

MSP
#13**The IRS Has Failed to Make Free Return Preparation and Free
Electronic Filing Available to All Individual Taxpayers****RESPONSIBLE OFFICIALS**

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DEFINITION OF PROBLEM

Taxpayers today have an array of options for filing their returns, but not all taxpayers have the ability to prepare and e-file their returns for free. Low and middle-income taxpayers typically lack the knowledge and skills needed to prepare their own returns. Many cannot afford to pay for return preparation, and depend upon the free services of IRS employees at Taxpayer Assistance Centers (TACs), volunteers at Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) sites, and online products and services offered by the Free File Alliance (FFA).¹ In addition, many taxpayers who do have the skills to prepare their own returns do not qualify for or know about Free File, leaving them to pay for private-sector software products. Reliance on the private sector for return preparation creates vulnerabilities, including a lack of consistency among commercial products in incorporating recently enacted or infrequently applied tax provisions. Moreover, a recent TAS evaluation of the information provided by IRS telephone assistors revealed the IRS failed to provide VITA site accessibility information in 90 percent of the calls, and failed to provide language availability at VITA sites nearly 60 percent of the time.²

In 1998, Congress directed the IRS to develop a return-free tax filing alternative.³ Many other countries now use alternative tax systems (*e.g.*, “return free” and “pre-populated” return systems) to simplify tax administration.⁴ The rationale for doing so is compelling. These systems often require real-time information reporting, which provide greater accuracy, improved compliance, and reduced taxpayer burden.⁵ The Government Accountability Office (GAO) has estimated that by adopting a similar system, the IRS could free tens of millions of taxpayers from the requirement to prepare returns, saving taxpayers over 155 million hours of tax preparation time and hundreds of millions of dollars in

¹ The FFA is a group of private sector tax software companies that provide free tax software and e-filing under an agreement with the IRS.

² TAS, VITA Site Survey (April 2012).

³ Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206 title II, § 2004, Pub. L. No. 105-206 title II, 112 Stat. 726 (Jul. 22, 1998).

⁴ In 2006, the Organization for Economic Cooperation and Development (OECD) studied the following countries that use prepopulated returns: Denmark, Estonia, Finland, Iceland, Norway, Sweden, Chile, and Spain. See OECD, Forum on Tax Administration: Using Third Party Information Reports to Assist Taxpayers Meet their Return Filing Obligations—Country Experiences With the Use of Pre-Populated Returns 4-5, 13 (Mar. 2006).

⁵ See *id.*; see also General Accounting Office (GAO, now the Government Accountability Office), GAO/IGD-97-6, *Tax Administration: Alternative Filing System* 1, 4 (Oct. 1996).

return preparation fees.⁶ The IRS could use the tens of millions of dollars it now spends resolving problems on incorrectly prepared returns to increase return preparation assistance for underserved taxpayers.⁷ In 2010, TAC sites prepared electronic returns for only slightly more than one tenth of one percent of the eligible taxpayers, and less than half that number in 2012.⁸

The National Taxpayer Advocate is concerned about the way the IRS administers its return filing operations, specifically:

- The IRS has not developed a comprehensive plan that will give all taxpayers the option to prepare and e-file their returns for free;
- The IRS has not implemented the “Return-Free” tax system Congress directed it to develop in 1998.
- TACs increasingly turn away taxpayers seeking return preparation assistance, directing them to volunteers, commercial software, and paid preparers; and,
- The IRS relies on VITA for return preparation, but continues to give taxpayers inaccurate or incomplete information about site locations and provides the volunteer programs with tax software embedded with a costly commercial product.

ANALYSIS OF PROBLEM

Background

Basic principles of sound tax administration focus on improving taxpayer services and compliance.⁹ It is widely recognized that, in furtherance of these principles, the tax administrator bears the ultimate responsibility for providing free return preparation and electronic filing.¹⁰ However, as shown in Figure 1.13.1 below, U.S. taxpayers filed more than 136 million individual income tax returns during the 2012 filing season, through September 2012 (tax year 2011 returns), and over 75 million taxpayers (roughly 55 percent) used paid preparers.¹¹ If the IRS provided an electronic version of the paper Form 1040 on its website, and equipped it with computational capability, links to IRS publications, forms,

⁶ These figures are based on tax year 1992 data. Since then, millions more taxpayers have become eligible for certain refundable credits (e.g., Earned Income Tax Credit, Additional Child Tax Credit) and must file returns. See GAO, GAO/GGD-97-6, Tax Administration: *Alternative Filing System* 2, 4, 8, 11, 20 (Oct 1996).

⁷ *Id.* at 41-42 (Oct 1996).

⁸ TAS Research, Compliance Data Warehouse, ITRF_F1040 table, data (Drawn Oct. 17, 2012). See also, IRS, Field Assistance E-File Report (April 2012); National Taxpayer Advocate FY 2012 Objectives Report to Congress 44. For an in-depth discussion of TAC Operations, see Most Serious Problem: *The IRS Lacks a Servicewide Strategy That Identifies Effective and Efficient Means of Delivering Face-to-Face Taxpayer Services*, *infra/supra*.

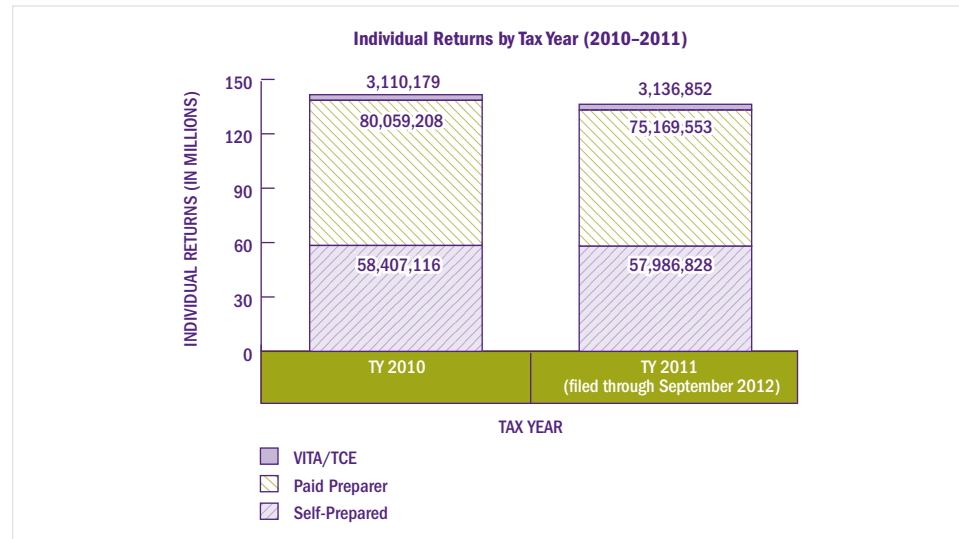
⁹ “A full-fledged and vastly expanded program of taxpayer assistance in the preparation of returns would drastically reduce audit requirements and in the long run be projective of substantially increased revenue.” See Jt. Comm. on Int. Rev. Tax’n, INVESTIGATION OF THE BUREAU OF INT. REV. 37 (Washington, DC: Gov’t Printing Office, 1948).

