

**MSP  
#5****FREE FILE: Substantial Free File Program Changes Are Necessary to Meet the Needs of Eligible Taxpayers****RESPONSIBLE OFFICIALS**

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**TAXPAYER RIGHTS IMPACTED<sup>1</sup>**

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Confidentiality*
- *The Right to a Fair and Just Tax System*

**PROBLEM**

To fulfill its statutory duty to increase electronic filing (e-filing), the IRS partners with Free File, Inc. (FFI), a group of private-sector tax return preparation software providers, to offer free federal tax preparation software products accessible through IRS.gov to approximately 105 million eligible taxpayers.<sup>2</sup> While the rate of electronic filing approached 90 percent for tax year (TY) 2018 individual returns, less than two percent of all individual returns filed (or about 2.5 million returns) were filed using Free File program software products.<sup>3</sup> In addition, data on repeat usage suggests that taxpayers who use Free File have generally been dissatisfied with it. Among taxpayers who used Free File software in 2017, nearly half (47 percent) did not use Free File software again in 2018.<sup>4</sup>

During 2019, after ProPublica alleged that FFI was engaging in deceptive marketing practices and Congress submitted inquiries, the IRS engaged MITRE Corporation to conduct an independent assessment of the program.<sup>5</sup> The MITRE 2019 Free File Report, issued on October 3, 2019, confirmed

1 See Taxpayer Bill of Rights (TBOR), [www.TaxpayerAdvocate.irs.gov/taxpayer-rights](http://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 See IRS Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105–206, § 2001, 112 Stat. 685, 723. The FFI products must be available to 70 percent of all taxpayers, particularly focusing on economically disadvantaged or underserved taxpayers. Eighth Memorandum of Understanding (MOU) on Service Standards and Disputes Between the Internal Revenue Service and Free File, Inc. 3 (effective as of Oct. 31, 2018) (hereinafter 2018 Free File MOU), <https://www.irs.gov/pub/irs-utl/Eight%20Free%20File%20MOU.pdf>.

3 IRS response to TAS fact check (Dec. 20, 2019).

4 *Id.*

5 To access the MITRE 2019 Free File Report, see IRS, IRS Statement on Free File Program (Oct. 11, 2019), <https://www.irs.gov/newsroom/irs-statement-on-free-file-program>. ProPublica published a series of investigative reports. See ProPublica, *The TurboTax Trap: How Tax Prep Industry Makes You Pay*, <https://www.propublica.org/series/the-turbotax-trap> (last visited Oct. 20, 2019).

the accusations on deceptive marketing practices but also concluded that IRS oversight was generally adequate and effective.<sup>6</sup>

Based on the MITRE 2019 Free File Report findings, the public response, as well as Taxpayer Advocate Service's (TAS) 2018 review of the Free File program,<sup>7</sup> the National Taxpayer Advocate believes that the current program is not promoting the best interests of taxpayers for the following reasons:

- FFI member companies are steering eligible taxpayers away from their Free File program software products and toward their commercial products;
- Cross-marketing of fee-based services on Free File program software products can confuse taxpayers and gives the impression of IRS endorsement;
- The Free File program is not meeting the needs and preferences of eligible taxpayers, as illustrated by its low usage rate; and
- The IRS does not perform routine quality testing of the Free File program software.

## IMPACT ON TAXPAYERS

### Background

#### *The Free File Program*

The IRS Restructuring and Reform Act of 1998 (RRA 98) directed the IRS to set a goal of increasing the e-file rate to at least 80 percent by 2007.<sup>8</sup> In 2002, the IRS entered into an agreement with a consortium of tax software companies under which the companies would provide free online return preparation services on an IRS.gov webpage to 60 percent of taxpayers during the tax filing season, and in exchange, the IRS would not compete with these companies by providing its own software to taxpayers.<sup>9</sup> The agreement allows the software providers to determine the scope of their offerings but obligates the IRS to take oversight action, such as implementing usability performance measures and notifying the consortium if services are not being properly performed.<sup>10</sup> The IRS also has the authority to terminate the agreement if the consortium fails to provide appropriate coverage, taking into account “the extent to which actual usage of Free Services has increased.”<sup>11</sup>

