery** - Third Party Contact Notification

- Third party contacts can begin immediately upon hand delivery of Letter 3164-J, if each spouse/representative agrees, but allow the taxpayer/representative an opportunity to provide the needed information before contacting third parties;
- If each spouse/representative does not agree, follow IRM 13.1.2.5.2 (3)(b), Mailing Third Party Contact Notification;
- Input TC 971 AC 616 on each spouse if applicable to record notification of a third party contact; and
- Document taxpayer notification in TAMIS.

- (4) Taxpayers have the right per Treas. Reg. section 301.7602-2(e)(1) to request a list of the third parties IRS contacted. The TAS Third Party Contact Coordinator fulfills these requests per IRM 25.27.1.5, Providing Taxpayers with TPC List. See IRM 13.1.2.5.3 for TAS Third Party contact Coordinator contact information.

13.1.2.5.3
(03-20-2023)

Recording a Third Party Contact

- (1) Complete Form 12175, Third Party Contact Report Form, to record the third party contact and send it to the TAS Third Party Contact Coordinator as soon as possible after the contact is made. The TAS Coordinator's contact information can be found at: <https://irssource.web.irs.gov/TAS/SitePages/3rdParty.aspx>.

Note: Questions regarding Third Party Contacts should be discussed with your manager, Lead Case Advocate or Technical Advisor and not directed to the Third Party Contact Coordinator.

(2) Document the TAMIS Third Party Screen. See *TAMIS User Guide*.

13.1.2.6
(03-20-2023)
**Documentation For
Constitutional or
Frivolous Arguments**

- (1) RRA 98, section 3707, prohibits the use of any tax protester designation to describe the taxpayer. Terms such as "frivolous argument" or "tax avoidance argument" are acceptable terms to use. You may document the taxpayer's account by using such terms as "frivolous tax returns", "frivolous arguments" or "tax avoidance." See IRM 13.1.7.4, Exceptions to Taxpayer Advocate Service Criteria, IRM 13.1.16.13, Contacts Not Meeting TAS Criteria (Frivolous Arguments), and IRM 25.25.10, Frivolous Return Program, for more information.
- (2) TAS employees must document TAMIS when the taxpayer has submitted specific returns or correspondence that appear frivolous or without merit. Frivolous tax returns and certain specified frivolous submissions are subject to penalty under IRC 6702. However, section 3707 of RRA 98, pertains to labels applied to the taxpayer, not to specific tax returns or submissions. The Treasury Inspector General for Tax Administration annually evaluates IRS's compliance with RRA 98 section 3707.
- (3) Documenting variations of the terms "Illegal Tax Protester" (ITP, Tax Protester, Protester, etc.) and similar designations (constitutionally challenged, etc.) are examples of prohibited language. Such terms represent categorizing individuals that may result in unfair treatment.

Example: Unacceptable: "Taxpayer is constitutionally-challenged." **Acceptable:** "Taxpayer's correspondence contains frivolous arguments."

Example: Unacceptable: "Taxpayer is a protester." **Acceptable:** "Taxpayer made statements regarding his position on the tax laws that have been found to be frivolous by the courts."

- (4) Do not document TAMIS or any IRS system to repeat the prohibited designation made by another IRS employee. Copying the history, notes, OAR responses, or comments (verbal or written), or quoting comments made by a non-IRS individual (e.g., member of Congress) may give the appearance of propagating the prohibited action.
- (5) Refer to *The Truth About Frivolous Tax Arguments* at <https://www.irs.gov/privacy-disclosure/the-truth-about-frivolous-tax-arguments-introduction> for information about common frivolous "legal" arguments made by individuals and groups who oppose compliance with federal tax laws. The document also responds to some of the more common frivolous arguments.

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Exhibit 13.1.2-1 (03-20-2023)**Terms**

Term	Definition
Operations Assistance Request	Conveys a recommendation or request that IRS act to resolve an issue when TAS lacks the statutory or delegated authority to resolve a taxpayer's problem.
RRA98	The Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98) became law when the President signed the legislation on July 22, 1998. This new law ushered in dramatic changes in tax law as well as in the structure and functioning of the Internal Revenue Service. The changes affecting IRS focus mainly on improving customer service and expanding taxpayer rights.
TAS Confidentiality	IRC 7803(c)(4)(A)(iv) states TAS may, at the discretion of the Local Taxpayer Advocate, not disclose to IRS contact with, or information provided by, such taxpayer.
TAS Independence	The Taxpayer Advocate Service organization operates independently of any other Internal Revenue Service office and reports directly to Congress through the National Taxpayer Advocate. This independence allows us to work more effectively as advocates for taxpayers.
Taxpayer Assistance Order	A statutory tool used by TAS to order IRS to take certain actions, cease certain actions, or refrain from taking certain actions. See IRM 13.1.20, TAS Taxpayer Assistance Order (TAO) Process.
Third Party Contact	A third party contact has been made when an IRS employee initiates contact with a person other than the taxpayer and/or representative and asks questions about a specific taxpayer with respect to that taxpayer's federal tax liability, including the issuance of a levy or summons to someone other than the taxpayer.

