

**DEPARTMENT OF FINANCE  
Internal Finance Manual (IFM)  
Proposed Table of Contents**

- Part 1:        Organization of the Department of Finance**
- Part 2        External Affairs**
- Part 3        Legal Division**
- Part 4        The Office of the Taxpayer Advocate\* Published 1/15/2016**
- Part 5        Business and Excise Tax Services**
- Part 6:       Business Tax**
- Part 7        Excise Taxes**
- Part 8        Penalty and Interest Rules and Penalty Abatement Rules**
- Part 9:       Property Tax Assessment**
- Part 10:      Property Tax Exemptions and Abatements**
- Part 11       Property Rent Freeze**
- Part 12       Collections- Payment Operations**
- Part 13       Collections- Lien Sales**
- Part 14       Collections- In Rem Foreclosures**
- Part 15       Collections-Other**
- Part 16       Conciliation Conferences and Appeals**
- Part 17       Disclosure**
- Part 18       Enforcement**
- Part 19       Parking Tickets**
- Part 20       Sheriff's Office**

## **Table of Contents Internal Finance Manual Taxpayer Advocate Part**

|  |    |
|--|----|
| Part 4 The Office of the Taxpayer Advocate.....  | 3  |
| 4.1 NYC Office of the Taxpayer Advocate Creation and Organizational Structure.....           | 3  |
| 4.2 Philosophy of Advocacy .....   | 4  |
| 4.3 Organizational Structure .....   | 6  |
| 4.4 Delegation of Authority .....  | 6  |
| 4.5 The Office of the Taxpayer Advocate Confidentiality Rules .....                          | 7  |
| 4.6 The Office of the Taxpayer Advocate Case Criteria .....                                  | 8  |
| 4.7 The Office of the Taxpayer Advocate Case Procedures .....                                | 10 |
| 4.8 Operations Assistance Request Process Overview .....                                     | 14 |
| 4.9 OAR Preparation.....   | 15 |
| 4.10 Department of Finance Unit/Function Liaisons.....                                       | 16 |
| 4.11 Responsibilities of OTA Liaison assigned to the OAR.....                                | 16 |
| 4.12 Case Advocate OAR Responsibilities .....  | 18 |
| 4.13 Expedite Processing of OARs .....   | 20 |
| 4.14 OARs Action Not Taken .....   | 20 |
| 4.15 The Office of the Taxpayer Advocate Taxpayer Assistance Orders .....                    | 21 |
| 4.16 Systemic Advocacy .....   | 23 |
| 4.17 Customer Complaint Procedures .....   | 25 |
| 4.18 Office of the Taxpayer Advocate Internal and External Communications<br>[Reserved]..... | 25 |
| 4.19 Office of the Taxpayer Advocate Metrics [Reserved] .....                                | 25 |

## Part 4 The Office of the Taxpayer Advocate

### 4.1 NYC Office of the Taxpayer Advocate Creation and Organizational Structure.

- 4.1.1 The NYC Office of the Taxpayer Advocate was created by the Commissioner of the Department of Finance (“Commissioner”) in 2015.
- 4.1.2 The Taxpayer Advocate is appointed by the Commissioner. The Taxpayer Advocate reports directly to the Commissioner.
- 4.1.3 As a condition to appropriating funds for the Office of the Taxpayer Advocate, the New York City Council required a report no later than May 1, 2016, from the Commissioner detailing the number and nature of inquiries received by the Taxpayer Advocate regarding property tax exemptions or business tax exemptions, whichever is applicable for Fiscal year 2016. The report also required the number, nature, and resolution of complaints received by the Taxpayer Advocate, any recommendations made by the Taxpayer Advocate to the Commissioner, the acceptance and denial rates of such recommendations by the Commissioner, and the number and nature of inquiries made referred to the Taxpayer Advocate by ombudspersons at the Department of Finance, and the number and nature of inquiries referred to the Taxpayer Advocate by 311.
- 4.1.4 The Office of the Taxpayer Advocate shall have responsibility for handling inquiries and complaints concerning NYC property tax, business tax, and certain excise taxes (i.e., commercial rent tax, hotel occupancy tax, and cigarette tax). The Office of the Taxpayer Advocate shall not have responsibility for handling inquiries and complaints regarding parking tickets.
- 4.1.5 The Office of the Taxpayer Advocate may refer to the New York State Department of Taxation and Finance Office of the Taxpayer Rights Advocate inquiries and complaints concerning personal income tax and sales tax, because those taxes are administered by the New York State Department of Finance and Taxation.
- 4.1.6 The New York City Council, by Local Law No. 40, amended New York City Administrative Code by adding a new section, 11-137. § 11-137 directed the Commissioner designate an employee of the Department of Finance to serve as an ombudsperson for the senior citizen rent increase exemption program (“SCRIE”) and a different employee to serve as an ombudsperson for the disability rent increase exemption (“DRIE”). The Office of the Taxpayer Advocate works with the ombudspersons on matters involving SCRIE and DRIE.

## 4.2 Philosophy of Advocacy

### 4.2.1 The Office of the Taxpayer Advocate Mission Statement

The Office of the Taxpayer Advocate is an independent organization within the Department of Finance. We help taxpayers resolve problems with the Department of Finance and recommend changes that will prevent the problems.

### The Office of the Taxpayer Advocate's Vision

We encourage resolution of all taxpayer issues at the point of first contact. We are committed to encouraging the four pillars of the Department of Finance mission: Fairness, Transparency, Efficiency/Effectiveness, and Exceptional Customer Service.