The IRS intended the Free File partnership to be the “best method” to “promote higher quality Free Services by utilizing the existing expertise of the private sector, maximize consumer choice, promote competition for such Free Services, and thereby meet the objectives in the least costly manner.”<sup>12</sup>

6 MITRE 2019 Free File Report at vi-ix. The press questioned the independence of MITRE and criticized the review as too narrow and lacking meaningful proposals for reform. See, e.g., ProPublica, *IRS-Funded Review Confirms TurboTax Hid Free Filing From Search Engines, but Says There's No Need for Major Changes* (Oct. 9, 2019), <https://www.propublica.org/article/irs-funded-review-confirms-turbotax-hid-free-filing-from-search-engines-but-says-theres-no-need-for-major-changes>.

7 National Taxpayer Advocate 2018 Annual Report to Congress 65-78 (Most Serious Problem: *Free File: The IRS's Free File Offerings Are Underutilized, and the IRS Has Failed to Set Standards for Improvement*).

8 Pub. L. No. 105-206, § 2001(a)(2), 112 Stat. 685, 723 (1998).

9 Free On-Line Electronic Tax Filing Agreement Entered Into Between the IRS and the Free File Alliance, LLC (effective as of Oct. 30, 2002), <https://www.irs.gov/pub/irs-utl/2002-free-online-electronic-tax-filing-agreement.pdf> (hereinafter 2002 Free File Agreement); IRS, Free File: About the Free File Alliance, <https://www.irs.gov/e-file-providers/about-the-free-file-alliance> (last visited Oct. 20, 2019) (provides links to each Free File program agreement and MOU).

10 2002 Free File Agreement at 3-4.

11 *Id.* at 2.

12 *Id.* at 1. Dept. of Treas., *Treasury, IRS Announce New Efforts to Expand E-Filing* (Jan. 30, 2002), <https://www.treasury.gov/press-center/press-releases/Pages/po964.aspx>.

Beginning with the 2006 Free File Memorandum of Understanding (MOU), the IRS has “pledged to not enter the tax preparation software and e-filing services marketplace.”<sup>13</sup>

The IRS has renewed its agreement multiple times, including the most recent agreement with FFI, signed on October 31, 2018.<sup>14</sup> FFI currently consists of 11 private-sector companies.<sup>15</sup> Amendments to the agreement have included broadening the scope of eligibility for the Free File program to 70 percent of all taxpayers, heightening security and privacy requirements, and requiring members to provide an electronic Free File indicator on returns to allow the parties to track usage.<sup>16</sup> During the 2019 filing season, taxpayers with adjusted gross incomes (AGIs) of less than \$66,000 were eligible to use Free File software.<sup>17</sup>

### *IRS Engaged MITRE to Assess Free File Program*

In 2019, ProPublica issued a series of articles accusing the FFI of not acting in the best interests of taxpayers by steering them away from free preparation software options.<sup>18</sup> In response, the IRS engaged MITRE to independently assess the program. Among the many findings and recommendations included in the MITRE report, the National Taxpayer Advocate believes the following are the most significant:

- **Search Engine Avoidance:** Five of the FFI member companies used a coding device to prevent taxpayers from finding their Free File program page when searching the internet for the program.<sup>19</sup>
- **Program Oversight:** The public-private partnership has room for improvement, but current compliance processes are “adequate and effective to support the integrity of the program.”<sup>20</sup>
- **Taxpayer Participation:** The often-cited low participation numbers are misleading because they do not factor in taxpayer choice and behavior.<sup>21</sup>

### **Deceptive Marketing Practices Steer Taxpayers Away From Free File Program Options**

The MITRE 2019 Free File Report confirmed that five of the FFI member companies used a coding device to exclude their Free File landing page from organic searches on search engines such as Google or Bing.<sup>22</sup> The members took the position that such practice keeps them in compliance with the MOU language requiring the program software to be accessible only through IRS.gov.<sup>23</sup> In addition, seven members bought ads for keywords relating to free tax filing that directed traffic toward their fee-based software products.<sup>24</sup> As result, MITRE recommended that the next negotiated MOU address the IRS position on this issue.

