

MSP
#12**MATH ERROR NOTICES: Although the IRS Has Made Some Improvements, Math Error Notices Continue to Be Unclear and Confusing, Thereby Undermining Taxpayer Rights and Increasing Taxpayer Burden****RESPONSIBLE OFFICIALS**

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TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Pay No More Than the Correct Amount of Tax*
- *The Right to Challenge the IRS's Position and Be Heard*
- *The Right to Appeal an IRS Decision in an Independent Forum*
- *The Right to Privacy*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

Math error authority was originally intended to give the IRS the ability to summarily correct mistakes that could be fixed just by looking at the face of a taxpayer's return.² At the IRS's behest, Congress has since expanded the definition of math error to include a host of other items.³ Concerned with the consequences to taxpayer rights from the expansion of math error authority, Congress directed that, when the IRS makes an adjustment to a taxpayer's return, it must give an explanation of the adjustment.⁴ The explanation of the adjustment in the math error notice is critical to the taxpayer's ability to challenge the adjustment and preserve the right to petition the United States Tax Court (Tax Court), before paying the tax, by timely requesting abatement.⁵ In calendar years (CYs) 2015-2017, the IRS issued approximately two million math error notices each year.⁶ However, the IRS does not track the abatement rates of math errors.⁷

Despite the congressional directive, math error notices, sent to explain the math error adjustments the IRS made to the taxpayer's return, remain confusing and lack clarity. The National Taxpayer Advocate

¹ See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are also codified in the Internal Revenue Code (IRC). See IRC § 7803(a)(3).

² The Revenue Act of 1926, Pub. L. 69-20 § 274(f) (1926) (codified at IRC §§ 6213(b), (g)).

³ See IRC § 6213(g) (lists all current definitions of mathematical or clerical errors).

⁴ S. REP. No. 94-938, at 375 (1976); H. REP. No. at 289 (1976).

⁵ IRC § 6213(b).

⁶ IRS response to TAS information request (Aug. 22, 2018) (number of math error notices issued from 2015-2017 (2015: 1,953,360; 2016: 1,851,621; 2017: 2,318,399)).

⁷ IRS response to TAS information request (Aug. 22, 2018).

has expressed concerns about the lack of clarity in math error notices since her 2004 Annual Report to Congress.⁸ Although the IRS has improved its explanations on some math error notices, in many cases the notices remain unclear and complex. This makes it difficult for taxpayers to determine what, specifically, the IRS corrected on their return and whether they should accept the adjustment or request a correction, as well as the consequences of inaction. Further, because the IRS does not measure the reversal rates of math error assessments,⁹ it has no way of knowing the extent to which it is issuing accurate assessments and forgoes valuable data that could be used to identify which math error notices should be revised for additional clarity.

As a result, the National Taxpayer Advocate remains concerned that:

- The IRS is using its math error authority to summarily resolve increasingly complex issues that go beyond those considered by and allowed by Congress.
- Confusing math error notices affect millions of taxpayers a year and the IRS does not measure math error abatement rates to determine which notices need revisions due to high reversal rates.
- Despite revisions, many math error notices continue to inadequately inform taxpayers of their appeal rights, the consequences of inaction, and the specific nature of the purported error.
- The IRS has failed to use historical data to make simple corrections to taxpayer returns, and instead issues summary assessments and math error notices that are later abated.

ANALYSIS OF PROBLEM

Background

The IRS must generally issue a statutory notice of deficiency (SNOD) before assessing tax adjustments on taxpayers who had errors on their tax returns, which led to them paying less tax than they owed.¹⁰ This notice of deficiency gives taxpayers 90 days to petition the Tax Court for a judicial review of an IRS assessment before paying the tax.¹¹ However, the IRS has the authority to assess a tax for mathematical errors (*e.g.*, $2 + 2 = 5$) or clerical errors (*e.g.*, writing 12 for an entry on the return instead of 21, or leaving an entry blank).¹² This means that, unless taxpayers request an abatement (a reduction or elimination of the deficiency the IRS claims the taxpayer owes) within 60 days from the date on the math error notice, the IRS may proceed with collection of the tax without issuing a SNOD under the normal deficiency procedure.¹³ In other words, a SNOD is the ticket to the Tax Court; if taxpayers do not request an abatement when they receive a math error notice, they do not receive that ticket.

The IRS Is Using its Math Error Authority to Summarily Resolve Increasingly Complex Issues That Go Beyond Those Considered by and Allowed by Congress

In 1976, Congress set new rules around the IRS's math error authority, expanding the errors the IRS could summarily assess to include "clerical errors."¹⁴ Congress sought to improve taxpayer rights around

⁸ See National Taxpayer Advocate 2014 Annual Report to Congress 163-171; National Taxpayer Advocate 2011 Annual Report to Congress 74-92; National Taxpayer Advocate 2011 Annual Report to Congress 524-530; National Taxpayer Advocate 2004 Annual Report to Congress 163-179.

⁹ IRS response to TAS information request (Aug. 22, 2018).

¹⁰ IRC § 6213(a).

¹¹ *Id.*

¹² IRC §§ 6213(b), (g).

¹³ IRC § 6213(b)(2)(A).

¹⁴ Tax Reform Act of 1976, Pub. L. 94-455.

math errors, providing abatement remedies for taxpayers to contest math errors before paying the tax and that the taxpayer “must be given an explanation of the asserted error.”¹⁵ Congress, concerned with the IRS’s use of math error authority where its use was not authorized by statute, also sought to clarify limits to the IRS’s authority, noting that the summary assessment procedure should not be used to merely resolve an uncertainty against the taxpayer.¹⁶ Congress provided extensive examples describing how it envisioned the IRS’s expanded summary assessment authority to work. For instance:

[L]ine 6b of the Form 1040 requires the taxpayer to list, “First names of your dependent children who lived with you” and then to enter the number of those dependent children in a column for personal exemptions. If a taxpayer lists three names on line 6b but then enters “4” in the column, it is not clear whether the taxpayer miscounted (in which case the taxpayer should have written “3” in the column), or whether the taxpayer erroneously omitted the name of one of the dependent children (in which case the taxpayer’s column-entry of “4” would be correct). In this case, the Service should, of course, take steps to determine which entry is correct, and the taxpayer has the obligation of showing that he or she is entitled to the number of exemptions claimed. However, this summary assessment procedure is not to be used where the Service is merely resolving an uncertainty against the taxpayer.¹⁷

Despite this congressional direction, the IRS’s use of math error authority to summarily resolve increasingly complex issues goes beyond those considered by and allowed by Congress.¹⁸ If the IRS uses its math error authority to address these more complex issues that may require additional fact-finding, like correctable error and post-processing, the IRS’s assessments are more likely to be erroneous.¹⁹ Notice unclarity and shorter math error deadlines, along with the expansion of math error authority, increases the risk of incorrect assessments and erosion of taxpayer rights, such as *the right to be informed*, *the right to pay no more than the correct amount of tax*, and *the right to appeal an IRS decision in an independent forum*. Despite this, the Department of Treasury has encouraged the expansion of IRS math error authority because it is cost efficient and simpler than regular deficiency procedures.²⁰