¹⁰ OECD, Forum on Tax Administration: Taxpayer Service Sub-group, *Survey of Trends and Development in the Use of Electronic Services for Taxpayer Service Delivery* 12 (Mar. 2010).

¹¹ TAS Research, Compliance Data Warehouse, ITRF_F1040 Table, data includes returns filed through September 2012, data drawn (Nov. 6, 2012). For tax year 2010, there were 80.1 million preparer-prepared returns, 58.4 self-prepared returns, and 3.1 million VITA/TCE-prepared returns, totaling 141.6 million returns.

instructions, and worksheets, all individual taxpayers could prepare and e-file their returns for free if they chose.

FIGURE 1.13.1, Breakdown of Individual Returns for Tax Years 2010 and 2011¹²



The IRS Has Not Developed a Comprehensive Plan to Enable All Taxpayers to Prepare and E-file their Returns for Free.

The IRS attempts to fulfill its responsibility with respect to tax preparation through a disjointed array of services and providers that has evolved over many years:

- IRS employees prepare returns for eligible taxpayers at TAC sites;¹³
- National and local partner organizations coordinate the annual training and IRS certification of thousands of dedicated VITA and TCE volunteers who prepare and e-file returns for eligible taxpayers throughout the United States;¹⁴ and
- IRS Free File provides a host of free tax products and services to eligible taxpayers under an agreement with the Free File Alliance.¹⁵

¹² TAS Research, Compliance Data Warehouse, ITRF_F1040 Table, data drawn (Nov. 6, 2012). During the 2012 filing season (tax year 2011), approximately 84 percent of individuals e-filed their returns and 16 percent filed paper returns. TAS Research, Compliance Data Warehouse, ITRF_Entity Table, data drawn (Nov. 6, 2012). Of the more than 3.5 million individuals who used the IRS's e-file with Free File Programs in 2012, 3.1 million taxpayers used IRS Free File, and 475,000 taxpayers used IRS Free Fillable Forms. IRS TAC sites transmitted slightly more than 100,000 returns. IRS, Field Assistance E-File Report (Nov. 2012). More than 21 million taxpayers filed paper returns, and roughly 62 percent of those taxpayers used tax preparation software but then mailed their returns instead of filing electronically (the IRS refers to these as V-Coded returns). TAS Research, Compliance Data Warehouse, ITRF_Entity Table, data drawn (Nov. 7, 2012).

¹³ IRM 21.3.4.10.2 (Apr. 18, 2012). GAO, GAO-08-38, Tax Administration, 2007 Filing Season Continues Trend of Improvement, but Opportunities to Reduce Costs and Increase Tax Compliance Should be Evaluated Highlights (Nov. 2007).

¹⁴ IRS response to TAS information request, item 5 (Jul. 19, 2012). In 2012, the IRS reported it had 63,222 VITA volunteers and 35,662 TCE volunteers.

¹⁵ IRS Free File, available at <http://www.irs.gov/uac/Free-File:-Do-Your-Federal-Taxes-for-Free> (last visited Nov. 8, 2012); IRS, Advancing E-File Study Phase 2 Report Executive Summary: An Examination of Options to Increase Electronic Filing of Individual Returns 14 (Dec. 15, 2010).

The Free File Program has two components: Free File and Free Fillable Forms. Free File provides free software and e-filing to eligible taxpayers with adjusted gross income (AGI) of up to \$57,000.¹⁶ While all taxpayers, including those with higher incomes, may use Free Fillable Forms to prepare and e-file their returns, gaps in the current e-file systems do not allow all individuals to e-file their returns for free. For example, neither Free File, Free Fillable Forms, nor IRS e-file now supports all forms and schedules in the Form 1040 series (1040, 1040-A, and 1040-EZ). Consequently, some taxpayers must print and mail their returns to the IRS.

While e-file now supports the most common federal forms, Free File companies are not required to and do not offer all IRS forms and schedules.¹⁷ To find forms and schedules not listed on the Free File website, the IRS directs taxpayers to the vendors' websites to find out if the forms are available. Free Fillable Forms now supports over 140 forms,¹⁸ but does not support prior year returns and is not available for e-filing year-round. For example, in 2012, taxpayers could e-file via Free Fillable Forms from January 17 through October 15. Those who e-filed on or before October 15 were allowed until October 19 to correct and resubmit a rejected return. Taxpayers filing after that date had to file paper returns.¹⁹ The IRS could bridge these gaps in services with a government-provided, electronic version of its Form 1040 with computational capability that supports e-filing for all 1040 series forms and schedules.

The National Taxpayer Advocate has previously addressed the significant limitations of IRS Free File. While Free File purports to offer free filing for up to 70 percent of individuals, vendors can and do impose additional eligibility criteria that vary from one vendor to another. This can make choosing a vendor confusing for taxpayers. Moreover, some products do not inform taxpayers that they are ineligible for free e-filing until after they

¹⁶ See <http://www.irs.gov/uac/Free-File%3A-Do-Your-Federal-Taxes-for-Free> (last visited Oct. 17, 2012).

¹⁷ For a list of forms supported by all Free File companies see, <http://www.irs.gov/uac/Free-File---Most-Commonly-Filed-Federal-Forms-are-Available> (last visited Oct. 16, 2012).

¹⁸ See <http://www.irs.gov/uac/List-of-Available-Free-File-Fillable-Forms> (last visited October 16, 2012).

¹⁹ In 2012, taxpayers could not e-file returns using Free Fillable Forms if they were required to file any unsupported forms and schedules (e.g., Form 8283, Noncash Charitable Contributions, when taxpayers must file Form 8283 with Form 1098C, *Contributions of Motor Vehicles, Boats, and Airplanes*; Forms W-2 or 1099 with a foreign address; and Schedule D, *Capital Gains and Losses with Expired or Worthless Securities*). Form 8839, *Qualified Adoption Expenses*, currently is not supported by Modernized e-File (MeF); Form 8453, *U.S. Individual Income Tax Transmittal for and IRS e-file Return* is a Legacy e-file system (ELF) form, which is not supported by MeF. Beginning with TY 2012 (filing season 2013), Free File Fillable Forms is expected to support Forms 1040 with a foreign address. See IRS response to TAS 7-day check for factual inaccuracies, Item 10 (Nov. 21 2012); Free File Fillable Forms FAQs & Limitations 1-2, 4 (April 6, 2012). See also IRS Free Fillable Forms and Limitations available at http://www.irs.gov/pub/irs-utl/2012_4f_faqs.pdf (last visited Oct. 16, 2012). See also IRS Report to Congress, *Progress on the Implementation of the Taxpayer Assistance Blueprint* 39 (Oct. 2009). The IRS plans to update its FAQs to reflect the most recent changes.