The mission of the Office of the Taxpayer Advocate is to help taxpayers resolve problems with the Department of Finance and to recommend changes to prevent the problems. The Office of the Taxpayer Advocate fulfills its mission through case related advocacy and systemic advocacy. The Office of the Taxpayer Advocate may handle cases in which a taxpayer is suffering or about to suffer a significant hardship where the Department of Finance has the legal authority to offer assistance to prevent the hardship. It also handles cases in which the taxpayer who is trying to solve a NYC tax problem with the Department of Finance and would benefit from the Office of the Taxpayer Advocate's involvement, even if the taxpayer is not suffering a hardship.

4.2.2 As part of the Department of Finance, the Office of Taxpayer Advocate has the responsibility to help those taxpayers who have unresolved issues or problems with New York City Business Taxes, Excise Taxes, and Property Taxes. The Office of the Taxpayer Advocate advocates for:

4.2.2.1 EACH taxpayer (who meets the criteria listed in 4.6.)<sup>1</sup> by working with the operating and functional divisions of the Department of Finance through the Operations Assistance Request (OAR) process (Section 4.8) and the Taxpayer Assistance Order (TAO) process (Section 4.17); and

ALL taxpayers by making recommendations to the Commissioner of Finance regarding processes or systems to change procedures or laws that increase taxpayer burden or have unintentional harmful effects on taxpayers. Such recommendations may include recommendations to change administrative processes or recommendations to create or amend New York State or New York City law. The Office of the Taxpayer Advocate strives to exemplify professional and ethical behavior. Each advocacy will aim to benefit both the taxpayer and the Department of Finance.

4.2.3 The key characteristics of the Office of the Taxpayer Advocate are independence, impartiality and confidentiality. Advocacy is not just about recommending legislative and procedural changes, but it is also about applying advocacy attributes to each taxpayer's case. The Office of the Taxpayer Advocate conducts an independent and impartial analysis of all information relevant to the taxpayer's problem. The Office of the Taxpayer Advocates are professionals who are able to:

- a. Listen to the taxpayer's position;
- b. Investigate;
- c. Evaluate;
- d. Advocate for changes supported by procedure or law;
- e. Request the Department of Finance to take a second look;  
and
- f. Advise the taxpayer of options.

An Office of the Taxpayer Advocate's Case Advocate's goal is to provide quality service to the taxpayer and to elevate issues to the appropriate senior staff at the Department of Finance when necessary.

4.2.4 The Office of the Taxpayer Advocate must abide by the laws and regulations of New York State and New York City and the Department of Finance administrative policies and rules. However, if the Office of the Taxpayer Advocate cannot provide a remedy for taxpayers because of deficiencies in administrative procedures or barriers imposed by New York State or New York City tax law or policy, the Office of the Taxpayer Advocate will propose administrative solutions and/or legislative changes as appropriate.

- 4.2.5 To support its mission, the Office of the Taxpayer expects its managers and employees to:
- 4.2.5.1.1 Advocate on behalf of individual and business taxpayers in disputes with the Department of Finance after making an impartial assessment of the taxpayer's situation.
  - 4.2.5.2 Quickly and accurately address taxpayer problems when there is a lack of Department of Finance systems, policies or procedures;
  - 4.2.5.3 Operate with the utmost independence while continuing to work toward the Department of Finance's mission;
  - 4.2.5.4 Continuously drive procedural, systemic, and legislative change to benefit taxpayers;
  - 4.2.5.5 Effectively communicate with and educate stakeholders and taxpayers to ensure awareness of the Office of the Taxpayer Advocate; and
  - 4.2.5.6 Solicit feedback from taxpayers and key stakeholders about the Department of Finance problems.

### **4.3 Organizational Structure**

- 4.3.1. The Office of the Taxpayer Advocate shall be managed by the Taxpayer Advocate, as appointed by the Commissioner of Finance.
- 4.3.2 The Office of the Taxpayer Advocate shall have an Attorney Advisor to assist the Taxpayer Advocate with legal research and advice.
- 4.3.3 The Office of the Taxpayer Advocate shall have Case Advocates to address property tax, business tax and excise tax issues.
- 4.3.4 The Office of the Taxpayer Advocate shall have Case Advocates to address other issues, including the Senior Citizens Rent Increase Exemption (SCRIE) and the Disability Rent Increase Exemption (DRIE).
- 4.3.5 The Office of the Taxpayer Advocate shall have a staff analyst to assist the Taxpayer Advocate with reports and studies.

### **4.4 Delegation of Authority**

- 4.4.1 The Commissioner of Finance may issue memoranda delegating authorities to the Office of the Taxpayer Advocate as is appropriate to provide more efficient service to taxpayers.
- 4.4.1 The delegated authorities will not and do not permit the Office of the Taxpayer Advocate and its employees to take actions on cases that are open in another Department of Finance function or overrule determinations made by employees of other Department of Finance functions.