15 General Explanation of the Tax Reform Act of 1976, 94th Cong., 2d Sess., 372 (1976).

16 *Id.*

17 *Id.*

18 For a discussion on the IRS’s expanded use of math error authority for “correctable errors,” see Nina E. Olson, *Why Correctable Error Authority Raises Significant Taxpayer Rights Concerns – Part 1*, NTA BLOG (Aug. 9, 2017), <https://taxpayeradvocate.irs.gov/news/why-correctable-authority-error-raises-significant-taxpayer-rights-concerns-part-1>; Nina E. Olson, *Correctable Error Authority Part 2: Why Correctable Error Authority Creates More Problems Than It Resolves*, NTA BLOG (Aug. 16, 2017), <https://taxpayeradvocate.irs.gov/news/correctible-error-authority-part-2-why-correctible-error-authority-creates-more-problems-than-it-resolves?category=Tax%20News>. For a discussion on the IRS’s use of post-processing with math errors, see Most Serious Problem: *Post-Processing Math Error Authority: The IRS Has Failed to Exercise Self-Restraint in Its Use of Math Error Authority, Thereby Harming Taxpayers*, *supra*.

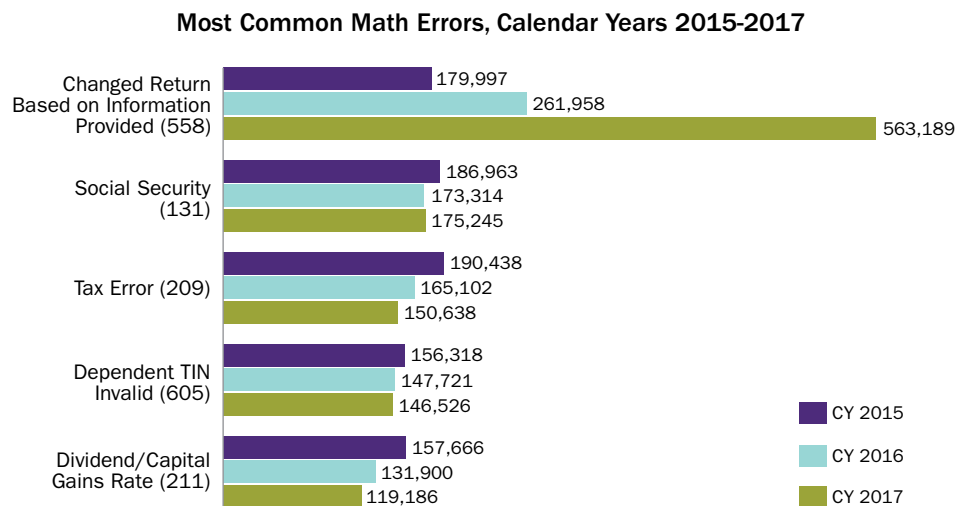
19 See National Taxpayer Advocate Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 44-45 (Continue to Limit the IRS’s Use of “Math Error Authority” to Clear-cut Categories Specified by Statute)* (Dec. 2017); National Taxpayer Advocate 2014 Annual Report to Congress 163-171 (Most Serious Problem: *Math Error Notices: The IRS Does Not Clearly Explain Math Error Adjustments, Making It Difficult for Taxpayers to Understand and Exercise Their Rights*).

20 Department of the Treasury, *General Explanations of the Administration’s Fiscal Year 2017 Revenue Proposals*, 225-226 (Feb. 2016), <https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf>. See also National Taxpayer Advocate Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 44-45 (Continue to Limit the IRS’s Use of “Math Error Authority” to Clear-cut Categories Specified by Statute)* (Dec. 2017).

The IRS Use of Math Error Authority Affects Millions of Taxpayers Annually, and Confusing Notices May Disproportionately Affect Low Income Taxpayers

For CYs 2015-2017, the IRS issued approximately two million math error notices each year.²¹ Figure 1.12.1 shows the five most common types of math error notices the IRS issued in CYs 2015-2017.²² In addition to these standard notices, the IRS issued around 20,000 non-standard math error notices annually over the same three-year period.²³

FIGURE 1.12.1²⁴



Math error notices lacking in clarity may disproportionately harm low income taxpayers who more often have limited English proficiency, limited computer access, lower literacy rates, lower education levels, and disabilities.²⁵ Some math error notices may especially affect low income taxpayers. For example, the median income of those with Earned Income Credit (EIC) and Individual Taxpayer Identification Number (ITIN) math errors is lower than for other common math errors.

21 IRS response to TAS information request (Aug. 22, 2018) (number of math error notices issued from 2015-17 (2015: 1,953,360; 2016: 1,851,621; 2017: 2,318,399)).

22 IRS response to TAS information request (Aug. 22, 2018). The five most common math error notices issued from 2015-2017 were, by taxpayer notice code (TPNC): TPNC 558 (We changed the refund amount or the amount you owe on your tax return based on the information you provided in response to our previous correspondence); TPNC 131 (We changed the amount of taxable social security benefits on page 1 of your tax return because there was an error in the computation of the taxable amount); TPNC 209 (We changed the amount of tax shown on your return. The amount entered was incorrect based on your taxable income and filing status); TPNC 605 (Each dependent listed on your tax return must have a valid Social Security number (SSN) or Individual Taxpayer Identification Number (ITIN). For one or more of your dependents the last name doesn't match our records or the records provided by the Social Security Administration...); TPNC 211 (We changed the amount of tax shown on your return. The tax rates on Qualified Dividends and Capital Gains are generally lower than the standard rates. It appears your tax was not computed using these rates or the amount of tax was computed incorrectly).

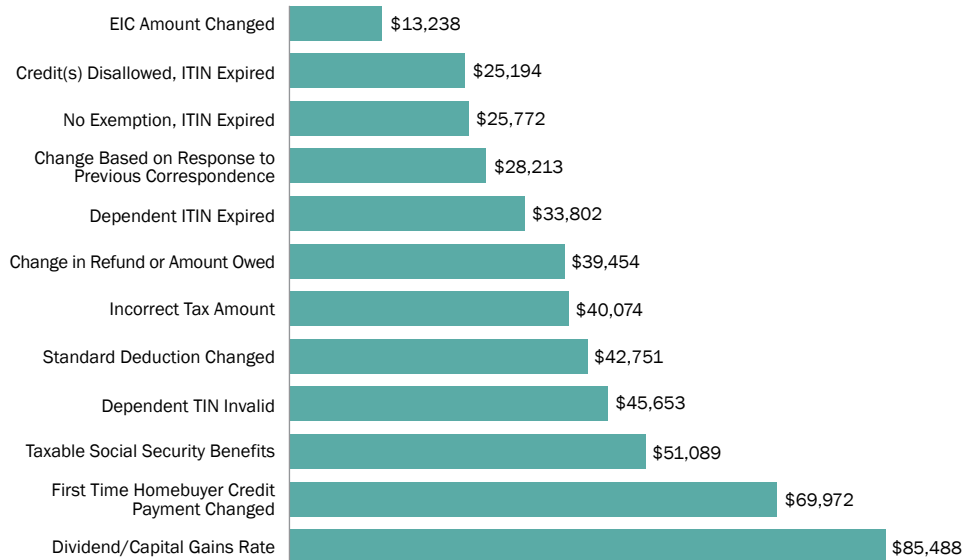
23 IRS response to TAS information request (Aug. 22, 2018) (Nonstandard notices are those errors not assigned a TPNC, and the IRS must write these notices individually depending on the circumstances. From calendar years (CY) 2015-2017, the IRS issued 58,792 nonstandard math error notices; 2015: 16,232; 2016: 23,925; 2017: 18,635).