have completed the bulk of the return.²⁰ Finally, some private vendors have been unwilling to incorporate late-enacted tax provisions into their Free File product.²¹

A government-provided electronic Form 1040 could also be designed to make returns easier to prepare by allowing taxpayers to directly import third-party data.²² Taxpayers who feel they need professional help to prepare their returns could obtain it in much the same way taxpayers have done for years. Those who prefer to use the more sophisticated commercial software products, including those that link to bookkeeping, payroll, and accounting software, could continue to do so. The private sector could continue to receive fees for services and products such as consultation, training, sophisticated off-the-shelf commercial software, design of government-provided forms and services, and individualized advice on more complex returns.²³

In developing an electronic Form 1040, the IRS could collaborate with the private sector by soliciting bids or renegotiating its existing agreement with the Free File Alliance for a comprehensive Fillable Forms Utility. However, the IRS would need to set the terms of any agreement and control the content and detailed specifications of what an electronic 1040 must contain. The IRS also would need to ensure the specifications meet the needs of taxpayers, and should not be constrained by the existing Free File limitations. Contracting with an outside vendor would allow the IRS to benefit from the expertise of the private sector yet retain control over the products for future changes.

The IRS has Not Implemented the “Return-Free” Tax System Congress Directed it to Develop in 1998.

In a 1987 study, the IRS reported that a “tax agency reconciliation system” was not feasible because of the time it took to process and correct third-party data, but could become viable in the future once more payers filed their information returns electronically.²⁴ By 1996, the

²⁰ Some FFA companies do not offer free service to mature taxpayers (e.g., age 50+) or those under 19. Some impose a maximum AGI threshold of less than \$57,000 (the FFA limit for tax year 2012), and some have a minimum AGI threshold, as well. Others use military service as an eligibility criterion, and some products do not support state returns, while vendors whose products do support state returns often charge extra. See *Advancing E-File Study Phase 1 Report* 18, 27, 124-125 (Sept. 30, 2008).

²¹ TAS’s evaluation of 20 Free File Sites revealed that only seven sites supported the benefits available to Hurricane Katrina victims. As a result, taxpayers using sites that have not incorporated late-enacted tax provisions into their free file product may be unknowingly overpaying their taxes by not claiming the tax benefits Congress specifically created for them. See *Tax Return Preparation Options: Hearing before the S. Comm. on Finance, 108th Cong. 12-16* (2006) (Statement of Nina E. Olson, National Taxpayer Advocate).

²² For more information on obtaining and using tax data in time for the tax filing season, see Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights is Critical As the IRS Develops a Real-Time Tax System, infra/supra*; National Taxpayer Advocate 2011 Annual Report to Congress 288-290.

²³ *Advancing E-File Study Phase 1 Report* 18, 27, 124-125 (Sept. 30, 2008).

²⁴ GAO, GAO/GGD-97-6, *Tax Administration: Alternative Filing System* 1-3, 7, 8, 11, 13, 20, 41 (Oct 1996). Other countries use two alternative filing systems. In one, the “tax agency reconciliation system,” the taxing authority prepares (or populates) the returns with information for the taxpayers. In the other type, the “return free” filing system, the taxpayer’s income tax is withheld at the source and remitted to the taxing authority. It is also referred to as a “final withholding” filing system. Department of Treasury Report to Congress, *Return-Free Tax Systems: Tax Simplification Is a Prerequisite* 15 (Dec. 2003). For a discussion of electronic access to real-time transcript data and downloading third party data into an electronic return, see Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights is Critical As the IRS Develops a Real Time Tax System, infra/supra*. See also National Taxpayer Advocate 2004 Annual Report to Congress 471-477 (Key Legislative Recommendation: *Free Electronic Filing for All Taxpayers*); National Taxpayer Advocate 2009 Annual Report to Congress 338-345 (Key Legislative Recommendation: *Direct the Treasury Department to Develop a Plan to Reverse the “Pay Refunds First, Verify Eligibility Later” Approach to Tax Return Processing*).

GAO found at least 36 countries had adopted a “return free” tax system as an alternative approach to tax simplification.²⁵ GAO estimated that as many as 51 million U.S. taxpayers (or about 45 percent) of the 114 million filers in 1992 would not have had to prepare returns if the IRS had established a voluntary tax agency reconciliation system.²⁶ Taxpayers could have saved up to 155 million hours on tax preparation tasks and millions of dollars in return preparation fees,²⁷ while the IRS could have saved an estimated \$15.1 million from not having to work over 850,000 underreporting cases.²⁸ In 1998, Congress directed the IRS to develop procedures for a “return free” system for appropriate individuals by 2007. The legislation stated:

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary’s delegate shall develop procedures for the implementation of a return free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 for taxable years beginning after 2007.²⁹

The IRS is now five years overdue in complying with this statutory mandate.

The IRS should develop a secure, online portal (*i.e.*, electronic gateway) to a government-maintained database that would allow taxpayers to access information reported by third parties (*e.g.*, wages reported by employers on Forms W-2), as Congress directed it to do in 1998.³⁰ The legislation stated:

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary’s delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer’s account electronically, but only if all necessary safeguards to ensure the privacy of such information are in place.

This electronic access would greatly simplify return filing by allowing taxpayers to import third-party information directly into a government-provided electronic Form 1040 or tax

²⁵ GAO, GAO/GGD-97-6, *Tax Administration: Alternative Filing System 4* (Oct 1996); Department of Treasury Report to Congress, Return-Free Tax Systems: Tax Simplification Is a Prerequisite 7 (Dec. 2003).

²⁶ A voluntary tax agency reconciliation system is equivalent to a pre-populated return.

²⁷ GAO, GAO/GGD-97-6, *Tax Administration: Alternative Filing System 4* (Oct 1996); Department of Treasury Report to Congress, Return-Free Tax Systems: Tax Simplification Is a Prerequisite 7 (Dec. 2003).

²⁸ *Id.* at 2, 8, 20; Department of Treasury Report to Congress, Return-Free Tax Systems: Tax Simplification Is a Prerequisite 15 (Dec. 2003).

²⁹ RRA 98, Pub. L. No. 105-206 title II, §2004, Pub. L. No. 105-206 title II, 112 Stat. 726 (Jul 22, 1998). See also OECD Forum on Tax Administration Taxpayer Services Subgroup, Survey of Trends and Developments in the Use of Electronic Services For Taxpayer Service Delivery 107 (Mar. 2010). If the IRS implemented an alternative tax system, such as the one taxpayers currently use in Spain, for example, U.S. taxpayers could opt for a pre-populated return by simply ticking a box on a government-provided electronic version of the Form 1040.