## 4.5 The Office of the Taxpayer Advocate Confidentiality Rules

- 4.5.1 The Office of Taxpayer Advocate employees function as persons to whom taxpayers may come with complaints and questions and who resolve disputes between taxpayers and DOF without litigation. When the Office of the Taxpayer Advocate employees resolve disputes, they provide a form of alternative dispute resolution (ADR).
- 4.5.2 The Office of the Taxpayer Advocate has modeled its confidentiality policies after the IRS Taxpayer Advocate policies and the policies and procedures developed and published by the Federal ADR Steering Committee and the American Bar Association (ABA). Confidentiality is a key element of ADR and plays a key role in bringing parties in a dispute to resolution.
- 4.5.3 The Office of the Taxpayer Advocate's exercise of discretion not to disclose information it receives from a taxpayer to other employees of the Department of Finance serves the following purposes:
  - 4.5.3.1 To strengthen the Office of the Taxpayer Advocate's independence and neutrality.
  - 4.5.3.2 To encourage taxpayers to trust and seek help from the Office of the Taxpayer Advocate without fear of retaliation by other Department of Finance employees.
  - 4.5.3.3 To encourage taxpayers to freely communicate with the Office of the Taxpayer Advocate to resolve their problems.
  - 4.5.3.4 To calm taxpayers' fears that information provided to the Office of the Taxpayer Advocate will NOT be used to the taxpayers' detriment.
- 4.5.4 If the Office of the Taxpayer Advocate's disclosure information it receives to an employee of the Department of Finance outside of the Office of the Taxpayer Advocate will be made to assist it in investigating the case and in its case advocacy. Employees to whom information is disclosed can share such information with other Department of Finance employees if such sharing is necessary to assist the Office of the Taxpayer Advocate.
- 4.5.5 Principles to Guide the Office of the Taxpayer Advocate's Exercise of Discretion not to disclose confidential information.
  - 4.5.5.1 The Office of the Taxpayer Advocate's policy generally favors nondisclosure, except standard disclosures, emergency disclosures or disclosures necessary to prevent serious bodily harm or harm to public safety. The reason for this is create a trust between taxpayers seeking assistance with the Office of

the Taxpayer Advocate and its Case Advocates. Disclosure, therefore, generally will be limited to standard disclosures described below. In certain cases, Case Advocates may disclose more than the standard disclosures if there is an emergency or doing so would prevent serious bodily harm or harm to public safety as explained below.

- 4.5.5.2 Standard disclosures involve disclosure of information necessary for the Office of the Taxpayer Advocate employees to obtain the appropriate relief for a taxpayer.
- 4.5.5.3 Emergency disclosures require the approval of the Taxpayer Advocate. An emergency disclosure is one that goes beyond the information that is needed to obtain relief for the taxpayer but which due to the immediacy of the request for assistance supports disclosure.
- 4.5.5.4 Disclosures to prevent serious bodily harm or harm to public safety require approval of the Taxpayer Advocate.
- 4.5.5.5 If the Taxpayer Advocate has identified a systemic problem with a Department of Finance problem and needs to provide specific case examples to a Department of Finance function to assist in solving the problem, the Taxpayer Advocate may approve disclosure of taxpayer-provided information to the Department of Finance function after weighing the potential benefits of disclosure to the Department of Finance against the importance of protecting the Office of the Taxpayer Advocate's independence and maintaining the confidence of taxpayers in future cases.
- 4.5.6 The Office of the Taxpayer Advocate and the Office of Taxpayer Advocate employees will also be bound by rules of nondisclosure that apply to all Department of Finance employees.

## **4.6 The Office of the Taxpayer Advocate Case Criteria**

- 4.6.1 While the Department of Finance is continually working to serve customers in a quality manner, some taxpayers may still have difficulty in getting solutions to their problems or getting timely and appropriate responses to their inquiries. The Office of the Taxpayer Advocate has identified criteria that qualify taxpayers for the Office of the Taxpayer Advocate's assistance, which includes an independent review by a Case Advocate of actions that have been taken or need to be taken to resolve the problems the taxpayer is experiencing



4.6.2 The Office of the Taxpayer Advocate criteria should not be viewed as a means of excluding taxpayers from help by the Office of the Taxpayer Advocate, but rather as a guide to the Office of the Taxpayer Advocate case acceptance. The criteria under which the Office of the Taxpayer Advocate accepts a case should not govern whether a taxpayer is entitled to relief.

#### 4.6.3 The Office of the Taxpayer Advocate Case Criteria

4.6.3.1 Someone can request and receive assistance from the Office of the Taxpayer Advocate if they can show they fit one of the following criteria.

- The person has made a reasonable attempt to solve his/her/its problem with Department of Finance. It has not gotten fixed or a timely response has not been made.
- The person can show that the Department of Finance is applying the tax laws, regulations or policies unfairly or incorrectly, or have injured or will injure the taxpayer's rights.
- The person faces a threat of immediate harmful action (e.g., seizure of funds or property) by the Department of Finance for a debt the person believes he or she can show is not owed.
- The person faces a threat of immediate harmful action (e.g., seizure of funds or property) by the Department of Finance for a debt the person believes he or she can show is incorrect, unfair, or illegal.
- The person believes he or she can show that he or she will suffer an injury that is beyond repair or a long-term harmful impact if relief is not granted.
- The person believes he or she can show that the problem also affects other similar taxpayers and is a problem with the Department of Finance systems or processes.
- The person believes he or she can show that the rare facts and extenuating circumstances in his or her case justify help from the Office of the Taxpayer Advocate.
- The person believes he or she can show that there is a compelling public policy reason why he or she should get help from the Office of the Taxpayer Advocate.

4.6.3.2 The Office of the Taxpayer Advocate will not assist a person if:

- The person has not used all reasonable efforts to obtain timely relief through normal Department of Finance channels, including 3-1-1.
- The person is asking for legal or tax return preparation advice.

- The person is trying to file or have filed a case with the Tax Commission, Tax Appeals Tribunal or a New York State court.
- The person is appealing an unfavorable decision from the Tax Commission, Tax Appeal Tribunal or New York State court.
- The person is claiming that a NYC tax law or tax system violates the New York State or U.S. Constitution.
- The Taxpayer Advocate determines that the focus of the inquiry only involves frivolous strategies intended to avoid or delay filing or paying New York City taxes.
- The person is inquiring about an issue related to parking tickets.