24 *Id.* We are uncertain of the exact reason for the TPNC 558 spike between CYs 2016 and 2017, but it may have been caused by the IRS using TPNC 558 for a temporary tax issue instead of creating a new code and reprogramming its notices for a short-term issue.

25 National Taxpayer Advocate 2009 Annual Report to Congress 110 (Most Serious Problem: *Beyond EITC: The Needs of Low Income Taxpayers Are Not Being Adequately Met*).

FIGURE 1.12.2²⁶

Median Income by Selected Math Errors, Calendar Year 2017



ME Code	Description	Median TPI	Count
285	EIC Amount Changed	\$13,238	75,957
817	Credit(s) Disallowed, ITIN Expired	\$25,194	75,199
642	No Exemption, ITIN Expired	\$25,772	70,021
558	Change Based on Response to Previous Correspondence	\$28,213	556,113
644	Dependent ITIN Expired	\$33,802	80,426
299	Change in Refund or Amount Owed	\$39,454	87,025
209	Incorrect Tax Amount	\$40,074	153,058
192	Standard Deduction Changed	\$42,751	80,263
605	Dependent TIN Invalid	\$45,653	144,263
131	Taxable Social Security Benefits	\$51,089	181,298
649	First-Time Homebuyer Credit Payment Changed	\$69,972	50,967
211	Dividend/Capital Gains Rate	\$85,488	131,871

However, when TAS asked the IRS directly if it tracks or reports the income demographics for various math error notice recipients, the IRS replied that it, “does not track, report, or collect this data,” which keeps the IRS from making adjustments to its notices based on income demographics.²⁷ The IRS Office

26 Calculation by TAS Research. Median Total Positive Income and counts for taxpayers with presence of Taxpayer Notice Codes, CY 2017. IRS, Compliance Data Warehouse (CDW), Individual Returns Transaction File (IRTF) (data retrieved Oct. 30, 2018).

27 IRS response to TAS information request (Aug. 22, 2018).

of Chief Counsel is given an opportunity to review each math error notice revision and taxpayer notice code (TPNC) language for legal sufficiency,²⁸ although legally sufficient notices may still lack clarity and be difficult for taxpayers, especially low income taxpayers, to understand.

The IRS Conducts Math Error Notice Revisions Piecemeal, and Math Error Notices Continue to Lack Clarity, Despite Revisions

Below are two examples of math error notices that lack clarity and do not ensure that taxpayer rights are being adequately protected. Example 1 discusses a TPNC, a standard math error explanation coded into notices and sent to taxpayers.²⁹ Example 2 discusses the entirety of a math error notice, the CP11.

Example 1: “We changed the refund amount or the amount you owe on your tax return based on the information you provided in response to our previous correspondence.”³⁰

A notice with this TPNC is sent to taxpayers after the IRS has already contacted the taxpayer for additional information and the taxpayer has responded. The letter requesting additional information for processing is the 12C letter, on which TPNC 558 is sometimes included.³¹ Math error notices have a standard layout and the IRS inserts pre-worded paragraphs into certain parts of the notices that fit the circumstances of the taxpayer. If the IRS made a change to a taxpayer’s return based on information the taxpayer provided previously, the taxpayer is sent a notice with this TPNC explanation. However, this explanation lacks clarity and specificity. It does not explicitly describe the issue. Neither does it detail what correspondence the notice is referring to. This provides little clarity when a taxpayer may have had more than one correspondence with the IRS, especially if the taxpayer had multiple questionable items on their tax return. What if the taxpayer made several calls to the IRS, or sent several letters? What specific piece of information is the IRS referring to? The TPNC does not explain whether the IRS accepted or rejected the information the taxpayer provided.

While some notices do cite the line on the return that the IRS changed,³² they often provide an inadequate explanation to the taxpayer of the full nature of the issue with his or her return or previous correspondence. As noted earlier, when Congress expanded summary assessment authority for math errors in 1976, it explicitly instructed the IRS that “the taxpayer must be given an explanation of the asserted error.”³³ Congress also provided examples describing how it envisioned the IRS’s expanded summary assessment authority would work.³⁴ Thus, to be consistent with the examples in the legislative history, the IRS should cite the specific issues and correspondence it is referring to, along with the line numbers and description of what was adjusted, and the amount of increase or decrease in taxable income and tax.

The IRS has recently revised some math error notices (*e.g.*, the CP11). While we commend the IRS for these efforts, the newly revised notices still lack clarity in some areas and can be further improved.

28 IRS response to TAS information request (Aug. 22, 2018).

29 See Internal Revenue Manual (IRM) 3.12.220.1.24 (Jan. 1, 2016).

30 TPNC 558.


31 IRS, Letter 12C, *Individual Return Incomplete for Processing: Forms 1040, 1040A or 1040EZ* (Jan. 2, 2018).

32 For example, IRS, Letter 12C, *Individual Return Incomplete for Processing: Forms 1040, 1040A or 1040EZ* (Jan. 2, 2018).

33 General Explanation of the Tax Reform Act of 1976, 94th Cong., 2d Sess., 372 (1976).

34 See General Explanation of the Tax Reform Act of 1976, 94th Cong., 2d Sess., 372-374 (1976) (for the examples Congress gave on how to handle math error issues for arithmetic errors, use of tables, inconsistent entries, omissions of supporting schedules, and exceeding statutory limits).

FIGURE 1.12.3, Example 2: The 2017 and 2018 CP11 (“Math Error Balance Due of \$5 or More”)



Department of the Treasury
Internal Revenue Service

Changes to your 2015 Form 1040

Amount due: [REDACTED]

We found a miscalculation on your 2015 Form 1040, which affects the following area of your return:

- Tax Computation

We changed your return to correct this error. As a result, you owe [REDACTED]

What you need to do immediately

Includes due by date, but not loss of prepayment appeal date.

Payment

INTERNAL REVENUE SERVICE

Notice	CP11
Tax Year	2015
Notice date	February 20, 2017
Social Security number	[REDACTED]
To contact us	1-800-829-0922
Page 1 of 5	[REDACTED]

Included due date for payment, but nothing for 60day appeal deadline.

Billing Summary

Tax you owed	[REDACTED]
Payments you made	[REDACTED]
Failure-to-file penalty	[REDACTED]
Failure-to-pay penalty	[REDACTED]
Interest charges	[REDACTED]
Amount due by March 13, 2017	[REDACTED]

Review this notice, and compare our changes to the information on your tax return.

