



CARDOZO

Benjamin N. Cardozo School of Law

LARC @ Cardozo Law

CJCR Blog

Journal Blogs

10-30-2023

How Can the Internal Revenue Service Improve its Alternative Dispute Resolution Programs to Deliver Better Benefits?

Armando Gonzalez

Cardozo Journal of Conflict Resolution, agonza11@law.cardozo.yu.edu

Follow this and additional works at: <https://larc.cardozo.yu.edu/cjcr-blog>



Part of the [Dispute Resolution and Arbitration Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Gonzalez, Armando, "How Can the Internal Revenue Service Improve its Alternative Dispute Resolution Programs to Deliver Better Benefits?" (2023). *CJCR Blog*. 77.

<https://larc.cardozo.yu.edu/cjcr-blog/77>

This Blog Post is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in CJCR Blog by an authorized administrator of LARC @ Cardozo Law. For more information, please contact larc@yu.edu.

HOW CAN THE INTERNAL REVENUE SERVICE IMPROVE ITS ALTERNATIVE DISPUTE RESOLUTION PROGRAMS TO DELIVER BETTER BENEFITS?

Armando Gonzalez

Most individuals and businesses file their tax return(s) and forget about the Internal Revenue Service (“IRS”) until it’s time to repeat the process the following year. However, sometimes disputes may arise “when a taxpayer fails to agree with an IRS finding, refuses to file a tax return, or refuses to comply with an IRS request for information.”¹ To address some of these disputes, the IRS offers six alternative dispute resolution (“ADR”) programs through its Independent Office of Appeals, where mediation is leveraged to avoid costly litigation and lengthy appeals.²

Although each individual program—such as Fast Track Mediation (Collection) or Post Appeals Mediation³—is designed to address a specific type of dispute in an efficient manner, use of the programs has decreased recently.⁴ It was reported by the U.S. Government Accountability Office (“GAO”) that from fiscal year 2013 to 2022, the IRS used ADR programs to resolve disputes in less than half of one percent of all cases reviewed by its Independent Office of Appeals, and that use of the programs fell by sixty-five percent.⁵ Further, the GAO found that the IRS does not have the data necessary to manage the ADR programs or related statistics, including data on taxpayer requests to use ADR and the rate of resolution, time, and costs.⁶ This

¹ Gregory P. Mathews, *Using Negotiation, Mediation, and Arbitration to Resolve IRS-Taxpayer Disputes*, 19 OHIO ST. J. ON DISP. RESOL. 709, 709 (2004).

² *Tax Enforcement: IRS Could Better Manage Alternative Dispute Resolution Programs to Maximize Benefits [Reissued with Revisions on Jun. 7, 2023]*, GAO (May 31, 2023), <https://www.gao.gov/products/gao-23-105552> [<https://perma.cc/DR4P-27EZ>].

³ *Introduction to Alternative Dispute Resolution*, IRS (2021), <https://www.irs.gov/pub/irs-pdf/p4167.pdf> [<https://perma.cc/378X-V3WX>].

⁴ *Supra*, note 2.

⁵ *Id.*

⁶ *Id.*

has been an issue since at least 2015,⁷ which has continued to hinder the IRS's ability to make informed updates.

As a result of the failure to track data related to taxpayers and their relationship with the ADR programs offered, the agency is missing out on better leveraging its resources and budget.⁸ This is a serious concern, especially with Congress recently cutting IRS funding by roughly twenty-one billion dollars.⁹ Thus, even though the Chief of the Independent Office of Appeals recently stated that the IRS wants to continue to find “ways to help reduce the times, costs, and administrative burden for taxpayers and the government in resolving tax disputes,”¹⁰ there is a critical need to develop practical solutions that will promote or improve the ADR programs while not burdening the shrinking IRS budget.¹¹

One recent measure that the IRS took was its formal request for public input of the ADR programs.¹² This is a form of data collection that the IRS can easily leverage to reform its programs without spending vast resources. Moreover, in a discussion about the IRS's request for public input, tax attorney George A. Hani acknowledged that one reason taxpayers hesitate to leverage ADR programs is due to Appeals officers struggling to find the balance between settling

⁷ Jonathan Barry Forman & Roberta F. Mann, *Making the Internal Revenue Service Work*, 17 FLA. TAX REV. 725, 813 (2015) (“Appeals ADR programs appear to be underutilized, although statistics about particular programs are not available.”).

⁸ *Supra*, note 2.

⁹ Vanessa Williamson, *House Republicans want to Cut the IRS Budget—Again*, BROOKINGS (July 27, 2023), <https://www.brookings.edu/articles/house-republicans-want-to-cut-the-irs-budget-again/> [<https://perma.cc/S5CP-MKFL>].

¹⁰ Robert J. Fedor, *Understanding IRS Alternative Dispute Resolution Programs*, ROBERT J. FEDOR, ESQ., LLC (Aug. 31, 2023, 10:45 AM), <https://www.fedortax.com/blog/understanding-irs-alternative-dispute-resolution-programs> [<https://perma.cc/QSU9-JQWG>].

¹¹ *Chart Book: The Need to Rebuild the Depleted IRS*, CTR. ON BUDGET AND POL'Y PRIORITIES (Dec. 16, 2022), <https://www.cbpp.org/research/federal-tax/the-need-to-rebuild-the-depleted-irs> [<https://perma.cc/PA9M-MFJ7>].

¹² *IRS Invites Public Input on Ways to Improve Dispute Resolution Programs; Suggestions Wanted*, IRS (July 27, 2023), <https://www.irs.gov/newsroom/irs-invites-public-input-on-ways-to-improve-dispute-resolution-programs-suggestion-s-wanted> [<https://perma.cc/JWP8-TMHQ>].

disputes while still treating taxpayers with similar situations fairly.¹³ One solution that this implies is to train Appeals officers to prioritize a “willing[ness] to compromise.”¹⁴ Furthermore, the GAO has provided eight recommendations for IRS action, ranging from reliable data collection and analysis to periodic evaluations of its programs.¹⁵ By implementing these recommendations, the GAO and IRS hope to improve the effectiveness of resolving disputes through the IRS appeals process.¹⁶

There are additionally broader solutions that would require legislative action and policy changes, such as revamping the tax system, simplifying the tax penalty system, and improving the IRS’s allocation of resources,¹⁷ where these extensive initiatives would permit the IRS to dedicate more overhead to resolving ADR-related issues.

Ultimately, promoting the above changes to advance the IRS’s tax resolution procedures through its ADR programs will lead to increased transparency, efficiency, and cost-savings for both the IRS and taxpayers, and adhere to the IRS’s mission of helping America’s taxpayers understand and meet their tax responsibilities.¹⁸

¹³ *George Hani Discusses Pitfalls of IRS ADR Programs in Tax Notes*, MILLER & CHEVALIER (July 31, 2023), <https://www.millerchevalier.com/publication/george-hani-discusses-pitfalls-irs-adr-programs-tax-notes> [<https://perma.cc/G6EC-XSWL>].

¹⁴ *Id.*

¹⁵ *Supra*, note 2.

¹⁶ *Id.*

¹⁷ Forman & Mann, *supra* note 7.

¹⁸ *About IRS*, IRS, <https://www.irs.gov/about-irs> [<https://perma.cc/QPN8-3DU6>] (last updated Aug. 4, 2023).