#### **4.7 The Office of the Taxpayer Advocate Case Procedures**

##### **4.7.1. Receipt of the Office of the Taxpayer Advocate Cases**

4.7.1.1 The Office of the Taxpayer Advocate will receive inquiries and complaints from the following sources:

- (1) Service Requests submitted through 3-1-1;
- (2) Submissions through the Department of Finance website directing a person who wants to make a request for help to file a DOF Form 911;
- (3) Submissions through the Office of the Taxpayer Advocate email address;
- (4) Mail (non electronic); and
- (5) Persons who visit the physical location of the Office of the Taxpayer Advocate.

4.7.1.2 Upon receipt of an inquiry or complaint, an employee of the Office of the Taxpayer Advocate designated by the Taxpayer Advocate will record the information into the Office of the Taxpayer Advocate case management system. That employee, in consultation with the Taxpayer Advocate, will determine which other employee in the Office of the Taxpayer Advocate will be assigned to respond to the person submitting the inquiry or complaint.

##### **4.7.2. Contacts not meeting the Office of the Taxpayer Advocate Criteria**

4.7.2.1. If the Office of the Taxpayer Advocate determines that an inquiry or complaint does not meet its criteria, the person submitting the inquiry or complaint will be notified.

4.7.2.2. First, an attempt to make a phone call to the person will be made.

4.7.2.3. Second, a written letter will be send to the person submitting the request (if a mailing address has been provided or obtained) explaining that the inquiry or

complaint does not meet the criteria and that the Office of the Taxpayer Advocate will not be assisting.

- 4.7.3. Determination whether the contact is an inquiry or complaint.
  - 4.7.3.1. Upon receipt of a submission, a determination will be made as to whether the contact is an inquiry or a complaint.
  - 4.7.3.2. An inquiry is a request for information (such as the part of the Department of Finance to contact, what form to use, how to find information on the Department of Finance website, etc.) to assist the inquirer in obtaining an answer, complying with a filing obligation, or obtaining information that is publicly available from the Department of Finance.
  - 4.7.3.3. A complaint is a request for assistance in resolving a problem that meets one of the criteria of the Office of the Taxpayer Advocate.
  - 4.7.3.4. The Office of the Taxpayer Advocate, upon some research or review, determine that an inquiry is a complaint and will designate it as a complaint.
- 4.7.4. Initial Inquiry Receipt Assignment and Actions
  - 4.7.4.1. Upon receipt of a submission that is determined to be an inquiry, the Office of the Taxpayer Advocate will call the person making the inquiry.
  - 4.7.4.2. The Office of the Taxpayer Advocate will record the contact made to the inquirer in its case management system.
  - 4.7.4.3. The Office of the Taxpayer Advocate will discuss with the inquirer a time frame for responding. Any agreed upon response time will be recorded in the Office of the Taxpayer Advocate case management system.
- 4.7.5. Initial Complaint Receipt Assignment and Actions
  - 4.7.5.1. Upon receipt of a submission that is determined to be a complaint, the Office of the Taxpayer Advocate will call the person making the complaint.
  - 4.7.5.2. The Office of the Taxpayer Advocate will send an initial contact letter to the person making the complaint that contains the following:
    - 4.7.5.2.1. The name and phone number of the Case Advocate assigned to the complaint and that person's office hours.
    - 4.7.5.2.2. A description of the complaint as the Office of the Taxpayer Advocate understands it.
    - 4.7.5.2.3. An initial response date to follow up.
- 4.7.6. The Office of the Taxpayer Advocate 5 Day Resolution Matters

- 4.7.6.1. If the Office of the Taxpayer Advocate determines that a complaint can be resolved within 5 business days, at the discretion of the Taxpayer Advocate such complaint will not be opened as a case. Rather, it will be recorded as an inquiry.
- 4.7.6.2. If the time for resolution is beyond 5 business days, then the Office of the Taxpayer Advocate will designate it as a case.
- 4.7.7. Input of Complaints into the Office of the Taxpayer Advocate Case Management System.
  - 4.7.7.1. The Case Management system of the Taxpayer Advocate will capture the following information for every inquiry:
  - 4.7.7.2. The Case Management system of the Taxpayer Advocate will capture the following information for every complaint designated as a case:
- 4.7.8. Working an Office of the Taxpayer Advocate Case
  - 4.7.8.1. Initial Actions. Upon receipt of a submission to the Office of the Taxpayer Advocate, the designated employee will record all pertinent information into the Case Management system.
  - 4.7.8.2. The Case Advocate or other employee of the Office of the Taxpayer Advocate who has been assigned to respond, will call the person making the inquiry or complaint within 5 business days of the receipt of the inquiry or complaint, unless the inquiry or complaint indicates a hardship due to proposed or actual seizure of assets or funds by the Department of Finance. In that case, the Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to respond will call the person within 3 business days.
  - 4.7.8.3. If these deadlines cannot be met, the Case Advocate or employee will inform the Taxpayer Advocate and make a notation in the case management system.
  - 4.7.8.4. The Case Advocate or employee of the Office of the Taxpayer Advocate will determine which of the Case Criteria apply to a complaint. More than one criterion may apply. The criteria will be noted in the Case Management system file for the case.
  - 4.7.8.5. The Case Advocate or other employee of the Office of the Taxpayer Advocate will create a physical case file for the complaint/case. All pertinent documents, including print offs from the Case Management system, will be filed in these files. These files will be retained for the period in

accordance with the Department of Finance records retention rules.