If you agree with the changes we made

- Pay the amount due of [REDACTED] by March 13, 2017, to avoid additional penalty and interest charges.

Continued on back...

Notice	CP11
Notice date	February 20, 2017
Social Security number	[REDACTED]

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number [REDACTED] the tax year (2015), and the form number (1040) on your payment and any correspondence.

Amount due by March 13, 2017 [REDACTED]



Notice	CP11
Tax Year	2015
Notice date	February 20, 2017
Social Security number	[REDACTED]
Page 2 of 5	

What you need to do immediately — continued

If you agree with the changes we made — continued

- Pay online or mail a check or money order with the attached payment stub. **You can pay online now at www.irs.gov/payments.**

No information about appeal rights or the 60-day deadline.



If you disagree with the amount due

- Call us at 1-800-829-0922 to review your account with a representative. Be sure to have your account information available when you call.

We'll assume you agree with the information in this notice if we don't hear from you.

Payment options

Pay now electronically

We offer free payment options to securely pay your tax bill directly from your checking or savings account. When you pay online or with your mobile device, you can:

- Receive instant confirmation of your payment
- Schedule payments in advance
- Reschedule or cancel a payment before the due date

You can also pay by debit or credit card for a small fee. To see all of our payment options, visit www.irs.gov/payments.

Payment plans

If you can't pay the full amount you owe, pay as much as you can now and make arrangements to pay your remaining balance. Visit www.irs.gov/paymentplan for more information on installment agreements and online payment agreements. You can also call us at 1-800-829-0922 to discuss your options.

Offer in Compromise

An offer in compromise allows you to settle your tax debt for less than the full amount you owe. If we accept your offer, you can pay with either a lump sum cash payment plan or periodic payment plan. To see if you qualify, use the Offer in Compromise Pre-Qualifier tool on our website. For more information, visit www.irs.gov/offers.

The explanation of the error is not provided until page 3, instead of on page 1 as a vital piece of information, which studies show will make it less likely taxpayers will read it.

CP11
Tax Year 2015
Notice date February 30, 2017
Social Security number
Page 3 of 5

Payment options – continued

Account balance and payment history

For information on how to obtain your current account balance or payment history, go to www.irs.gov/balance.due.

If you already paid your balance in full within the past 21 days or made payment arrangements, please disregard this notice.

If you think we made a mistake, call 1-800-829-0922 to review your account.

If we don't hear from you

- Pay by March 13, 2017, to avoid penalty and interest charges.

Changes to your 2015 tax return

Information was changed because of the following:

- We changed the refund amount or the amount you owe on your tax return because the amount entered on your tax return was computed incorrectly.

Your tax calculations

Description	Amount
Adjusted gross income, line 37	
Taxable income, line 43	
Total tax, line 63	

Your payments and credits

Description	Amount
Income tax withheld, line 64	
Estimated tax payments, line 65	
Other credits, lines 66a, 67-73	
Other payments	
Total payments and credits	

The notice now includes the lines on the return where the errors occurred, which assists with taxpayer understanding.

Penalties

We are required by law to charge any applicable penalties.

Failure-to-file

Description	Amount
Total failure-to-file	

We assess a 5% monthly penalty for filing your return late for each month or part of a month the return is late, for up to 5 months. When a penalty for paying late applies for the same month, the amount of the penalty for filing late for that month is reduced by the amount of the penalty for paying late for that month. The penalty for paying late is 1/2% for each month or part of a month. We base the monthly penalty for filing late on the tax required to be shown on the return that you didn't pay by the original return due date, without regard to extensions. We base the monthly penalty for paying late on the net unpaid tax at the beginning of each penalty month following the payment due date for that tax. When an income tax return is more than 60 days late, the minimum penalty is \$205 or 100% of the tax required to be shown on the return that you didn't pay on time, whichever is less. (Internal Revenue Code section 6651)

Failure-to-pay

Date received	Months late	Unpaid amount	Penalty rate	Amount

Notice CP11
 Tax Year 2015
 Notice date February 20, 2017
 Social Security number [REDACTED]
 Page 4 of 5

Total failure-to-pay

We assess a 1/2% monthly penalty for not paying the tax you owe by the due date. We base the monthly penalty for paying late on the net unpaid tax at the beginning of each penalty month following the payment due date for that tax. This penalty applies even if you filed the return on time. We charge the penalty for each month or part of a month the payment is late; however, the penalty can't be more than 25% in total.

- The due date for payment of the tax shown on a return generally is the return due date, without regard to extensions.
- The due date for paying increases in tax is within 21 days of the date of our notice demanding payment (10 business days if the amount in the notice is \$100,000 or more).

If we issue a Notice of Intent to Levy and you don't pay the balance due within 10 days of the date of the notice, the penalty for paying late increases to 1% per month. For individuals who filed on time, the penalty decreases to 1/4% per month while an approved installment agreement with the IRS is in effect for payment of that tax. (Internal Revenue Code section 6651)

Removal or reduction of penalties

We understand that circumstances - such as economic hardship, a family member's death, or loss of financial records due to natural disaster - may make it difficult for you to meet your taxpayer responsibility in a timely manner.

If you would like us to consider removing or reducing any of your penalty charges, please do the following:

- Identify which penalty charges you would like us to reconsider (e.g., 2005 late filing penalty).
- For each penalty charge, explain why you believe it should be reconsidered.
- Sign your statement, and mail it to us.

We will review your statement and let you know whether we accept your explanation as reasonable cause to reduce or remove the penalty charge(s).

Removal of penalties due to erroneous written advice from the IRS

If you were penalized based on written advice from the IRS, we will remove the penalty if you meet the following criteria:

- If you asked the IRS for written advice on a specific issue.
- You gave us complete and accurate information.
- You received written advice from us.
- You relied on our written advice and were penalized based on that advice.

To request removal of penalties based on erroneous written advice from us, submit a completed Claim for Refund and Request for Abatement (Form 843) to the IRS service center where you filed your tax return. For a copy of the form or to find your IRS service center, go to www.irs.gov or call 1-800-829-0922.

Notice CP11
 Tax Year 2015
 Notice date February 20, 2017
 Social Security number [REDACTED]
 Page 5 of 5

Interest charges

We are required by law to charge interest when you do not pay your liability on time. Generally, we calculate interest from the due date of your return (regardless of extensions) until you pay the amount you owe in full, including accrued interest and any penalty charges. Interest on some penalties accrues from the date we notify you of the penalty until it is paid in full. Interest on other penalties, such as failure to file a tax return, starts from the due date or extended due date of the return. Interest rates are variable and may change quarterly. (Internal Revenue Code section 6601)

Period	Days	Interest rate	Interest factor	Amount due	Interest charge
[REDACTED]					

We multiply your unpaid tax, penalties, and interest (the amount due) by the interest rate factor to determine the interest due.