³⁰ RRA 98, Pub. L. No. 105-206 title II, §2005, Pub. L. No. 105-206 title II, 112 Stat. 726 (Jul 22, 1998). National Taxpayer Advocate 2011 Annual Report to Congress 288-290. For a discussion of electronic access to real-time transcript data and downloading third party data into an electronic return, see Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights is Critical As the IRS Develops a Real-Time Tax System, infra/supra*. See also National Taxpayer Advocate 2004 Annual Report to Congress 471-477 (Key Legislative Recommendation: *Free Electronic Filing for All Taxpayers*).

preparation software of their choice. Many organizations (*e.g.*, employers and financial institutions) now allow taxpayers to import income information from their websites into commercial return preparation software. The government-provided form could also offer an additional safeguard against identity theft by limiting access to sensitive third-party information through a single, secure portal, rather than the multiple portals maintained by the third parties. This would limit taxpayers' exposure to a breach and reduce the risk of hackers stealing their personal information.³¹

Providing taxpayers with direct access to their data would also improve the accuracy of returns, freeing up increasingly scarce IRS resources for more return preparation assistance at TAC sites. It also would free up critical VITA and TCE resources for tax preparation in other areas, such as for low income small businesses and self-employed individuals.

TAC Sites Increasingly Turn Taxpayers Away, Directing them to Volunteers, Commercial Software, and Paid Preparers for Return Preparation Assistance.

Most Eligible Taxpayers Do Not Have Year-Round Access to Free Return Preparation Assistance at TAC Sites.

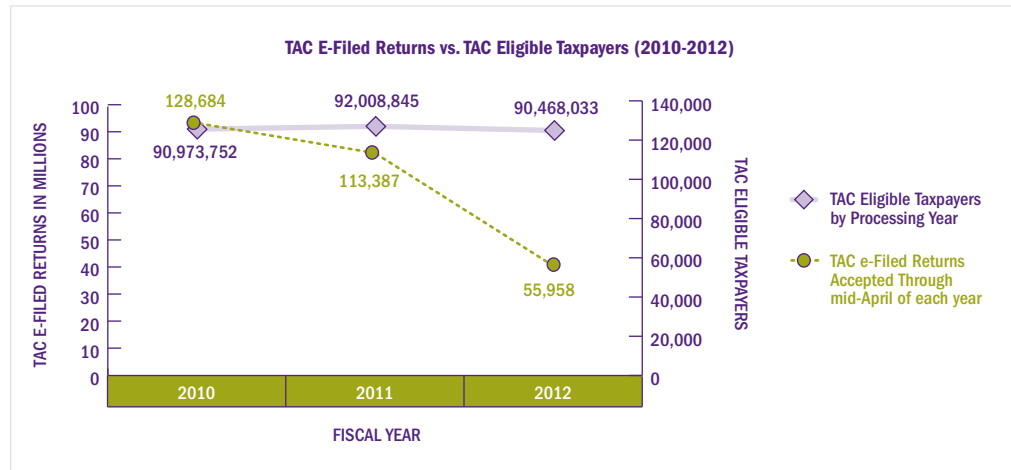
Free tax preparation help has never been more critical, yet because of limited IRS resources, only a small percentage of low-to-middle income taxpayers who need direct return preparation assistance now receive it from TACs. While the IRS provides year-round tax preparation services at these sites, where employees prepare current year returns as well as prior year amended returns for eligible taxpayers, the availability of these services is limited and declining due to budgetary constraints.³² Return preparation is limited to certain days, which the IRS determines on a "TAC-by-TAC" basis. And beginning with the 2012 filing season, TAC sites no longer schedule appointments for return preparation.³³

As shown in Figure 1.13.2, below, this reduction in direct services has nearly halved the number of e-filed returns accepted at TACs from approximately 129,000 in 2010 to less than 56,000 in 2012, even while the target population for services (*i.e.*, low income, elderly, disabled,) has remained steady, averaging 91 million in the 2010 through 2012 filing seasons (*i.e.*, tax years 2009 through 2011). In other words, TAC sites prepared electronic returns for slightly more than one tenth of one percent of the eligible taxpayers in 2010, and less than half that number in 2012.

³¹ For a discussion of online services, see Most Serious Problem: *The IRS is Striving to Meet Taxpayers' Increasing Demand for Online Services, Yet More Needs to be Done*, *infra/supra*.

³² SPEC FY 2012 Program Guide 1; IRS, Field Assistance, Taxpayer Assistance Centers (TAC) Services, 2012 Post Filing Season (Apr. 18, 2012). http://win.web.irs.gov/field/fadocs/TAC_Services_Post_Filing_Season_2012.pdf (last visited Aug. 8, 2012); See also, GAO-8-38, 2007, *Filing Season Continues Trend of Improvement, but Opportunities to Reduce Cost and Increase Compliance Should be Evaluated 27-28* (Nov. 2007).

³³ For an in-depth discussion of TAC operations, see Most Serious Problem: *The IRS Lacks a Servicewide Strategy that Identifies Effective and Efficient Means of Delivering Face-to-Face Taxpayer Services*, *infra/supra*. For an in-depth discussion of SPEC and Stakeholder Liaison, see Most Serious Problem: *The IRS is Substantially Reducing Both the Amount and Scope of its direct Education and Outreach to Taxpayers and Does Not Measure the Effectiveness of its Remaining Outreach Thereby Risking Increased Noncompliance*, *infra/supra*. For more information on obtaining and using tax data in time for the tax filing season, see Most Serious Problem: *The Preservation of Fundamental Taxpayer Rights is Critical As the IRS Develops a Real-Time Tax System*, *infra/supra*.

FIGURE 1.13.2, Trend Comparison of TAC E-Filed Return v. Eligible Taxpayers, 2010–2012³⁴

TAC sites increasingly are unable to meet the return filing needs of eligible taxpayers. Throughout the filing season, the IRS directs taxpayers with income of \$50,000 or less to VITA sites, and taxpayers age 60 or older to TCE sites.³⁵ After the filing season, TAC employees direct taxpayers to a limited number of VITA and TCE sites that remain open throughout the year, which means that most eligible taxpayers do not have year-round access to free return preparation assistance. TAC employees also direct taxpayers to the Internet (*i.e.*, IRS Free File and IRS Free Fillable Forms) or commercial software, or encourage taxpayers to look for paid preparers.³⁶ Although there are many points for taxpayers to access services, the lack of clarity about which services are offered, and where and when, makes it difficult for many taxpayers to find the free services they need.

³⁴ TAS Research, Compliance Data Warehouse, IRTF_F1040 table, FY 2010–2012, data drawn (Nov. 2, 2012), and IRS, Field Assistance E-File Reports (April 2010–2012). The IRS defines TAC eligible taxpayers as individuals filing Form 1040 series returns with AGI of \$50,000 dollars or less. For an in-depth discussion of TAC Operations, see Most Serious Problem: *The IRS Lacks a Servicewide Strategy That Identifies Effective and Efficient Means of Delivering Face-to-Face Taxpayer Services*, *infra/supra*.