13 2006 Free File MOU at 4.

14 2018 Free File MOU.

15 At the date of execution of the 2018 Free File MOU, there were 12 members of FFI. However, one member (Drake) dropped out of the group in July 2019. Therefore, herein, we refer to 11 member companies. MITRE, IRS, Wage and Investment, IRS Free File Program, *Independent Assessment of the Free File Program: Free File Program Assessment Final Report*, iii n.2 (Oct. 3, 2019).

16 2006 Free File MOU at 4.

17 It is our understanding that taxpayers with adjusted gross income of \$69,000 or less will be eligible to use Free File software to prepare and e-file returns during the 2020 filing season. IRS, Draft Instructions to Tax Year 2019 Form 1040 and 1040-SR (Oct. 10, 2019). See Free File: Do Your Federal Taxes for Free, <https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free> (last visited Oct. 23, 2019).

18 ProPublica, *The TurboTax Trap: How Tax Prep Industry Makes You Pay*, <https://www.propublica.org/series/the-turbotax-trap> (last visited Oct. 20, 2019).

19 MITRE 2019 Free File Report at vii.

20 *Id.* at viii-ix.

21 *Id.* at x.

22 *Id.* at vi-vii.

23 *Id.* at vi.

24 MITRE 2019 Free File Report at vi-vii.

These intentionally deceptive practices by FFI members violate the intent of the MOU, which is to provide Free File options for economically disadvantaged and underserved taxpayers in exchange for the IRS agreeing to not provide such services. While the IRS attempts to protect these taxpayers by ensuring free services through the MOU, FFI is capitalizing on the confusion and potential unsophistication of these taxpayers by purposefully directing them to fee-based services in lieu of the free services they are required to provide. The National Taxpayer Advocate believes that the IRS should explicitly prohibit this practice in the MOU to protect taxpayers' *right to be informed* and *to quality service*. Further, the IRS should collaborate with the National Taxpayer Advocate and the industry to determine the best way to eliminate confusion between Free File program products and other free software offered by FFI members.

### Cross-Marketing of Other For-Fee Services on Free File Program Software Products Can Confuse Taxpayers and Gives the Impression of IRS Endorsement

Despite the fact that all Free File program software products are accessed through the official IRS.gov website, marketing of fee-based products and services through the program platform still occurs. The National Taxpayer Advocate commends the IRS for including important amendments to strengthen taxpayer protections and limit the marketing of paid services by FFI members in the 2018 Free File MOU. The new MOU includes language requiring software providers to automatically return taxpayers to the IRS Free File page if they don't qualify for an offer, preventing software providers from upselling their other products through "value-add" buttons on landing pages.<sup>25</sup> The MOU also contains provisions for limiting email solicitations of taxpayers in subsequent years and requiring Free File software providers to offer returning taxpayers Free File program software products as a first option in subsequent years.<sup>26</sup>

While the 2018 MOU amendments are an improvement, the National Taxpayer Advocate continues to be concerned over the marketing of paid state tax filing services on Free File program software products. While some states offer free filing independent of the Free File program, the 2018 Free File MOU prohibits the IRS from making taxpayers aware of these services.<sup>27</sup> By providing links on the Free File program software to software providers marketing paid state-return options and not advertising the other free state options available, the IRS is in effect endorsing these for-fee products. Thus, rather than providing a service that meets taxpayers' needs, Free File program software has the potential to mislead taxpayers and ensnare them in for-fee product offerings. This behavior impinges taxpayers' *rights to be informed*, *to quality service*, and *to confidentiality* as well as undermines the purpose of the Free File program.