Additional information

- Visit www.irs.gov/cp11
- You may find the following publications helpful:
 - Publication 1, Your Rights as a Taxpayer
 - Publication 594, The Collection Process
- For tax forms, instructions, and publications, visit www.irs.gov or call 1-800-TAX-FORM (1-800-829-3676).
- Did you e-file your tax return? Electronically filed returns are less likely to have math errors resulting in notices such as this one. It's free to file your taxes electronically. Go to www.irs.gov/efile for information and instructions.
- Paying online is convenient, secure, and ensures timely receipt of your payment. To pay your taxes online or for more information, go to www.irs.gov/payments.
- You can contact us by mail at the address at the top of this notice. Be sure to include your social security number, the tax year, and the form number you are writing about.
- Keep this notice for your records.

Nothing about right to appeal. No mention of TAS or LITCs, unlike 2018 CP11.

If you need assistance, please don't hesitate to contact us.



Department of the Treasury
Internal Revenue Service
Atlanta, GA 39901-0010



Notice	CP11
Tax year	2017
Notice date	February 24, 2018
Social security number	nnn-nn-nnnn
To contact us	Phone 1-NNN-NNN-NNNN
Your caller ID	nnnn

Page 1 of 7

Changes to your 2017 Form 1040

Amount due: \$362.73

We found miscalculations on your 2017 Form 1040, which affect the following areas of your return:

- Child Tax Credit
- Earned Income Tax Credit

We changed your return to correct these errors. As a result, you owe \$362.73.

Billing Summary

Tax you owed	\$1,828.00
Shared responsibility payment	2.00
Payments you made	-1,624.00
Failure-to-file penalty	135.00
Interest charges	21.73
Amount due by March 16, 2018	\$362.73

What you need to do immediately

Large, bold font on first page draws attention to need to pay.

Review this notice and compare our changes to the information on your tax return

If you agree with the changes we made

- Pay the amount due of \$362.73 by March 16, 2018, to avoid additional penalty and interest charges.
- Pay online or mail a check or money order with the attached payment stub. **You can pay online now at www.irs.gov/payments.**

Continued on back...



Actual deadline date for payment is included, but no mention of 60-day deadline to request abatement.



Notice	CP11
Notice date	February 24, 2018
Social security number	nnn-nn-nnnn

Payment

- Make your check or money order payable to the United States Treasury.
- Write your social security number (nnn-nn-nnnn), the tax year (2017), and the form number (1040) on your payment.

Amount due by March 16, 2018



First page is designed like a bill, with amount due and due by date before any mention of appeal rights or deadlines.

INTERNAL REVENUE SERVICE
AUSTIN, TX 73301-0023
s018999546711s

0000 0000000 00000000000 00000000 0000

Smaller font and non-bold, deemphasizes this section on appeal rights compared to the "if you agree" and payment information above.

Notice CP11
Tax year 2017
Notice date February 24, 2018
Social security number nnn-nn-nnnn
Page 2 of 7

What you need to do immediately – continued

If you disagree with the amount due

Call us at [1-800-xxx-xxxx] to review your account with a representative. Be sure to have your account information available when you call.

Though 60 days mentioned, does not include the actual deadline date like "amount due by" on page 1.

- If you contact us in writing within 60 days of the date of this notice, we will reverse the change we made to your account. However, if you are unable to provide us additional information that justifies the reversal and we believe the reversal is in error, we will forward your case for audit. This step gives you formal appeal rights, including the right to appeal our decision in court before you have to pay the additional tax. After we forward your case, the audit staff will contact you within 5 to 6 weeks to fully explain the audit process and your rights. If you do not contact us within the 60-day period, you will lose your right to appeal our decision before payment of tax.

Improvement from previous math error notices by including the taxpayer's appeal rights and 60-day deadline.

- If you do not contact us within 60 days, the change will not be reversed and you must pay the additional tax. You may then file a claim for refund. You must submit the claim within 3 years of the date you filed the tax return, or within 2 years of the date of your last payment for this tax.

We'll assume you agree with the information in this notice if we don't hear from you.

[Back of payment stub]

Appeal rights are on page 2 of a 7-page notice, and research shows that many people do not even read the second page. Such important information should be on the first page.

Payment options are included and emphasized before the notice explains the specific nature of the math error.



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Payment options

Pay now electronically

We offer free payment options to securely pay your tax bill directly from your checking or savings account. When you pay online or with your mobile device, you can:

- Receive instant confirmation of your payment
- Schedule payments in advance
- Reschedule or cancel a payment before the due date

You can also pay by debit or credit card for a small fee. To see all of our payment options, visit www.irs.gov/payments.

Payment plans

If you can't pay the full amount you owe, pay as much as you can now and make arrangements to pay your remaining balance. Visit www.irs.gov/paymentplan for more information on installment agreements and online payment agreements. You can also call us at 1-800-829-8374 to discuss your options.

Offer in Compromise

An offer in compromise allows you to settle your tax debt for less than the full amount you owe. If we accept your offer, you can pay with either a lump sum cash payment plan or periodic payment plan. To see if you qualify, use the Offer in Compromise Pre-Qualifier tool on our website. For more information, visit www.irs.gov/offers.

Account balance and payment history

For information on how to obtain your current account balance or payment history, go to www.irs.gov/payments.

If you already paid your balance in full within the past 21 days or made payment arrangements, please disregard this notice.

If you think we made a mistake, call 1-800-829-8374 to review your account.

If we don't hear from you

Pay \$362.73 by March 16, 2018, to avoid additional penalty and interest charges.

Explanation of error does not appear until page 4. Taxpayers must read through many pages to find this critical information. Appeal rights come before, but the error the taxpayer may appeal does not appear until this page. Most people won't even read this far.

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Changes to your 2017 tax return

Was it one? Was it more than one? What is the age limitation? More specific information should be included so that the taxpayer will know if the adjustment was correct and the nature of the error.

We changed your information because:

- We didn't allow part or all of your child tax credit and/or additional child tax credit on page 2 of your tax return. One or more of your children exceeds the age limitation
- We changed the amount claimed as Earned Income Credit (EIC) on your tax return. The amount claimed as EIC was figured or entered incorrectly on your tax return.

Your tax calculations

Including the line number and the differences in calculations is an improvement over previous notices.

Description	Your calculation	IRS calculation
Adjusted gross income, line 37	\$13,829.00	\$13,829.00
Taxable income, line 43	\$0.00	\$0.00
Shared responsibility payment	\$0.00	\$2.00
Total tax, line 63	\$1,828.00	\$1,828.00

Your payments and credits

Description	IRS calculations
Income tax withheld, line 64	\$0
Estimated tax payments, line 65	0
Other credits, line 66	1,624.00
Other payments line 74	0
Total payments and credits	\$1,624.00

Penalties

We are required by law to charge any applicable penalties

Failure-to-file

Description	Amount
Total failure-to-file	\$135.00

We assess a 5% monthly penalty for filing your return late for each month or part of a month the return is late, for up to 5 months.

When a penalty for paying late applies for the same month, the amount of the penalty for filing late for that month is reduced by the amount of the penalty for paying late for that month. The penalty for paying late is ½% for each month or part of a month.