4.7.8.6. Case Investigation and Research.

4.7.8.6.1. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will conduct an investigation of the facts in the case. This will include, but not be limited to, obtaining documents, emails, correspondence, and other evidence from the person making the complaint or the taxpayer, reviewing internal Department of Finance data bases, and obtaining documents from other New York City departments or agencies that may be connected to the case.

4.7.8.6.2. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will conduct research, which may include legal research, to assist in developing a theory of the case.

4.7.8.6.3. Such actions will be recorded in a case plan for the case.

4.7.8.7. Taking Actions to Resolve Case Issues

4.7.8.7.1. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case may contact other parts of the Department of Finance to obtain information.

4.7.8.7.2. If the Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case determines that an Operations Assistance Request is needed, he or she will review a draft OAR with the Taxpayer Advocate and obtain the approval of the Taxpayer Advocate to issue the OAR. The OAR will be sent to one or more of the OAR Liaisons.

4.7.8.8. Case Closure Procedures

4.7.8.8.1. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will prepare the paper, physical file for closing. This includes assuring that all papers are filed in the correct partitions of the file and that a print off of the notes and forms from the Case Management system are filed in the folder.

4.7.8.8.2. Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will send a closing letter to the customer describing the action taken by the Office of the Taxpayer

Advocate or, if action could not be taken, why the action could not be taken.

4.7.8.8.3. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will close the Case Management case file for the case.

4.7.8.8.4. The Case Advocate or other employee of the Office of the Taxpayer Advocate assigned to a case will send either a paper copy of the Taxpayer Advocate Customer Survey or an electronic link to the form on line through an email to the customer.

## **4.8 Operations Assistance Request Process Overview**

4.8.1 An Operations Assistance Request, Form OAR is used by the Office of the Taxpayer Advocate to request assistance from a Department of Finance unit/function to complete an action on an Office of the Taxpayer Advocate case when the Taxpayer Advocate does not have the authority to take the required actions. The OAR provides a written trail of requests to a unit or function and its responses to OAR. OAR will track the responses in its case management system. The Office of the Taxpayer Advocate can create reports that identify units, issues, and time spent on correcting taxpayer accounts. For guidance as to when to issue a Taxpayer Assistance Order (TAO) in lieu of an OAR, see 4.15.

4.8.2 The OAR is a critical tool for obtaining relief and appropriate resolution on behalf of a taxpayer. Presenting a detailed, well-developed OAR, supported by facts, research and necessary documentation, aids the unit or function in understanding the Office of the Taxpayer Advocate's position to effectively communicate a compelling argument justifying the requested actions. When preparing OARs, the Office of the Taxpayer Advocate employees should answer the following questions:

- What does the unit or function need to know about the taxpayer's issue in order to provide relief?
- What facts and supporting documentation can the Office of the Taxpayer Advocate provide to support the actions necessary for relief?
- How can I best present the facts so that the Department of Finance unit/function will clearly

understand the Office of the Taxpayer Advocate's position?

Depending on the complexity of the issue and the processes involved, some OARs will require more detail, supporting facts and documentation than others.

## 4.9 OAR Preparation

- 4.9.1 The Case Advocate will conduct all appropriate research and identify the issues based on case analysis. This may include reading notes in ACRIS, CAMA, FAIRTAX, RPAD, BTS and PTS.
- 4.9.2 If necessary, the Case Advocate may request research assistance from the Office of the Taxpayer Advocate Attorney Advisor.
- 4.9.3 The Case Advocate will request all pertinent internal and external documents (i.e., copies of tax returns, Department of Finance work papers, Department of Finance internal notes or other documents, taxpayer correspondence, emails or other documents, etc.)
- 4.9.4 The Case Advocate may contact the OTA Liaison (see 4.10 below) as part of the investigation by email or phone as part of the investigation of the case. Each such contact will not require an OAR to be submitted.
- 4.9.5 Once the Case Advocate has completed his or her investigation and has determined that action by another unit or function is needed to assist the taxpayer in a case, the Case Advocate will draft will draft a request that the Department of Finance unit or function take a particular action or refrain from taking a particular action, and where appropriate, will outline the account adjustments needed to implement the Case Advocate's request.
- 4.9.6 The Case Advocate will give the Taxpayer Advocate a fully developed OAR for review. The OAR will not be sent until the Taxpayer Advocate has reviewed and approved it.
- 4.9.7 A Fully Developed OAR must include:
  - 4.9.7.1 Specific actions the Office of the Taxpayer Advocate is asking the Department of Finance unit/function to take or consider;
  - 4.9.7.2 Reason(s) supporting the Office of the Taxpayer Advocate request;

- 4.9.7.3 Description of documentation attached to the OAR and how it supports the recommendation; and
- 4.9.7.4 Cites to applicable law or procedure where warranted. If necessary, a legal memorandum by the Office of the Taxpayer Advocate Attorney Advisor may be attached.

