

**Testimony of James Hurst on behalf of
New York City Department of Consumer Affairs
Before the
Public Forum at Hostos Community College
Convened by the National Taxpayer Advocate
And
Congressman Jose Serrano**

Forum on the Internal Revenue Service’s “Future State” Plan

March 18, 2016

Good afternoon, I am James Hurst, Legal Ombudsman at the New York City Department of Consumer Affairs (“DCA”). I want to begin by thanking Nina Olson, the National Taxpayer Advocate (“NTA”), and Congressman Jose Serrano, for hosting this public forum. Dialogue between the Internal Revenue Service (“IRS”) and its constituency is incredibly important to fully understand the scope of taxpayers’ experiences and to appropriately inform policy and operational decisions. It is encouraging to learn of the NTA’s efforts to seek out and consider the diverse viewpoints within the taxpayer population and its representatives.

DCA Background

The Department is deeply committed to protecting and empowering New York City’s consumers and businesses alike. As the largest municipal consumer protection agency in the country, DCA licenses 80,000 businesses across 55 different industries. The Department’s Office of Financial Empowerment (“DCA OFE”) is the first local government initiative in the country dedicated to the mission of educating, empowering, and protecting low-income consumers and communities. DCA OFE assists city residents by offering innovative programs and services to facilitate access to high-quality, low-cost financial education and counseling, safe and affordable banking and access to tax credits, savings and services.

NYC Free Tax Prep

DCA is in the midst of historic times. In 2015, Mayor Bill de Blasio announced a multi-year municipal investment in taxpayer public education and outreach that is 20 times larger than what was provided in past years. DCA runs the *NYC Free Tax Prep* campaign and has dedicated tremendous resources to help grow our efforts in this space over the past two years.

This funding has allowed the City to, for the first time, fund free tax preparation partners and expand the City’s network of tax sites to more than 200 locations citywide, as well as provide further staffing support to tax partners. Depending on the site, service options include in-person preparation, drop-off service, or assisted self-preparation. Ms. Olson and Congressman Serrano, you will be pleased to know that here in Bronx Community Board 1, we have 11 distinct free tax preparer sites offering a variety of services.

To give you a sense of the scope of our outreach and advertising campaign, in 2015, the City conducted a five-borough trilingual phone-a-thon and robocalls to 270,000 low-income households. DCA also created an interactive online map of all tax sites, which allowed interested individuals to search for the most convenient free tax filing site based on criteria such as location, language of service, and hours of operation.

The Administration's decision to invest boils down to two basic tenets, first, that existing credits like the Earned Income Tax Credit (EITC) and New York City Child Care Tax Credit (NYC CCTC) go unclaimed too often by qualified city residents and, secondly, that residents often pay for tax preparation services, or worse, may be charged exorbitant fees, when they qualify for free filing with an IRS certified VITA/TCE volunteer preparer.

To put it simply, the investment paid off. By April 2015, the City helped to file more than 150,000 returns for low-income New Yorkers, helping them to claim important tax credits like EITC and NYC CCTC. This marked a 50 percent increase compared to the year prior through the City's network of tax preparer sites. In dollars, the City estimated that \$250 million in tax credits and tax preparer fee savings went into the pockets of its residents.

This tax season, the City intends to build on the successes of 2015. I have brought copies of our advertising campaign for the public today. The new advertisements are running in the City's subway cars, stations, bus shelters, and telephone kiosks, as well as in print and on radio. DCA did a targeted mailing to more than 330,000 EITC-eligible New Yorkers and used a call center to directly contact more than 135,000 EITC-eligible New Yorkers. Additionally, the City's tax season partners are distributing approximately 595,000 informational brochures in multiple languages to their networks of potentially eligible filers. A second phase of the education campaign launches next week. One new initiative for 2016 is the *NYC Free Tax Prep at Work* program. The employer-based VITA program, is the first such program in the country and allows employees at partner businesses who earned \$54,000 or less to file for free at work—at no cost to the employer—by using a convenient, drop-off service that takes just 20 minutes. Currently, eight businesses participate in this program.

DCA Tax Preparer Complaint Data and 2016 Enforcement Sweep

DCA receives many complaints regarding predatory behavior by tax preparers who mislead city residents, particularly our most vulnerable populations. DCA therefore works to ensure that individuals know their rights and their eligibility for free tax preparation services. DCA disseminates tips for taxpayers that include asking commercial preparers for an estimate, avoiding high-cost refund “advances” or “checks,” and filing complaints about preparers with DCA.

Last tax season, DCA received 143 complaints through April and have received 93 complaints as of March 7th this tax season. Complaints largely fall into four categories: surcharges or overcharges, misrepresentations, misleading or false advertising, and issues over taxpayer refunds. Some of the most egregious overcharge complaints claim tax preparers charged hundred of dollars in undisclosed fees that are directly deducted from the taxpayer's refund. Other

complaints regard preparers who provide a refund estimate at the request of a consumer and then subsequently file returns without the consumer's authorization.

Every year DCA inspects hundreds of tax preparation offices in New York City. This year DCA conducted more than 350 targeted inspections and issued violations to two in every five income tax preparers inspected. This tax season we focused our efforts on inspecting tax preparers with prior violations and those that were the subject of recent consumer complaints. Inspectors found that many tax preparers do not post their fees as required by law, or do not provide consumers with an itemized receipt or statement of charges, making it easier to overcharge consumers.