We base the monthly penalty for filing late on the tax required to be shown on the return that you didn't pay by the original return due date, without regard to extensions. We base the monthly penalty for paying late on the net unpaid tax at the beginning of each penalty month following the payment due date for that tax.

When an income tax return is more than 60 days late, the minimum penalty is \$210 or 100% of the tax required to be shown on the return that you didn't pay on time, whichever is less.

(Internal Revenue Code Section 6651)

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Removal or reduction of penalties

We understand that circumstances—such as a serious illness or injury, a family member's death, or loss of financial records due to natural disaster—may make it difficult for you to meet your taxpayer responsibility in a timely manner.

We can generally process your request for penalty removal or reduction quicker if you contact us at the number listed above with the following information:

- Identify which penalty charges you would like us to reconsider (e.g., 2016 late filing penalty).
- For each penalty charge, explain why you believe it should be reconsidered.

If you write us, include a signed statement and supporting documentation for penalty abatement request.

We'll review your statement and let you know whether we accept your explanation as reasonable cause to reduce or remove the penalty charge(s).

Removal of penalties due to erroneous written advice from the IRS

If you were penalized based on written advice from the IRS, we will remove the penalty if you meet the following criteria:

- You wrote us asking for written advice on a specific issue
- You gave us adequate and accurate information
- You received written advice from us
- You reasonably relied on our written advice and were penalized based on that advice

To request removal of penalties based on erroneous written advice from us, submit a completed Claim for Refund and Request for Abatement (Form 843) to the address shown above. For a copy of the form, go to www.irs.gov or call 1-800-TAX-FORM (1-800-843-8374).

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Interest charges We are required by law to charge interest on unpaid tax from the date the tax return was due to the due date the tax is paid in full. The interest is charged as long as there is an unpaid amount due, including penalties, if applicable. (Internal Revenue Code section 6601)

Description	Amount
Total interest	\$21.73

The table below shows the rates used to calculate the interest on your unpaid amount due. For a detailed calculation of your interest, call 1-800-829-8374.

Period	Interest rate
Beginning October 1, 2017	3%

We multiply your unpaid tax, penalties, and interest (the amount due) by the interest rate factor to determine the interest due.

Additional interest charges If the amount you owe is \$100,000 or more, please make sure that we receive your payment within 10 work days from the date of your notice. If the amount you owe is less than \$100,000, please make sure that we receive your payment within 21 calendar days from the date of your notice. If we don't receive full payment within these time frames, the law requires us to charge interest until you pay the full amount you owe.

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Additional information

Information about taxpayer rights is included, but it is relegated to the last page of the notice. This shows the importance the IRS places on taxpayer rights. Collection is on the first page, while rights are on the last.

- Visit www.irs.gov/cp11
- You may find the following publications helpful:
 - Publication 1, Your Rights as a Taxpayer
 - Publication 594, The Collection Process
- For tax forms, instructions, and publications, visit www.irs.gov/formspubs or call 1-800-TAX-FORM (1-800-829-3676).
- Did you e-file your tax return? Electronically filed returns are less likely to have math errors resulting in notices such as this one. It's free to file your taxes electronically. Go to www.irs.gov/efile for information and instructions.
- Paying online is convenient, secure, and ensures timely receipt of your payment. To pay your taxes online or for more information, go to www.irs.gov/payments.
- You can contact us by mail at the address at the top of the first page of this notice. Be sure to include your social security number and the tax year and form number you are writing about.
- Keep this notice for your records..

The IRS should be commended for including information about TAS and LITCs that can assist taxpayers with understanding the math error notice and their rights. However, this is on page 7. Taxpayers may learn of their right to appeal earlier in the notice, but dismiss it as too costly before reading this information.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Assistance can be obtained from individuals and organizations that are independent from the IRS. The Directory of Federal Tax Return Preparers with credentials recognized by the IRS can be found at <http://irs.treasury.gov/rpo/rpo.jsf>. IRS Publication 4134 provides a listing of Low Income Taxpayer Clinics (LITCs) and is available at www.irs.gov. Also, see the LITC page at www.taxpayeradvocate.irs.gov/litcmap. Assistance may also be available from a referral system operated by a state bar association, a state or local society of accountants or enrolled agents or another nonprofit tax professional organization. The decision to obtain assistance from any of these individuals and organizations will not result in the IRS giving preferential treatment in the handling of the issue, dispute or problem. You don't need to seek assistance to contact us. We will be pleased to deal with you directly and help you resolve your situation.

We're required to send a copy of this notice to both you and your spouse. Each copy contains the information you are authorized to receive. Please note: Only pay the amount due once.

- If you need assistance, please don't hesitate to contact us.

The new draft 2018 CP11 addresses some past TAS recommendations, such as including the exact tax return line where the math error occurred.³⁵ It also contains a portion on the taxpayer's rights, and reference to TAS and Low Income Taxpayer Clinics (LITC), including that they could assist the taxpayer, though this is buried on page seven of the notice.

Notwithstanding these somewhat positive changes, there are still several areas that could be improved to ensure clarity. For example, while the notice does include language advising that a taxpayer must contact the IRS to protest the change made within 60 days to retain the right to appeal pre-tax (which the 2017 CP11, currently in use, does not have), it does not include the date of the deadline itself. Including the date of the deadline would ensure that taxpayers are not confused about the date by which they must file to retain their appeal rights. Added clarity with a listed deadline date may be especially beneficial considering that the taxpayers in question may have made mathematical or clerical errors on their tax forms, so adding 60 days to the notice date may lead them to calculate an inaccurate filing date. This language should be on the first page to ensure taxpayers read it.

Another improvement that the IRS should make is with the placement of the proposed errors on the notice. The 2017 CP11 is five pages long and the 2018 CP11 is seven pages long, and neither discuss the specifics of the actual error committed by the taxpayer until the third and fourth page, respectively. Payment options are displayed before an explanation of the math error and the return line the error was committed on, emphasizing payment over the specifics of the proposed error. As discussed below, the way the forms are presented, and choices are displayed, impacts how taxpayers view and interpret the forms, potentially steering them away from exercising their rights to challenge the IRS's decision.³⁶

The way the forms are presented, and choices are displayed, impacts how taxpayers view and interpret the forms, potentially steering them away from exercising their rights to challenge the IRS's decision The structure of these notices actively discourages abatement requests and places obstacles into taxpayers' efforts to learn about and use their rights.

Further, with respect to the 2018 CP11, the taxpayer's appeal rights or deadlines are not mentioned on the first page, which is designed like a bill, prioritizing the amount owed and payment due date. The *right to challenge the IRS's position and be heard*, by requesting deficiency procedures, is de-emphasized. On the second page, the "what you need to do immediately" section is continued, in smaller and non-bold font, different than how it is on the first page. This, along with its placement on the second page, de-emphasizes the appeal rights section of the form, which contains a wall of text that taxpayers may merely scan over. The "what you need to do immediately—continued" heading should be similarly as big and bold as it is on the first page, and the appeal information should be broken down into more

35 See, e.g., National Taxpayer Advocate 2011 Annual Report to Congress 74-92 (Most Serious Problem: *Expansion of Math Error Authority and Lack of Notice Clarity Create Unnecessary Burden and Jeopardize Taxpayer Rights*).