³⁵ IRM 21.3.4.10.2 (Apr. 18, 2012); IRM 22.30.1.5.1.1 (Oct. 1, 2011) available at http://win.web.irs.gov/field/fadocs/TAC_Services_Post_Filing_Season_2012.pdf (last visited July 25, 2012). VITA offers free return preparation and e-filing services to individuals with low-to-moderate income, seniors, Native Americans, individuals with disabilities, and those with limited proficiency in English. IRM 22.30.1.3.1 (Oct. 1, 2011). The IRS defines taxpayers as low to moderate income by reference to the threshold for claiming the Earned Income Tax Credit (*i.e.*, those with total income of \$50,000, or less). See IRM 21.3.4.10.2 (Apr. 18, 2012). TCE authorizes the IRS to distribute grants under a cooperative agreement with eligible organizations that provide no-cost tax assistance to elderly taxpayers age 60 or older. Section 163, Revenue Act of 1978, Public Law No. 95-600, 92 Stat. 2810 (Nov. 6, 1978). See also IRM 22.30.1.3.1.3 (Oct. 1, 2011). For an in-depth discussion of SPEC and Stakeholder Liaison, see Most Serious Problem: *The IRS is Substantially Reducing Both the Amount and Scope of its direct Education and Outreach to Taxpayers and Does Not Measure the Effectiveness of its Remaining Outreach Thereby Risking Increased Noncompliance*, *infra/supra*.

³⁶ IRM 21.3.4.10.2 (Apr. 18, 2012). See IRS, Field Assistance TAC Services, 2012 Post Filing Season (Apr. 18, 2012). See http://win.web.irs.gov/field/fadocs/TAC_Services_Post_Filing_Season_2012.pdf (last visited Sept. 14, 2012).

The IRS is Attempting to Reach More Eligible Taxpayers Using Facilitated Self Assistance.

In response to the increasing need for return preparation services, the IRS developed the Facilitated Self Assistance (FSA) model to reach more taxpayers and help them become self-sufficient by incorporating taxpayer education into return preparation. IRS employees at certain TAC sites, and certified VITA/TCE volunteers, help taxpayers prepare their own returns, serving as facilitators and answering questions. This enables assistors to work with multiple taxpayers simultaneously. Taxpayers benefit by learning to use a computer to prepare their returns, and receive free online access to tax software from the FFA vendors.³⁷

IRS research confirms that lack of access to computers and fast Internet connections is a significant barrier to taxpayers filing their own returns, and that an estimated 16 million more taxpayers would use FSA if the IRS made it more readily available.³⁸ To its credit, the IRS has worked closely with partners to identify the VITA and TCE sites best suited to the FSA model (e.g., colleges and universities with “tech-savvy” populations that fall within the income limits of the program), pinpointing its marketing effort on “self-sufficiency and learning about taxes.” In 2012, all 50 states had access to FSA software.³⁹ Although approximately 1,000 VITA/TCE sites applied for Site Identification Numbers (SIDN), only slightly more than 500 sites transmitted the more than 10,500 returns self-prepared in 2012.⁴⁰ Moreover, despite the reported success at these volunteer sites, the IRS has installed FSA capability at only 37 of its 401 TACs.⁴¹ The IRS should accelerate the deployment of FSA terminals to its TACs and encourage more VITA/TCE sites to take advantage of them. This would improve services at TAC sites and produce the same benefits the IRS and taxpayers are realizing at some VITA/TCE sites (i.e., the ability to help more taxpayers prepare returns, reduced wait times, access to free tax software, fast Internet connections, and help from experienced IRS employees).⁴²

Assisting Taxpayers who Seek Direct Return Preparation Assistance Should Be a Central Component of IRS Service Delivery.

Many taxpayers in the target population for TAC return preparation assistance (e.g., low income, elderly, disabled, and limited English proficiency) cannot wait long times to be served or be turned away. The IRS should adopt a policy that allows taxpayers to make

³⁷ IRS Free File, *Alternative Filing Methods (FAST and Alternative VITA/TCE Site Model)* 8 (Aug 3, 2011). As of October 30, 2012, FFA offers services to 22 states that have cooperative free file programs. It also offers services to seven states that do not have a state income tax. See IRS response to TAS 7-day check for factual inaccuracies, Item 10 (Nov. 21 2012).

³⁸ IRM 22.30.1.3.1.1.1 (Oct. 1, 2011); IRS Publication 4671, *VITA, Program Overview and Requirements* 3; SPEC, FY 2012 Program Guide 7. In FY 2012, the IRS expanded FSA capability to all 50 states. In FY 2011, taxpayers prepared more than 4,000 returns at over 100 sites. See IRS, Annual Report to Congress: *Progress on the Implementation of The Taxpayer Assistance Blueprint* 20-21 (Mar. 14, 2012). IRS Response to TAS Request for Information, Item 7 (Jul. 19, 2012).

³⁹ SPEC FY 2012 Program Guide 6.

⁴⁰ IRS response to TAS information request, item 7 (June 19, 2012). In 2011, approximately 400 sites applied for Site Identification Numbers (SIDN), with 106 sites reporting 4,200 self-prepared returns. In 2012, approximately 1,000 sites applied for SIDNs, with 504 sites filing 10,586 self-prepared returns.

⁴¹ GAO-12-176, *2011 Processing Gains, but Taxpayer Assistance Could Be Enhanced by More Self Service Tools* 18 (Dec. 2011).

⁴² IRS Publication 4907, *IRS Freefile Introduces Free Assisted Self-Service Tax Preparation* (Dec. 2010).

appointments and accepts walk-in customers for FSA or direct return preparation assistance. Terminals could be reserved and experienced employees could serve as “floaters,” attending to taxpayers as they arrive.⁴³

The National Taxpayer Advocate applauds the outstanding work of the many dedicated volunteers who serve each year preparing returns, but remains concerned about the IRS’s continuing shift away from assisting taxpayers who want direct IRS help. VITA sites are stretched to their limits and the IRS does not provide nearly enough support and oversight to its volunteer programs to ensure accuracy and confidentiality. Moreover, the IRS itself has imposed limitations on what volunteer programs can do. For example, the IRS directed VITA sites not to handle returns for taxpayers in the region where Hurricane Katrina struck, presumably because it believed the returns would be too complex for volunteers to prepare accurately.⁴⁴ Improving customer service, as well as enforcement, is essential to achieving a high rate of compliance. Assisting taxpayers who seek help computing their tax liabilities and preparing their returns should continue to be a central component of taxpayer service.

The IRS Relies on VITA for Return Preparation But Continues to Give Inaccurate or Incomplete Information About Site Locations, and Provides Tax Software Embedded with a Costly Commercial Product.

IRS Employees Have Provided Inaccurate or Incomplete Information About VITA Sites to Callers for Nearly a Decade.