- 25 IRS News Release IR-2018-213, IRS, Free File Alliance Announce Changes to Improve Program; Improved Taxpayer Options Available for 2019 Free File Program (Nov. 2, 2018), <https://www.irs.gov/newsroom/irs-free-file-alliance-announce-changes-to-improve-program-improved-taxpayer-options-available-for-2019-free-file-program>. See also 2018 Free File MOU § 4.32.2 (requiring Members to "provide, as a first option, a prominent hyperlink for the taxpayer to return to the IRS Free File Landing Page" if the taxpayer "enters a Member's Free File Landing Page and begins to complete a return but ultimately cannot qualify for the Member's free offer."); § 4.32.6 ("Members shall not include a "value-added" button (i.e., an icon, link or any functionality that provides a taxpayer with access to a Member's commercial products or services) on the Member's Free File Landing Page.").
- 26 See also 2018 Free File MOU § 4.14 (A returning taxpayer must "be given a first option to return to the Member's Free File offer before receiving any other alternative choices for the Member's publicly available commercial tax preparation products or services."); 2018 Free File MOU § 4.32.4 ("Free File Members shall communicate not less than once annually via email with their taxpayer customers who used Free File services and completed their returns through Free File in the immediately preceding tax year prior to the opening of the following tax season. The content of this email(s) shall only remind the taxpayer about the availability of the Member's Free File offer and invite them to return to the Member's Free File Landing Page. Free File Members shall not use these communications to communicate with the taxpayer about any non-Free File commercial products or services. No marketing, soliciting, sale or selling activity, or electronic links to such activity, will be permitted in these email(s).").
- 27 See 2018 Free File MOU § 4.21. The 2018 Free File MOU specifies that providing links from "the IRS Free File Website to Non-Free File State Department of Revenue websites is grounds for FFI to immediately dissolve its obligations in this MOU." 2018 Free File MOU § 4.22.

### Less Than Two Percent of Tax Year 2018 Individual Tax Returns Were Prepared Using Free File Program Software

The Free File program was created to help the IRS reach the 80 percent statutory e-file goal included in RRA 98.<sup>28</sup> However, with a current e-file rate of about 89 percent, and less than two percent (approximately 2.5 million returns) of total filers using Free File program software, the IRS has surpassed its goal with minimal contribution from the program.<sup>29</sup> The MITRE 2019 Free File report argues that many taxpayers prefer to use other return preparation methods, leaving the true pool of Free File eligible taxpayers at about 30 million, which is substantially lower than the roughly 105 million taxpayers the National Taxpayer Advocate believes are eligible to use the program (70 percent of all individual taxpayers).<sup>30</sup> However, the National Taxpayer Advocate disagrees with the report's assessment because it does not consider the reasons why eligible taxpayers chose other preparation methods. For example, some eligible taxpayers could have used paid return preparers or fee-based commercial software products because they were unaware of the Free File program, while others are unable to use the program due to its eligibility restrictions and language limitations. Taxpayers who do use the program have little guidance in the Free File Software Lookup Tool about the strengths and weaknesses of each software package's offering prior to selection and may begin preparing a return only to find the program lacks the capability to prepare the return or to fully capture the deductions and credits available to the taxpayer.<sup>31</sup> Moreover, data on repeat usage suggests that taxpayers who use Free File have generally been dissatisfied with it. Among taxpayers who used Free File software in 2017, nearly half (47 percent) did not use Free File software again in 2018.<sup>32</sup>