36 See, e.g., IRS, *Behavioral Insights Toolkit 21* (2017) (discussing "choice architecture," how the way choices are structured can influence a taxpayer's decision making); see Literature Review: *Improving Notices Using Psychological, Cognitive, and Behavioral Science Insights*, *infra*.

manageable segments³⁷ to ensure that taxpayers are drawn to the information about their appeal rights and read through it, ideally on the first page itself.

The explanation of the math error the taxpayer committed is on the fourth page, so, though they are informed of their appeal rights in the 2018 CP11, taxpayers don't know what to protest until page four of the notice. Taxpayers are not informed that they have rights or that they could qualify for free assistance until page seven of the notice. Few taxpayers are likely to read through these text-heavy seven pages to reach this important information. The structure of these notices actively discourages abatement requests and places obstacles into taxpayers' efforts to learn about and use their rights.

Compared to the 2017 CP11, the 2018 CP11 is better. However, the CP11 could still be further improved, as discussed below. If taxpayers do not understand that they can challenge the IRS's change to their return (and must do so within 60 days) because a notice is unclear, they may pay more tax than they owe. Unclear notices may also prevent taxpayers from understanding that they will lose the right to prepayment judicial review in Tax Court, before paying the assessment, if they don't respond to the math error notice by the 60-day deadline. Math error notices are not collection notices, they are notices to inform taxpayers that the IRS has made some adjustments to their tax return and assessed a tax against them. These notices must inform taxpayers that they have the right to dispute the assessed tax within 60 days, which will give them an opportunity to petition the Tax Court. They must also inform taxpayers that there are resources available to help them, namely TAS and LITCs. All this important information should be on the first page of the notice. Also on the first page, the IRS can include language that, if the taxpayer agrees with the change, information on how to pay is available on the next page of the notice. This informs taxpayers of their rights and deadlines and directs them through the necessary steps of the math error process.

In its response to the National Taxpayer Advocate's 2014 Math Error Notice Most Serious Problem recommendations, the IRS decided to not take action recommended by the National Taxpayer Advocate to organize a team, which would include TAS, to review all current explanations of math error adjustments, and rewrite, where necessary, to ensure that the congressional directive for clarity is met.³⁸ The IRS instead cited its own process to create and revise taxpayer correspondence as sufficient. The IRS did take action on creating IRM guidelines for crafting math error explanations that do not have an applicable TPNC (non-standard notices).³⁹ The IRS postponed action on updating math error notices to clearly disclose that taxpayers may request abatement without providing an explanation or substantiating documentation until "resources will allow."⁴⁰

The IRS has not conducted any studies to explore math error notice clarity in the past five years.⁴¹ TAS requested that the IRS measure the abatement rates for math error assessments by notice number or TPNC in 2011.⁴² The IRS has not developed a system to measure math error reversal rates for math

37 See Literature Review: *Improving Notices Using Psychological, Cognitive, and Behavioral Science Insights* (discussing the psychological concept of "chunking," that the human brain can only consciously retain roughly four chunks of different information at one time), *infra*.

38 National Taxpayer Advocate Fiscal Year (FY) 2016 Objectives Report to Congress vol. 2 58-60 (IRS and TAS Responses: Most Serious Problem: *Math Error Notices: The IRS Does Not Clearly Explain Math Error Adjustments, Making it Difficult for Taxpayers to Understand and Exercise Their Rights*).

39 *Id.*

40 *Id.*

41 IRS response to TAS information request (Aug. 22, 2018).

42 See National Taxpayer Advocate 2011 Annual Report to Congress 74-92 (Most Serious Problem: *Expansion of Math Error Authority and Lack of Notice Clarity Create Unnecessary Burden and Jeopardize Taxpayer Rights*).

The IRS has not developed a system to measure math error reversal rates for math error assessments by notice number or Taxpayer Notice Code (TPNC), which limits the ability of the IRS or TAS to analyze if there are problems with over-selection or clarity of particular math error notices.

error assessments by notice number or TPNC,⁴³ which limits the ability of the IRS or TAS to analyze if there are problems with over-selection or clarity of particular math error notices.

The IRS's Failure to Use Historical Data to Correct Taxpayer Returns Unnecessarily Burdens Taxpayers and Wastes IRS Resources

The IRS places the burden on taxpayers for errors that the IRS could solve using internal data, instead of denying credits that taxpayers actually qualify for and using valuable IRS time and resources answering responses to math error notices that the IRS should not have sent.⁴⁴ For example, TAS found, in its 2011 study on math error authority and dependent TINs, that 55 percent of these types of errors were abated, and 56 percent of the abatements could have been identified by the IRS with internal data.⁴⁵ Additionally, a TAS study found that, in a sample of cases where taxpayers had a missing or incorrect dependent TIN math error and received no refund, 41 percent of the cases that received no adjustment could have been corrected, and all the refunds allowed, by the IRS examining its own records.⁴⁶ Another 11 percent of these cases could have been at least partially corrected by historical data.⁴⁷ This translates to more than 40,000 taxpayers who may have not received refunds that they were entitled to.⁴⁸ These taxpayers lost an average of \$1,274.⁴⁹

There is no legal prohibition against the IRS using historical data and making these types of corrections without burdening taxpayers with math error notices.⁵⁰ In fact, the IRS directs employees to perform research and make changes to perfect a taxpayer's return before contacting the taxpayer for additional information.⁵¹ The IRS could similarly direct its employees to search historical return information and make those changes that benefit taxpayers, such as correcting a dependent TIN to allow for a refund. The IRS should also measure abatement rates and review them to identify and correct potential math error problems like those it has had before.

43 IRS response to TAS information request (Aug. 22, 2018).

44 National Taxpayer Advocate 2011 Annual Report to Congress vol. 2 114-144 (Research Study: *Math Errors Committed on Individual Tax Returns: A Review of Math Errors Issued for Claimed Dependents*).

45 *Id.* at 117.

46 *Id.* at 120.

47 *Id.*

48 *Id.*

49 *Id.*

50 Email from Division Counsel/Associate Chief Counsel (NTA Program) (Nov. 14, 2018) (on file with TAS).

51 See, e.g., IRM 3.12.3.4.3.3 (Jan. 1, 2019) (this IRM section instructs IRS employees to search the taxpayer's return and attachments, as well as perform Integrated Data Retrieval System (IDRS) research, to correct missing or incorrect TINs before contacting the taxpayer for additional information).

The IRS has stated that it reviews TPNC descriptive paragraphs annually.⁵² However, in reviewing the top ten most frequent math error notices TPNC descriptive paragraphs from CYs 2015-2017, there were no discernible changes in language.⁵³ As demonstrated by Example 1, these descriptive paragraphs remain confusing, using language that does not always clearly direct the taxpayer to the problem with their return.