The IRS’s growing reliance on volunteers allows it to serve more taxpayers with fewer employees.⁴⁵ However, the Treasury Inspector General for Tax Administration (TIGTA) has repeatedly addressed concerns about the way IRS telephone assistors provide VITA site information to taxpayers. TIGTA reported that assistors at 45 percent of IRS call sites tested provided inaccurate information⁴⁶ that did not always include accurate site locations, hours of operation, and services offered for 33 percent of VITA sites.⁴⁷ TAS’s own evaluation of the services provided by IRS assistors revealed that they continue to give taxpayers incomplete information about VITA. For example, the IRS did not provide information about site accessibility in nearly 90 percent of the calls, and did not provide language availability at VITA sites nearly 60 percent of the time.⁴⁸ This shows that the IRS is failing to

⁴³ For an in-depth discussion of TAC operations, see Most Serious Problem: *The IRS Lacks a Service-wide Strategy that Identifies Effective and Efficient Means of Delivering Face-to-Face Taxpayer Services*, *infra/supra*.

⁴⁴ *Tax Return Preparation Options: Hearing Before the S. Comm. on Finance*, 108th Cong. 5 (2006) (Statement of Nina E. Olson, National Taxpayer Advocate).

⁴⁵ SPEC FY 2012 Program Guide 3.

⁴⁶ TIGTA, Ref. No. 2006-40-004, *Significant Improvements Have Been Made in the Oversight of the Volunteer Income Tax Assistance Program, but Continued Effort Is Needed to Ensure the Accuracy of Services Provided* 3, 17, 22 (Nov. 2005).

⁴⁷ TIGTA Ref. No. 2006-40-125, *Oversight and Accuracy of Tax Returns Continue to Be Problems for the Volunteer Income Tax Assistance Program* 18, 21 (Aug. 31, 2006).

⁴⁸ TAS, VITA Site Survey (April 2012). TAS made 398 calls to the VITA Assistance Line from mid-March to mid-April, 2012. We recorded how long assistors took to answer calls, and whether they provided complete and accurate VITA site information (e.g., nearest site location, days and hours of operation, site accessibility information for taxpayers with disabilities, foreign language services for taxpayers with limited proficiency in English, etc.). The survey results are statistically valid for the timeframe sampled at a 95 percent confidence level, and a margin of error no greater than +/- 4.86 percent.

assist taxpayers by not giving them the information to determine whether services are actually available. The IRS also may not have all the current information about each VITA site. This failure is significant because the IRS is using VITA and TCE as the primary points of face-to-face return preparation.

Tax Software the IRS Provides to VITA/TCE Organizations Contains an Embedded Commercial Debit Card Product that Imposes Costly Fees.

The private sector plays an important role in tax administration, but there is a need for greater standardization and control over the content of commercial tax software for consistency, and to avoid potential conflicts of interest. In the 2011 filing season, almost all of the roughly 12,000 VITA and TCE sites offered debit cards to taxpayers with refunds.⁴⁹ Although the IRS claims that it does not endorse any one commercial product over another, the software it provides to VITA and TCE sites — CCH *TaxWise* — contains an embedded Western Union product that charges fees for using the debit cards used to issue refunds (*e.g.*, for ATM cash withdrawals) that are higher than the fees charged by some of its competitors.⁵⁰

The National Taxpayer Advocate raised this issue in her 2011 Annual Report to Congress. However, the IRS has not taken action to protect taxpayers. The incorporation of the Western Union Money Wise prepaid card in the *TaxWise* software the IRS provides to VITA and TEC sites free of charge creates an unfair advantage, and essentially represents an indirect endorsement of this product by the IRS. When the National Taxpayer Advocate first raised the issue, the IRS represented that the debit card feature had not been incorporated into the software at the time the IRS entered into the contract with CCH. The National Taxpayer Advocate urged the IRS to eliminate all references to the commercial product in the *TaxWise* software, but CCH has yet to remove the product. The *TaxWise* monthly activity report the IRS receives from CCH has revealed that over 4,000 taxpayers using VITA have purchased the product. The National Taxpayer Advocate, again, urges the IRS to avoid any appearance of a conflict of interest by renegotiating the contract agreement with CCH and demanding that CCH remove the Western Union product from *TaxWise*.⁵¹

⁴⁹ GAO-11-481, 2011, *Tax Filing: IRS Dealt with Challenges to Date but Needs Additional Authority to Verify Compliance* 31 (March 2011).

⁵⁰ See IRS response to TAS information request, Item 12 (June 19, 2012). The IRS does not require VITA/TEC sites to use the software it provides (*TaxWise*); however, it prohibits VITA/TCE grant recipients from using grant funds to purchase other commercial tax software. See also IRS response to TAS 7-day check for factual inaccuracies, Item 18 – Prepaid Card Comparison (Nov. 21 2012).

⁵¹ National Taxpayer Advocate 2011 Annual Report to Congress 405, 410, 413, 417-418. For a detailed discussion of the debit cards, see Most Serious Problem: *A Proactive Approach to Developing a Government-Issued Debit Card to Receive Tax Refunds Will Benefit Unbanked Taxpayers*, *infra/supra*.

CONCLUSION

The National Taxpayer Advocate preliminarily recommends that the IRS:

- Develop a government-provided electronic version of the Form 1040 that allows taxpayers to e-file all 1040 series forms and schedules, with computational capability and with links to forms, instructions, related worksheets, and publications.
- Develop a portal to a government-controlled database from which taxpayers can import third-party data.
- Allow taxpayers to make appointments for return preparation, and accommodate walk-in customers.
- Accelerate the deployment of FSA terminals to TACs, and encourage more VITA and TCE sites to use them.
- Reassess procedures for maintaining VITA site information and for ensuring assistors provide the information callers need to access services, and implement measures to improve accuracy.
- Renegotiate the contract with CCH to remove the Western Union debit card product from the TaxWise software, and solicit competitive bids for a debit card product.

IRS COMMENTS

The IRS supports the goal of ensuring no-cost filing alternatives for taxpayers in need of such services to meet their filing obligations. The IRS does this in many different ways. In a limited fashion, the IRS is able to provide these services directly in its Taxpayer Assistance Centers. The IRS has added Facilitated Self-Assistance to many TAC locations to further support taxpayers and is piloting Virtual Service Delivery. The IRS is able to support a greater number of taxpayers through its partnerships with VITA sites and TCE sites. To expand free self-return preparation access to the more than 16 million taxpayers who qualify for free tax preparation services, the IRS developed and implemented its FY 2013 Alternative Filing Strategy which includes a “*You Choose*” model where partners and taxpayers select between eight vendors to deliver free self tax preparation services at a virtual or physical location. The IRS continually evaluates these methods and emerging ideas for providing low-income taxpayers with no cost alternatives for meeting their tax return filing obligations.

TACs. Delivering excellent customer service is a priority of the IRS. The TACs are one of the vital resources available to taxpayers. TAC assistors provide a variety of services to taxpayers who visit the 397 TAC locations throughout the country. The TAC program provides face-to-face assistance to taxpayers who cannot resolve their problem over the telephone or through correspondence, need a document issued to them in a reasonable period of time, or prefer face-to-face contact. In FY 2012, this type of live assistance was provided to seven million taxpayers.