Since 2006, all Free File MOUs specifically highlight economically disadvantaged and underserved populations as the targeted groups for Free File services.<sup>33</sup> Taxpayers in vulnerable groups typically have limited disposable income and free time to spend on tax return preparation. In addition, age restrictions sharply curtail the number of Free File Program software options available to elderly taxpayers.<sup>34</sup> While the IRS offers the Tax Counseling for the Elderly program to assist taxpayers age 60 or older with return preparation, this program is not designed to serve every taxpayer in this age range.<sup>35</sup> Free on-demand electronic tax preparation service is still a valuable resource for taxpayers in this demographic. However, only four of the 11 FFI providers offer services to taxpayers of all ages, and even these have use restrictions based on the taxpayer's state of residence, income, or eligibility for the Earned Income Tax Credit.<sup>36</sup> In addition, four of the 11 FFI providers have age limitations that start before the age of 60.<sup>37</sup>

28 See RRA 98, Pub. L. No. 105–206, § 2001, 112 Stat. 685, 723.

29 IRS response to TAS fact check (Dec. 20, 2019).

30 The report concludes that the pool of eligible taxpayers should only include taxpayers who prefer “do-it-yourself” preparation methods; thereby excluding taxpayers who chose paid or volunteer return preparers. MITRE 2019 Free File Report at x.

31 See IRS, Free File Software Lookup Tool, <https://apps.irs.gov/app/freeFile/jsp/wizard.jsp> (last visited Oct. 20, 2019); MITRE 2019 Free File Report at 73.

32 IRS response to TAS fact check (Dec. 20, 2019).

33 2006 Free File MOU at 4.

34 MITRE 2019 Free File Report at 8. Seven of the 11 FFI members prevent taxpayers ranging from ages 53-70 from using their Free File program. MITRE 2019 Free File Report at 8.

35 IRS, Tax Counseling for the Elderly, <https://www.irs.gov/individuals/tax-counseling-for-the-elderly> (last visited Oct. 20, 2019); IRS Pub. 3676-B, IRS Certified Volunteers Providing Free Tax Help (Oct. 2015).

36 For example, one FFI software provider makes its services available to all ages, but the taxpayer must have AGI of less than \$34,000 or be eligible for the Earned Income Tax Credit. See Free File Software Offers, <https://apps.irs.gov/app/freeFile/jsp/index.jsp> (last visited Oct. 15, 2019); MITRE 2019 Free File Report at 8.

37 See Free File Software Offers, <https://apps.irs.gov/app/freeFile/jsp/index.jsp> (last visited Oct. 15, 2019); MITRE 2019 Free File Report at 8.

These age restrictions make it more difficult for elderly taxpayers to choose a preparation method suited to their needs and preferences and affects their *right to a fair and just tax system*.

Moreover, English as a Second Language (ESL) taxpayers face difficulty navigating and using Free File software. In the 2018 Free File MOU, the IRS chose making tax filing easier for underserved populations a key objective and even required members to provide a Spanish Free File indicator to show how many taxpayers took advantage of such services.<sup>38</sup> However, during Filing Season 2019, only one Free File option was available in a language other than English (Spanish), and the offer was not available to taxpayers over age 50.<sup>39</sup> A 2015 TAS study showed that because of language barriers and less education, Spanish-speaking taxpayers may be especially vulnerable to unscrupulous return preparers who promote high-interest loans and charge high fees.<sup>40</sup> Thus, there is a great need for the IRS to make available several options for free tax return preparation assistance that it has vetted for Spanish-speaking taxpayers, as well as other ESL taxpayers. Limitations in service can drive these taxpayers to costly paid preparer options.

The MOU limits the IRS's ability to provide free file services in exchange for FFI filling the void and providing those services to the majority of taxpayers (*i.e.*, 70 percent with emphasis on economically disadvantaged and underserved populations). However, the poor usage numbers indicate that the void still exists. Free File is a critical service to this group of vulnerable taxpayers, most of whose only contact with the IRS will be the filing of the return. Thus, the IRS should ensure that the MOU provides an easy, assessable free file platform for these taxpayers.