New Laws and Research-Based TAS-Designed Notices Can Guide the IRS In Making Clearer Notices

Executive Order 13707 and associated guidance recognized that behavioral science insights could benefit the American people and provided instructions to federal agencies how to use and implement the available behavioral science research.⁵⁴ Recently introduced legislation in the House of Representatives would require federal agencies to provide greater notice clarity.⁵⁵ The legislation would require notices that agencies send to individuals to contain:

- (1) the action item;
- (2) information on whether a response is required, optional, or not required;
- (3) the deadline, if applicable;
- (4) how to complete the action item; and
- (5) the agency's contact information.⁵⁶

All the above items would need to be in a clearly marked section at the top of the first page of the notice.⁵⁷ The 2018 CP11, although an improvement over past IRS math error notices, would be inadequate under this legislation because the required items are spread over multiple pages, and the exact date of the deadline to retain appeal rights is not included.

TAS is currently working on new notice designs that would enhance clarity and taxpayer rights. The language of IRS notices should be framed in the language of the Taxpayer Bill of Rights. For example, a sample notice could read:

You have the right to challenge the IRS and be heard. So, if you disagree with the adjustment we've made to your return, you must call or write us and ask us to reverse the change to your return. This is a request to abate the tax and you must do so within 60 days of the date of this notice, by [last day to request abatement]. If you do this, we will then contact you for more information, and if we still believe your tax return is incorrect, we will

52 IRS response to TAS information request (Aug. 22, 2018) ("annually, the Business Operating Division's (BOD) Subject Matter Experts (SME) review existing TPNCs. The SMEs submit requests to the Office of Taxpayer Correspondence (OTC) to revise existing TPNCs or develop new TPNCs, as appropriate. The OTC works with the SMEs to develop language that is compliant with the Plain Language Act, IRS Style Guide, and the Gregg Reference Manual." The OTC then secures business approval for technical accuracy, obtains approval from Counsel for statutory compliance, and sends to TAS for review and feedback); IRS response to TAS fact check (Nov. 26, 2018) ("Each year, the IRS makes numerous changes to the verbiage of existing TPNCs, deletes obsolete TPNCs, and creates new TPNCs.").

53 IRS response to TAS information request (Aug. 22, 2018).

54 Exec. Order No. 13707, 3 C.F.R. § 13707 (Sept. 15, 2015); Executive Office of the President, Memorandum from John P. Holdren, Director, Office of Science and Technology Policy, to the Heads of Executive Departments and Agencies, *Implementation Guidance for Executive Order 13707: Using Behavioral Science Insights to Better Serve the American People* (Sept. 15, 2016).

55 Too Long Didn't Read Act of 2018, H.R. 5321, 115th Cong. (2018).

56 *Id.*

57 *Id.*

keep the change we made. If you disagree with our decision, you will have the chance to challenge our decision by petitioning the United States Tax Court without having to pay the tax first.

TAS is working on suggested updated notices that take current research on how humans best perceive and understand writing and using those principles to design new notices based on researched best practices.⁵⁸ One such practice is the concept of framing, a behavioral science concept that, by framing information in a particular way, can influence how people respond to it.⁵⁹

The framing in the IRS math error notices appears to be framing them like a bill, with the amount owed and payment information featured first and prominently. However, framing a notice in the context of taxpayer rights could be beneficial to taxpayers to help them understand their rights and what they can and must do in response to a notice; for a math error notice, either paying what they owe or petitioning the change to their return.

Another concept is the idea that making things even incrementally more difficult will reduce action. For example, in a study on Medicare notices, researchers found that simply making information available (through a web link or telephone number) was much less successful than actually including the information itself on the notice.⁶⁰ This means that the IRS should strive to create fewer steps and make each process easier for taxpayers to increase their likelihood to engage and understand. One way the IRS could do this with regards to notices is to include an abatement form within the notice package, so that if a taxpayer would like to request abatement, they do not need to go through as many steps, such as calling the IRS, but can instead simply fill out a mostly pre-populated form and return it. The IRS should work with TAS and follow its researched suggestions to improve notice clarity and prevent the infringement of taxpayer rights.

CONCLUSION

Math error authority has its place as an effective tool to correct unambiguous errors. While the IRS has improved some explanations on some math error notices, these revisions remain short of providing clear, concise, and visually prominent information for taxpayers to determine what, specifically, the IRS corrected on their return and whether they should accept the adjustment or request a correction, as well as the consequences of inaction. Most importantly, the notices do not clearly frame the steps to be taken in the language of taxpayer rights—specifically, *the right to challenge the IRS and be heard*, and *the right to appeal to an independent forum*. Framing notices in the context of a taxpayer's rights may make taxpayers pay more attention to the notices. Moreover, the IRS does not measure the reversal rates of math error assessments and, as a result, cannot determine the extent to which it is issuing accurate assessments and forgoes valuable data that could be used both in identifying which math error notices should be revised for added clarity and in using historical data to eliminate the need for issuing math error notices that are later abated.

58 See Literature Review: *Improving Notices Using Psychological, Cognitive, and Behavioral Science Insights*, *infra*; see also IRS, *Behavioral Insights Toolkit* (2017).

59 Deloitte Consulting LLP, *Using the Nudge in Tax Compliance: Leveraging Behavioral Insights to Boost Tax Revenue* 9 (2017); see also Literature Review: *Improving Notices Using Psychological, Cognitive, and Behavioral Science Insights*, *infra*.

60 Jeffrey R. Kling et. al., *Comparison Friction: Experimental Evidence from Medicare Drug Plans*, 127 Q. J. Econ. 199, 200-201 (2012); see also Literature Review: *Improving Notices Using Psychological, Cognitive, and Behavioral Science Insights*, *infra*.

RECOMMENDATIONS

The National Taxpayer recommends that the IRS:

1. Measure the abatement rates of its math errors and use the data to assess which math errors are most problematic and which notices need to be revised for clarity.
2. On all math error notices, cite to the actual line on the return that the IRS is changing, and the reason why the IRS is making the change (*e.g.*, “you claimed 6 dependents on line x, but multiplied the dependency exemption by 7 on line y”).
3. Emphasize the Taxpayer Bill of Rights, and specific taxpayer rights on math error notices by including the taxpayer’s *right to challenge the IRS and be heard*, and the *right to appeal*, the specific deadline date the taxpayer must respond by, and the loss of their right to make a prepayment petition of the IRS’s change to their return to the Tax Court, if the taxpayer does not respond by the date in the notice.
4. Further emphasize the steps that taxpayers may take (pay or file to petition) on the first page of its math error notices, so that taxpayers are clear on what their options are in response to notices. The section heading that discusses appeal options should be similarly as big and bold as the section heading discussing payment.
5. Place the explanation of the math error on the first page of the notice, not the third or fourth, so that taxpayers see and read the explanation before they read about the numerous payment options, which nudges them to pay and not question the purported error or if they should appeal. Page one should also include the deadline date to appeal, and what taxpayers lose if they do not appeal, as well as information about the TBOR, TAS, and LITCs.
6. Work directly with TAS on notice redesign to ensure notice clarity and adequate inclusion of taxpayer rights on math error notices.
7. Use internal data to make corrections to returns that benefit taxpayers, instead of burdening taxpayers with unnecessary math error assessments that are later abated.