#### **4.10 Department of Finance Unit/Function Liaisons**

- 4.10.1 The Deputy Commissioner of Tax Audit and Enforcement, the Deputy Commissioner of Treasury and Payments the Deputy Commissioner of Property Division, the Assistant Commissioner of External Affairs, and the General Counsel will designate a Liaison to receive OARs from the Office of the Taxpayer Advocate (referred to as “OTA Liaisons”)
- 4.10.2 The purpose of the OTA Liaison is to assist the Office of the Taxpayer Advocate employees by bringing to the attention of the appropriate manager of the unit or division the requested action, whether the manager approves the requested action, and if so, to determine the employee within the unit or division that will be needed to take the action.
- 4.10.3 If the OTA Liaison is informed by the unit or division manager that the requested action cannot or will not be taken, the OTA Liaison must inform the Office of the Taxpayer Advocate employee promptly along with an explanation as to why the action is refused. The Office of the Taxpayer Advocate may revise the OAR or may proceed with the issuance of a Taxpayer Assistance Order.

#### **4.11 Responsibilities of OTA Liaison assigned to the OAR.**

- 4.11.1 The OTA Liaison will respond by email within 2 business days upon receipt of an OAR. The OAR may be submitted by email or fax. The purpose of this response is to inform the Office of the Taxpayer Advocate Case Advocate that the OAR has been received.
- 4.11.2 Within 3 business days, the OTA Liaison will first review the OAR and discuss with the Case Advocate the recommended action plan, substantive case issues and proposed follow up and completion dates. This can be done by email or telephone. At this time the OTA Liaison should confirm a response date. If additional time is needed to respond, the OTA Liaison must



contact the Case Advocate within 3 business days of the last negotiated response date to request a change. The Case Advocate will be flexible in setting and negotiating response times, but has a duty to the taxpayer to try to resolve all cases as quickly as possible.

- 4.11.3 The OTA Liaison is responsible for addressing all aspects of the OAR's request. Upon completing all the actions requested on the OAR, OTA Liaison assigned the OAR will complete Form OAR-B and return it to the Case Advocate assigned to the case. This will provide necessary information for accurate reporting and tracking the progress of the case. The Form OAR-B will be returned within 3 business days from the date all actions have been completed.
- 4.11.4 While the Office of the Taxpayer Advocate Case Advocate will be responsible for keeping the taxpayer or practitioner informed of the progress of his or her case, this does not prohibit the Department of Finance unit/function employee or OTA Liaison assigned the OAR from making necessary contacts with the taxpayer or practitioner. The Department of Finance employee or OTA Liaison, however, should inform the Office of the Taxpayer Advocate Case Advocate of contacts made with the taxpayer or practitioner.
- 4.11.5 The OTA Liaison assigned to the OAR will discuss his or her findings and recommendations on the final disposition of the OAR with the Office of the Taxpayer Advocate Case Advocate. If actions requested on the OAR cannot be completed by the requested completion date, or by any negotiated extension date, the OTA Liaison will elevate the matter through the management chain.
- 4.11.6 If the OTA Liaison or the Department of Finance unit/function employee determines that additional research or documentation is required on an OAR, the OTA Liaison assigned to the OAR will contact the Office of the Taxpayer Advocate Case Advocate within three business days of the determination to obtain the information and to establish, by mutual agreement, a negotiated completion date. The OTA Liaison is responsible for contacting the Office of the Taxpayer Advocate employee before the original deadline to request an extension of time to respond.
- 4.11.7 The Office of the Taxpayer Advocate Case Advocates may find themselves in a situation where they are unable to advocate for

the taxpayer because the law prevents relief of the Department of Finance unit/function determination is based on the facts presented and the Office of the Taxpayer Advocate agrees with the Department of Finance unit/functions determination based on the facts presented. In other cases, the Case Advocate may have made numerous requests from the taxpayer or practitioner for documentation, documentation has not been provided, or the documentation provided does not enable the Case Advocate to reach a conclusion that on the preponderance of evidence the taxpayer is entitled to relief. In such situations, an OAR will be issued but the Case Advocate may need to prepare the OAR using neutral or nonspecific language.

- 4.11.8 If the Case Advocate and the OTA Liaison or the Department of Finance unit/function employee assigned to the OAR cannot agree upon the resolution to the taxpayer's problem, the Case Advocate and the OTA Liaison employee will elevate this disagreement to their respective managers. The OTA Liaison assigned the OAR has the responsibility for providing official closing documents to the taxpayer and copies to the Office of the Taxpayer Advocate Case Advocate. The Office of the Taxpayer Advocate Case Advocate is responsible for communicating the final decision on the OAR to the taxpayer, which must include a closing letter. If the OTA Liaison believes that the Office of the Taxpayer Advocate has the authority to take the action(s) requested on the OAR, the OTA Liaison will discuss his or her recommendation before returning the OAR to the Office of the Taxpayer Advocate Case Advocate. If the OTA Liaison and the Office of the Taxpayer Advocate cannot agree, then the disagreement will be elevated to their respective managers.

#### **4.12 Case Advocate OAR Responsibilities**

- 4.12.1 Upon notification that the OTA Liaison has received the OAR, the Office of the Taxpayer Advocate Case Advocate will update the OTA Case Management system. The Office of the Taxpayer Advocate Case Advocate will input the negotiated completion date, the assigned employee's contact information and the assigned employee's manager's contact information.
- 4.12.2 If the Office of the Taxpayer Advocate Case Advocate has not received a response or the completed OAR by the requested or

negotiated completion date, the Office of the Taxpayer Advocate Case Advocate will follow up with the OTA Liaison within 5 business days to determine the status of the OAR and document the Office of the Taxpayer Advocate Case Management system accordingly.