As noted above, the IRS is able to provide these free tax preparation services for a limited number of taxpayers directly in its TACs. Specifically, TAC sites prepare tax returns for walk-in clients several days per week throughout the year on a first-come, first-served basis. Appointments are available to taxpayers with special needs, such as those with disabilities, at the discretion of local TAC management, although return preparation is generally offered on a first-come, first-served basis each day until capacity is reached. The IRS has concluded that the scheduling of appointments for return preparation would reduce resources available to provide services to taxpayers who are awaiting other services that only the IRS can provide.

FSA. As also noted above, the IRS has added FSA to many TAC locations to further support taxpayers and is piloting VSD. FSA is a new approach that incorporates tax education into the tax preparation process. Certified volunteers assist taxpayers in preparing their own returns. Since the role of the volunteer is that of a teacher or facilitator, multiple taxpayers can be assisted simultaneously. In a limited resource environment, this model can provide expanded access to additional taxpayers at minimal cost to the IRS. For FY 2012, all 50 states will have access to software for an FSA site. The IRS has developed a partnership with the Department of Education to promote and provide outreach to an estimated four million college students, parents, and educators on FSA. Additionally, the IRS is collaborating with other federal agencies, the military, and educational and faith-based institutions to promote FSA. The targeted audience is for taxpayers that meet VITA requirements but cannot access a traditional site or do not need one-on-one assistance. This year, more than 210 employees have been trained on all aspects of FSA to ensure successful implementation. The additional trained staff allows IRS to provide more hands-on guidance to taxpayers and partners as they use the new tools at alternative filing sites. The IRS will continue to seek funding to expand FSAs to additional TACs.

VSD. During FY 2012, the IRS completed the VSD pilot in the TACs, and it was deemed successful serving almost 17,000 taxpayers through the end of September. The report showed that the vast majority (87 percent) of taxpayers using VSD reported that they received resolution for their main issue. An even larger number of respondents (91 percent) reported that they would be willing to use video assistance again during a future visit. The IRS will be expanding the VSD program in FY 2013. Planning is underway to deploy virtual service in six TACs and six partner sites for the 2013 filing season.

Referral to VITA/TCE. When TAC assistors are unavailable to prepare returns during the days offered and FSA or VSD do not meet sufficiently the needs of a taxpayer, TAC employees will educate that taxpayer on all other free filing options. These options include directing taxpayers to local IRS-sponsored VITA sites or TCE sites and to other available free electronic filing options (IRS Free File and IRS Free Fillable Forms) that could possibly reduce their time waiting for return preparation services in TACs. Many VITA and TCE sites receive grants from the IRS to prepare returns with the low-income, elderly, disabled, and those that speak limited English, with some open year-round.

The IRS has reassessed procedures for maintaining VITA site information and for ensuring assistors provide the information callers need to access services, and implement measures to improve accuracy. In 2012, the IRS released the *VITA locator* available on IRS.gov. This tool, which has been shared with IRS phone assistors, allows assistors and taxpayers to locate available VITA sites within the taxpayer's community. External VITA and TCE partners share data with the IRS concerning the availability of their sites during and after the filing season. This ensures that site information such as locations and hours of operation are timely updated on the IRS.gov VITA Site Locator, a new online tool that allows assistors and taxpayers to locate available VITA sites within the taxpayer community. The tool is updated twice per week to ensure that new information is recorded in a timely manner. Providing this information informs taxpayers regarding free tax preparation services available in their respective communities.

For many years, IRS has partnered and financially supported the development of VITA and TCE sites around the country to ensure that there are sufficient no cost tax preparation services. In these settings, the IRS trains volunteers who become certified to prepare taxpayer returns in face-to-face meetings using a standard intake sheet, interview and quality review process. Last year, VITA and TCE volunteers prepared returns with a 92 percent rate of accuracy. Recently, we have developed, through the expanded use of technology, Virtual VITA and TCE, which functions in the same manner except that modern technology is used to connect the volunteer and the taxpayer in lieu of an in person meeting. Technology typically includes broadband Internet, fax, and video conference. Although this may be more necessary in remote locations where it is difficult to find a traditional VITA/TCE site, the approach can also be expanded in urban settings to supplement traditional VITA/TCE assistance.

With respect to the Western Union debit card product from the TaxWise software, we do not endorse any commercial financial product offered by VITA/TCE partners. As we noted in last year's Annual Report, TaxWise did not include a debt card feature at the time the IRS entered into a software contract with this provider. The debit card feature will not be available for use during the TY 2012 filing season. The new 2014 contract will also include a prohibition on offering a debit card product in software purchased by the IRS.

Finally, and very importantly, the IRS has never denied service to any disaster area or directed volunteers to discontinue tax preparation services in a disaster area. The MSP incorrectly asserts that "IRS directed VITA sites not to handle returns for taxpayers in the region where Hurricane Katrina struck, presumably because it believed the returns would be too complex for volunteers to prepare accurately." The IRS firmly believes that VITA and TCE sites offered tax preparation service to Katrina victims and should and will continue to provide such services to any qualifying taxpayer within the scope of the VITA/TCE program, regardless of location.

Free File Alliance. The IRS provides Free File Fillable Forms (FFFF) through its public partnership with the Free File Alliance. The Free File program supports 70 percent of taxpayers using an income threshold to ensure that this goal is achieved. No member of the Free File Alliance is allowed to make its free offer available to more than 50 percent of this population to promote and ensure adequate market competition among the members of the Free File Alliance. The Free File Alliance ensures that there is at least one offer listed on IRS.gov for eligible taxpayers to file their return. There are no gaps in coverage for qualified taxpayers. Free File Fillable Forms, which is accessed from IRS.gov, represents an electronic version of the paper Form 1040. IRS publications and instructions are included with the FFFF program.

The IRS provides a government-provided electronic version of the Form 1040 through its public and private partnership with the Free File Alliance. IRS publications and instructions are included with the Free File Fillable Forms program. As currently developed, there is no cost to the federal government for software development and maintenance.

In 1998, Congress recommended in Public Law 105-206 that the IRS cooperate with and encourage the private sector by encouraging competition to increase electronic filing of such returns. In 2003, the Treasury Department issued *Report on Return Free Tax Systems: Tax Simplification is a Prerequisite* as requested under the 1998 statute. The report found “that moving to a return-free tax system without first simplifying the income tax code would require substantive changes in tax administration. Added burden would be placed on employers and other payers of income who would be required to accelerate reporting of W-2s and 1099s, and the IRS and SSA would have to speed up the processing and editing of these income reporting documents to avoid significant delays in refunds.”

In April 2007, the GAO published the report, *Taxpayer Services State Experiences Indicate IRS Would Face Challenges Developing an Internet Filing System with Net Benefits*. The study reported that states with direct state filing systems showed low usage.