To achieve a discernible increase in Free File participation, the National Taxpayer Advocate recommends that before entering into a new agreement with FFI, the IRS conduct research studies, develop actionable goals, create measures evaluating taxpayer awareness and satisfaction, test each member's software, provide options for ESL taxpayers, and conduct more outreach.<sup>41</sup> Taking these steps before negotiating a new MOU will protect taxpayers' *rights to be informed, to quality service, and to a fair and just tax system*. However, if the Free File program cannot attain (1) a significantly higher usage rate (*e.g.*, ten percent of the 70 percent of taxpayers eligible to use the program) and (2) a retention rate of 75 percent of taxpayers who used Free File in the preceding year by filing season 2025, it is in the best interests of taxpayers to replace the program with an alternative approach to make the tax software available to taxpayers at no or low cost.<sup>42</sup>

### The IRS Does Not Conduct Routine Quality Testing of the Program Software

The IRS has not taken sufficient steps to evaluate the quality of the return preparation in the Free File program. To ensure program standards are being met, the 2018 Free File MOU emphasizes the “in-place

38 2018 Free File MOU at 5, 18; 2015 Free File MOU at 5, 16.

39 See IRS, Free File: Ofrece el Software en Español, <https://www.irs.gov/es/filing/free-file-ofrece-el-software-en-espanol> (last visited Oct. 12, 2019).

40 National Taxpayer Advocate 2015 Annual Report to Congress vol. 2, at 102 (Research Study: *Understanding the Hispanic Underserved Population*). TAS research has shown that only six percent of Hispanic taxpayers used a free tax preparation service by a trained volunteer, while 60 percent used a paid tax return preparer other than an attorney, CPA, or enrolled agent. *Id.*

41 See MITRE 2019 Free File Report at 79-88.

42 Among taxpayers who used Free File software in 2017, nearly half (47 percent) did not use Free File software again in 2018. IRS response to TAS fact check (Dec. 20, 2019).



review process” for the program rather than adding any new initiatives.<sup>43</sup> The “in-place review process” occurs once prior to filing season and once during filing season. This review is mainly to ensure the software providers’ technical compliance with the Free File MOU and does not evaluate the quality of the offerings from Free File software providers.<sup>44</sup> Thus, the National Taxpayer Advocate is concerned that merely reemphasizing the current limited reviews in the 2018 MOU will not adequately gauge the experiences of taxpayers using the program. The 2018 MOU does specifically assign the FFI members the responsibility to “provide the necessary support to accomplish a customer satisfaction survey.”<sup>45</sup> The National Taxpayer Advocate believes customer satisfaction surveys coupled with routine quality testing are necessary to provide effective oversight by enabling the IRS to evaluate whether the software programs are meeting the needs of taxpayers and accurately preparing returns. The IRS and FFI should work together to collect data through customer satisfaction surveys.

Conducting robust demographics analysis and satisfaction surveys, along with testing of taxpayer scenarios, would help the IRS determine why particular groups use or do not use the Free File offerings, which providers are offering inadequate services, and how it can improve its agreement with FFI to better meet the needs of taxpayers.<sup>46</sup> By neglecting to measure and evaluate the Free File program, the IRS is missing a valuable opportunity to fulfill its promises in the 2018 Free File MOU to make the program more taxpayer-friendly. The IRS should work with the National Taxpayer Advocate to develop meaningful measures and better oversight, including routine quality testing, to better ensure the offerings provided on Free File fulfill the *right to quality service*.

## CONCLUSION

The IRS’s Free File program in its current format has become an ineffective relic of early efforts to increase e-filing. Rather than being a beneficial program providing free return preparation services, it provides limited services and is used by only a small percentage of eligible taxpayers. To increase participation, the IRS must first understand why eligible taxpayers choose their particular method of return preparation, including fee-based options. Further, before the IRS negotiates another agreement with the FFI, it must set actionable goals that address issues currently faced by taxpayers and establish measures to assess whether those goals are being met. The IRS must monitor and perform quality testing of the products and present taxpayers with more information so they can make an informed choice about whether to use each product. When the services provided by FFI fail to meet the needs and preferences of taxpayers, particularly in underserved communities, it reflects poorly on the IRS and can further erode taxpayers’ trust in fair tax administration.