- 4.12.3 The Office of the Taxpayer Advocate Case Advocate is responsible for keeping the taxpayer or practitioner informed of the status of his or her case, any delays, changes to the estimated completion date, and providing a next completion date. This does not prohibit the OTA Liaison or the Department of Finance unit/function employee assigned to the OAR from making necessary contacts with the taxpayer or practitioner, but the OTA Liaison or Department of Finance unit/function employee should notify the Office of the Taxpayer Advocate Case Advocate that such contact has been made.
- 4.12.4 If there are problems with the timeliness or completion of the OAR, the Office of the Taxpayer Advocate Case Advocate will elevate the problem to the Taxpayer Advocate.
- 4.12.5 The Office of the Taxpayer Advocate Case Advocate must monitor each OAR until all actions are completed. Any related issues must be addressed (if applicable) and the taxpayer must be notified of all actions taken prior to closing the case.
- 4.12.6 An OAR is considered closed only when the completed Form OAR-B is received from the OTA Liaison. The OTA Liaison must return all OARs whether completed or rejected. If an OAR is not returned timely, the Office of the Taxpayer Advocate Case Advocate must make one contact to the OTA Liaison and give a date to return the OAR. Notation of such must be made by the Office of the Taxpayer Advocate Case Advocate on the OTA Case Management system.
- 4.12.7 Upon receipt of an email from an OTA Liaison indicating that the requested action is refused or upon receipt of the completed OAR-B, the Office of the Taxpayer Advocate Case Advocate must update the OTA Case Management system and include the following information:
  - 4.12.7.1 The actions taken or date the action requested was refused;
  - 4.12.7.2 The date those actions were completed by the Department of Finance unit/function;
  - 4.12.7.3 The date the OAR-B was received, if applicable;

- 4.12.7.4 Whether all recommended actions were completed by the Department of Finance unit/function; and
  - 4.12.7.5 If the OAR was rejected, the reason the OAR was rejected or returned.
- 4.12.8 The Office of the Taxpayer Advocate Case Advocate must be alert to issues that are causing unnecessary delays and harming the taxpayer during the OAR process, and elevate it to the Taxpayer Advocate and consider issuing a Taxpayer Assistance Order (TAO).

#### **4.13 Expedite Processing of OARs**

- 4.13.1 The facts and circumstances particular to a taxpayer's case may necessitate that the case be worked more quickly than normal case processing time. The Case Advocate responsible for building the case will determine if an OAR is needed and whether it should receive expedite processing.
- 4.13.2 The Office of the Taxpayer Advocate will generally request expedite processing of an OAR in a case where the failure to take the specific action requested will cause the taxpayer economic harm or burden, extended delays have occurred, repeated Department of Finance failures to resolve the problem have taken place, or when time frames or statutory requirements necessitate that case issues be worked sooner. In all other cases, the Case Advocate will submit a Form OAR-A, if required, at the earliest possible date.
- 4.13.3 No OAR will automatically receive expedite processing. Requests for expedite processing of an OAR will be made to the Taxpayer Advocate on a case-by-case basis, and will be based on the facts and circumstances of the taxpayer's case.
- 4.13.4 If the Taxpayer Advocate approves expedite processing, it will be noted in the Office of the Taxpayer Advocate case management system. Form OAR-A will be submitted within one workday of the determination when expedite processing is required.

#### **4.14 OARs Action Not Taken**

- 4.14.1 If agreement cannot be reached by the Deputy Commissioner of the Department of Finance Division and the Taxpayer Advocate, the Taxpayer Advocate may refer the OAR the General Counsel.

- 4.14.2 The General Counsel will provide a written recommendation as to the OAR Request and forward the OAR and the General Counsel Recommendation to The Commissioner of Finance.
- 4.14.3 The Commissioner of Finance may approve the action requested in the OAR by the Office of the Taxpayer Advocate or reject it.
- 4.14.4 The decision of the Commissioner of Finance will be inputted in the OTA Case Management system within 3 workdays of his action.

#### **4.15 The Office of the Taxpayer Advocate Taxpayer Assistance Orders**

- 4.15.1 The Taxpayer Advocate is authorized to issue a Taxpayer Assistance Order to the Commissioner of Finance when a unit/function to which The Office of the Taxpayer Advocate issued an Operations Assistance Request declined to take the proposed action.
- 4.15.2 The Taxpayer Advocate is authorized to issue a Taxpayer Assistance Order to the Commissioner of Finance in cases where the law supports relief from significant hardship.
- 4.15.3 This part describes the procedures Taxpayer Assistance Orders.
- 4.15.4 Determining when to Issue a Taxpayer Assistance Order when action requested through an Operations Assistance Request is declined.

A Taxpayer Assistance Order will be considered when all the following factors are present:

- The proposed action has been requested through an Operations Assistance Request;
  - The unit to which the OAR was submitted has declined to take the requested action and the Deputy Commissioner of that unit has reviewed and agreed to decline to take the requested action;
  - The Department of Finance or the Commissioner of Finance has the legal authority to grant relief.
  -
- 4.15.5 Determining when to issue a Taxpayer Assistance Order when the taxpayer may face a significant hardship and the Department of Finance has the authority to take action.
- 4.15.5.1 What constitutes significant hardship:

- An immediate threat or adverse action;
- A delay of more than 30 days in resolving taxpayer account problems;
- The taxpayer has or will in the immediate future incur significant costs (including fees for professional representation) if relief is not granted;
- Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted;
- A serious privation caused by or about to be caused to the taxpayer as a result of a particular manner in which the revenue laws are being administered by DOF.

4.15.5.2 General Counsel must provide The Office of the Taxpayer Advocate with an opinion indicating that the Department of Finance or the Commissioner of Finance has the legal authority to take the action requested in a Taxpayer Assistance Order in such instances before the TAO will be submitted to the Commissioner of Finance.