In addition to the required fee disclosures, tax preparers must post multiple notices regarding their qualifications and the services provided. Many of these disclosures must be posted in both English and any language used to attract customers to the tax preparation office. The Department also inspects businesses to ensure they are distributing New York City's Consumer Bill of Rights Regarding Tax Preparers before they discuss services with the taxpayer. This document provides important information regarding the consumer's rights and the tax preparer's obligations under New York City law.

DCA Concerns with the IRS' Future State Plan

DCA is keenly aware of the budgetary challenges the IRS continues to face. Congressional budget cuts of 18 percent to the agency since 2010 certainly have consequences as resources become strained and services become diluted.¹ That said, DCA firmly believes that those resources should not be taken from taxpayer engagement, outreach or VITA/TCE services.

The Department shares the NTA's concerns that the IRS' deliberations to reduce telephone and face-to-face interaction will leave low-income and middle-class taxpayers, who may not have the resources to pay for individualized attention, without the guidance or confidence to navigate the tax code. This may put further strains on localities, like New York City, to help facilitate preparer access and will undoubtedly open the door to further predatory behavior by some commercial preparers. The residents of New York City face a myriad of systemic market factors that make them prey to unscrupulous intermediaries, including a high number of immigrant and limited English proficiency filers and limited access to mainstream financial services. The Bronx is particularly vulnerable. In a study commissioned by DCA OFE and conducted by the Urban Institute, we found that the Bronx has the highest concentration of financially insecure households in the city,² as well as the highest concentration of unbanked and underbanked residents.³

As Legal Ombudsman, I can speak to the importance of maintaining individualized services and can tell you, firsthand, that it makes a significant difference to the small business owners with whom I work. Many are unable to find relevant resources online and rely on person-to-person

¹ <http://www.cbpp.org/research/federal-tax/irs-funding-cuts-continue-to-compromise-taxpayer-service-and-weaken-enforcement>

² <http://www1.nyc.gov/assets/dca/CitywideFinancialServicesStudy/Financial-Security-Brief.pdf>

³ <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000430-Where-Are-the-Unbanked-and-Underbanked-in-New-York-City.pdf>

communication when seeking assistance. This personal contact fosters confidence in government administration. The daily communication I have with the Department's constituency ensures that they have a resource to help them better understand the laws and rules that govern their businesses and helps to eliminate avoidable fines and violations.

Further, DCA would caution the IRS from assuming that technological improvement, such as a self-service e-portal, will reduce taxpayers' need for personal service when, in fact, experience shows otherwise. According to IRS Stakeholder, Partnerships, Education and Communication (SPEC) data, in 2013, 76 percent of EITC recipients in New York City used paid preparers, in comparison to 56 percent of EITC recipients nationally, indicating that low- and moderate-income filers in the city yearn for personal, one-on-one support in tax matters.⁴ Further, fewer than 30 percent of all New Yorkers use self-preparation to file their taxes.

DCA's outreach goes far beyond what we provide on our website and social media. DCA works with local elected officials to host pop-up tax preparer sites and coordinates with faith-based organizations to foster comfort and confidence among taxpayers to utilize the resources the Department makes available. As the NTA highlights, particularly in regard to EITC eligible taxpayers, the IRS already falls short of properly accommodating populations of people that fall in and out of eligibility for particular programs. It is ill advised to expect everyone to be able to self-help their way through an already difficult process.

DCA's work with IRS certified VITA/TCE volunteer preparers cannot be understated. We work with more than a dozen community organizations who deliver free tax preparation services in all five boroughs. VITA/TCE volunteer preparers are serving New Yorkers almost daily throughout tax season and beyond, and they provide services in English, Spanish, Haitian Creole, Korean, Russian, Bengali, Mandarin and Cantonese. Funding for DCA's VITA/TCE services and public outreach in New York is more than \$3 million dollars, making us one of the largest funders of free tax preparation services in the city. This augments the IRS's long-standing commitment to supporting free tax preparation through the VITA/TCE program. This year, VITA funding to organizations serving New York City from the IRS is approximately \$350,000.⁵

Finally, I would be remiss not to raise a concern regarding the proposal to provide tax preparers with greater access to taxpayer online accounts. In light of the complaints we have received regarding preparers filing taxes without authorization, we are concerned that unscrupulous preparers may use this additional access to engage in further misconduct. Without strict security measures, there is an increased risk of identity theft and greater opportunities for unauthorized tax filing.

⁴ Earned Income Tax Credit (EITC) Interactive and Resources." *The Brookings Institution*. Accessed January 21, 2016. <http://www.brookings.edu/research/interactives/eitc>.

⁵<https://www.usaspending.gov/Pages/TextView.aspx?data=AgencyMostFundedRecipientsByAwardType&AwardType=G&agencycode=2000>. (New York City organizations are Urban Upbound (formerly East River Development Alliance), Food Bank for New York City, The Financial Clinic, and Grow Brooklyn)

Over the past 13 years, DCA has distributed tens of millions of tax campaign brochures, and as I noted, is in the midst of a historic period of municipal investment that has furthered our Department's expertise and ability to innovate to engage city taxpayers more effectively.

I hope that New York City's experience demonstrates that increased personal outreach, education and access to VITA/TCE services foster tangible results. Again, thank you for allowing me to testify today.