43 IRS News Release IR-2018-213, Free File Alliance Announce Changes to Improve Program; Improved Taxpayer Options Available for 2019 Free File Program (Nov. 2, 2018). <https://www.irs.gov/newsroom/irs-free-file-alliance-announce-changes-to-improve-program-improved-taxpayer-options-available-for-2019-free-file-program>.

44 These reviews accomplish the following: validate that the software has acquired the appropriate security and privacy certifications; test that a filer can easily prepare, file, print, download and save a tax return using the Free File software; ensure ancillary services/products, Refund Anticipation Checks and Refund Anticipation Loans are not being offered; ensure third party security and privacy certifications have been acquired to assure industry security and privacy standards and practices are being used; validate a guarantee of calculations is provided by each company. IRS response to TAS information request (Sept. 7, 2018). See also MITRE 2019 Free File Report at 55-58.

45 2018 Free File MOU at 19.

46 For example, the most recent Free File demographics report from 2015 does not show how many Spanish speaking taxpayers used its services. See Demographics of TY 2015 Traditional Free Filers, Free File Fillable Form Users, True Paper Filers, V-code Filers, and Form 1040 Series Filers, included in IRS response to TAS information request (Sept. 7, 2018).

## RECOMMENDATIONS

### Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Explicitly prohibit the use of special coding by FFI members to exclude Free File program software from organic searches on search engines.
2. Collaborate with the National Taxpayer Advocate and the FFI member companies to determine the best way to eliminate confusion between Free File program products and other non-program free software offered by FFI members.
3. Collaborate with the National Taxpayer Advocate as it responds to the recommendations made in the MITRE 2019 Free File Report.
4. Conduct research to determine why taxpayers eligible to use the Free File program, particularly economically disadvantaged and underserved populations, chose their method of return preparation, including fee-based methods.
5. Develop actionable goals for the Free File program before entering into a new agreement that, among other things, provide targeted use percentages aimed to substantially increase taxpayer usage and increase the percentage of taxpayers who continue to use the program from year to year.
6. Work with the National Taxpayer Advocate to create measures evaluating taxpayer satisfaction with the Free File program and test each return preparation software's ability to complete various forms, schedules, and deductions.
7. Conduct customer satisfaction surveys and routine quality testing of each Free File program software product to determine clarity of prompts, accuracy of preparation, ease of navigation, and coverage of forms and schedules.
8. Redesign the Free File Software Lookup Tool to better direct taxpayers to software providers that best meet their circumstances.
9. Provide more Free File program options for ESL taxpayers.
10. Prepare an advertising and outreach plan to make taxpayers, particularly in underserved communities, aware of the Free File program.



### Legislative Recommendations to Congress

The National Taxpayer Advocate recommends that Congress:

1. Mandate that the IRS, in consultation with the National Taxpayer Advocate, submit a report to Congress by June 30, 2020, summarizing the actions it has taken to address the recommendations made by the MITRE 2019 Free File report as well as recommendations made by the National Taxpayer Advocate herein to improve the Free File program by Filing Season 2021.<sup>47</sup>
2. Direct the IRS to set a goal of increasing the usage rate of the Free File program to significantly higher yet attainable level (*e.g.*, ten percent of the 70 percent of taxpayers eligible to use the program) and a goal of increasing the retention rate to 75 percent of taxpayers who used Free File in the preceding year and, if those goals are not attained by 2025, to replace Free File with an alternative approach to make tax software available to taxpayers at no or low-cost, including through the use of sole-source or multi-source contracts with tax software companies.<sup>48</sup>

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47 For more details on this legislative recommendation, see National Taxpayer Advocate 2020 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 19 (Direct the IRS to Set Goals of Substantially Increasing the Usage Rate and the Retention Rate of the Free File Program by Filing Season 2025 and to Replace Free File With An Alternative Approach If Those Goals Are Not Attained)*.

48 *Id.*