4.15.5.3 If legal authority does not exist for requesting relief for significant hardship in a case, The Office of the Taxpayer Advocate cannot submit a TAO.

4.15.6 When a Case Advocate encounters a situation where a TAO may be necessary, the Case Advocate must immediately elevate the case to the Taxpayer Advocate. The Case Advocate must ensure that the OTA Case Management system and related case file are well documented for review. The Case Advocate will prepare a briefing document that includes the following:

4.15.6.1 The subject of the dispute;

4.15.6.2 A chronological time line of actions taken by the Department of Finance and OTA;

4.15.6.3 The name, position, phone number and email address of the DOF unit/function employee who disagrees or refuses to take the requested action;

4.15.6.4 The Department of Finance unit/function basis for denying the requested action

- 4.15.7 The Taxpayer Advocate will prepare a predecisional Taxpayer Assistance Order memorandum providing the facts and analysis for the proposed action.
- 4.15.8 The Taxpayer Assistance Order will then be referred to the General Counsel for review.
- 4.15.9 The General Counsel will prepare a written response and indicate if General Counsel supports, opposes or proposes changes to the TAO action. Such written response will be submitted to the Taxpayer Advocate.
- 4.15.10 The Taxpayer Advocate will submit a predecisional Taxpayer Assistance Order Memorandum, revised if necessary to respond to General Counsel's response, and the General Counsel's response to the Commissioner of Finance.
- 4.15.11 The Commissioner of Finance will take action on the Taxpayer Assistance Order by (1) approving it; (2) denying it; or (3) recommending different action or further review. The Commissioner of Finance will indicate the action taken on the Taxpayer Assistance Order memorandum.
- 4.15.12 The Taxpayer Advocate will be responsible to communicate to a taxpayer on whose behalf a Taxpayer Assistance Order was submitted the decision of the Commissioner of Finance.
- 4.15.13 The Taxpayer Advocate will be responsible for working with the units/functions to take action that the Commissioner of Finance approves in a Taxpayer Assistance Order.

#### **4.16 Systemic Advocacy**

- 4.16.1 One of the important functions of the Office of the Taxpayer Advocate is to identify systemic problems and advocate for fixes. This section provides information about the systemic advocacy process.
- 4.16.2 Systemic Advocacy includes the following:
- Reviewing for taxpayer rights and burden impact internal documents including but not limited to NYC Department of Finance notices, forms, publications, and web content.
  - Reviewing submissions through the Systemic Problems web forms that have been submitted.
  - Identifying through Case Advocacy systemic problems.
  - Partnering with stakeholders (including practitioners, legal advocacy groups, or other organizations) to solicit input on systemic problems.

4.16.3 The Taxpayer Advocate shall advocate for remedies to systemic problems. These remedies may include:

- Immediate interventions
- Administrative changes
- Published guidance
- Legislative changes
- Advocacy proposals

4.16.4 Administrative Changes. Administrative change projects identify and address systemic and procedural issues, analyze underlying causes of problems, and recommend corrective actions. Advocacy projects of this type are appropriate when solutions to the issues raised require further research, process analysis, collection and interpretation of data, or coordination with other units or functions within the Department of Finance, *and* when the Department of Finance can administratively implement any necessary changes by amending current policies or procedures.

4.16.5 Published Guidance. Published guidance may be warranted when existing regulations or web content is needed, existing guidance is not published, or new guidance is needed to improve equity and fairness and reduce burden for taxpayers.

4.16.6 Legislative Proposals. Legislative proposals may be warranted when existing law must be modified or a new one enacted to improve equity and fairness in the New York City or New York State tax laws, to improve taxpayer service, or to reduce taxpayer burden.

4.16.6.1 The Office of the Taxpayer Advocate will work with and be consulted by External Affairs concerning legislative proposals that the Department of Finance may be proposing or is asked to comment on.

4.16.6.2 If the Office of the Taxpayer Advocate does not agree with a legislative proposal that the Department of Finance submits or a position that the Department of Finance takes with respect to proposed legislation, the Taxpayer Advocate may submit independent comments or proposals.

4.16.7 Advocacy Proposals. Advocacy Proposals are used when the Office of the Taxpayer Advocate wants process owners within the Department of Finance to consider a project proposal or suggestion to change procedures, policies or activities. The



Office of the Taxpayer Advocate will draft a memorandum, attach documentation and an executive summary and ask the unit or function that operates the process to respond in writing.

#### **4.17 Customer Complaint Procedures**

- 4.17.1 If a customer makes a complaint to the Office of the Taxpayer Advocate about inappropriate behavior by a Department of Finance employee, the information regarding inappropriate behavior should be brought by the Case Advocate to the attention the Department of Finance function or employee to ensure the employee and taxpayer concerns are addressed in a fair, objective and timely manner. charged with reviewing employee discipline matters.
- 4.17.2 If a customer makes a complaint about an employee of the Office of the Taxpayer Advocate, the Taxpayer Advocate will review the complaint. Issues or concerns involving such employee's conduct will be referred the Department of Finance function or employee charged with reviewing employee discipline matters to ensure the employee and taxpayer concerns are addressed in a fair, objective and timely manner.
- 4.17.3 If the Office of the Taxpayer Advocate receives a complaint about the Taxpayer Advocate, such complaint will be referred to the Commissioner of Finance for his review.

#### **4.18 Office of the Taxpayer Advocate Internal and External Communications [Reserved]**

#### **4.19 Office of the Taxpayer Advocate Metrics [Reserved]**