The development, delivery, and support of software to a broad market is already in place in the private industry. In 2012, IRS reached a milestone of achieving the 80 percent e-file objective for 1040 returns through its strong partnership with private industry.

With respect to the concerns expressed regarding Free File, taxpayers give Free File high customer satisfaction ratings. According to a 2009 survey by Russell Research, 95 percent of taxpayers using Free File intended to use the program the following year. Ninety-eight percent would recommend Free File to others, and 96 percent would recommend Free File Fillable Forms to others. Also, according to Russell Customer Satisfaction survey, 97 percent of those surveyed found the process of selecting a free file company either Very Easy or Somewhat Easy. In 2012, IRS took additional steps to simplify the offers by making the information easier to understand. Additionally, taxpayers may find the company that works best for them by selecting the IRS created interactive tool, *Help me choose a*

company at www.irs.gov/freefile. By answering a few simple questions, the application narrows the number of companies available to meet that taxpayer's needs.

In addition, there are a number of examples where the Free File Alliance has stepped up to meet urgent requests of IRS and the needs of the American taxpayer as a result of late-passed congressional tax legislation.

1. In 2008, taxpayers who normally did not have to file a tax return could use Free File to receive their 2008 Economic Stimulus Payment. Many Free File companies updated their software in time to offer free taxpayer assistance for claiming their \$300 (individuals) or \$600 (married couples) Economic Stimulus Payment.
2. Under the Mortgage Forgiveness Debt Relief Act of 2007, enacted December 20, 2007, taxpayers could exclude debt forgiven on their principal residence by filing Form 982. Many of the Free File companies updated their programs based on late legislation to allow taxpayers to e-file Form 982 for free. Free File added this capability and met IRS needs to start e-filing Form 982 returns as soon as IRS started accepting them in March of 2008.
3. In 2011, late tax law changes resulted in the IRS needing extra time to update its systems as a result of the December 17, 2010 enactment of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010. This Act extended a number of expiring provisions, including state and local sales tax, higher education tuition and educator expenses deductions. As a result, the IRS could not start accepting Form 1040 *Schedule A, Itemized Deductions*; Form 8917, *Tuition and Fees Deduction*; and the Education Expense deduction on Form 1040 (line 23) until February 14, 2011. To minimize taxpayer burden, the Free File Alliance updated software at the start of the filing season to allow taxpayers to prepare their returns. These companies stored the returns and began submitting them after February 14, 2011, the date that the IRS could accept the denoted forms and fully process the returns.

We are appreciative of these kinds of benefits that are created through the synergies of our well-established public-private partnership with the Free File Alliance at the same time that we are able to make available a free filing option to 70 percent of all taxpayers required to file federal tax returns.

Taxpayer Advocate Service Comments

The National Taxpayer Advocate is pleased that the IRS recognizes the need for no-cost filing alternatives to improve voluntary filing compliance, and that TAC sites should make it a priority to deliver excellent customer service. We agree that the TACs play a vital role helping the low and middle-income taxpayers who prefer to visit the IRS in person to satisfy their filing obligations. We commend the IRS for the inroads it is making in using Facilitated Self-Assistance to encourage and assist taxpayers who seek to become more self-reliant, by integrating tax education with return preparation assistance. We are encouraged by the Virtual Service Delivery pilot program and commend the IRS for making the software accessible in all 50 states in FY 2012. We also hope to see the IRS realize VSD's full potential in bridging the geographical divide that now prevents taxpayers in outlying rural areas from accessing the free services they need, by using it to increase direct return preparation assistance at TACs and volunteer sites in 2013.

However, the National Taxpayer Advocate is disappointed that the IRS has concluded it cannot afford to schedule appointments at the TACs for taxpayers who ask the IRS for help in preparing their returns. The IRS says it has chosen to serve only a limited number of taxpayers because to do otherwise would reduce the resources available for taxpayers who need "other" services that "only the IRS can provide." The implication here seems to be that delinquent taxpayers with balance due accounts and taxpayers who have not filed delinquent returns are more important than those who are trying to remain compliant. We understand the IRS is struggling to reach as many taxpayers as it can, with limited resources, and that "in extreme or emergency circumstances, Group Managers will have the discretion to authorize the preparation of returns."⁵² However, we believe this approach is shortsighted and counterproductive, and that a better approach would be to allocate more resources to helping compliant taxpayers prepare their returns, by providing appointments for those who request them, and by offering return preparation to walk-in taxpayers. Improving both customer service and enforcement is essential to achieving a high rate of compliance. We continue to believe that assisting taxpayers who seek help computing their tax liabilities and preparing their returns should be a central component of taxpayer service and that the IRS needs to do more to satisfy the needs of these taxpayers.

The IRS contends that it has reassessed the procedures for maintaining VITA site information, and for ensuring that its telephone assistors provide callers the information they need to access VITA services. The National Taxpayer Advocate is pleased that the IRS has installed a new online locator tool (which the IRS indicates is updated twice weekly) that allows taxpayers and assistors to find VITA sites in their communities, and that VITA and TCE volunteers prepared returns with a 92 percent accuracy rate during the 2012

⁵² FY 2012 Return Preparation in Taxpayer Assistance Centers (TACs), Field Assistance 6 (Jan. 23, 2012).

filing season.⁵³ However, we remain concerned that the IRS has elected not to address the findings from TAS's own evaluation of the services provided by telephone assistors, which revealed that in 2012 assistors failed to provide site accessibility information in 90 percent of the calls, and failed to provide language availability at VITA sites nearly 60 percent of the time.⁵⁴ We believe that while updating the locator on the IRS website is critical, it is not enough. Assistors responding to callers must convey the site information as well and, therefore, it seems clear they are not using the new locator tool correctly. The IRS should make it a requirement to use the locator, and should perform quality reviews, including checking the contact recordings, to make certain assistors are providing complete and correct information. The IRS has not addressed this failure in its response.

The National Taxpayer Advocate is pleased that the IRS plans to adopt the recommendation we made in the 2011 Annual Report to remove the Western Union debit card product from its TaxWise software. We applaud the IRS for this step and look forward to reviewing the TY 2012 software and 2014 licensing agreement.

The IRS asserts that it has never denied service to any disaster area or directed volunteers to discontinue tax preparation services in a disaster area, and that it "...firmly believes that VITA and TCE sites offered tax preparation service to Katrina victims and should and will continue to provide such services to any qualifying taxpayer within the scope of the VITA/TCE program, regardless of location." As we have reported, when the National Taxpayer Advocate testified before Congress, in April of 2006, she stated "The IRS must remain open for business to taxpayers who seek assistance from the government in preparing their returns," noting, "...the IRS directed VITA sites not to prepare returns in the zone where Hurricane Katrina struck, presumably because it believed the returns would be too complex for volunteers to prepare accurately." In late 2005, the IRS reported that it had contemplated working casualty losses at its volunteer sites, but the complexity of the law in this area posed a significant risk to the quality of services that volunteer preparers could provide, and that they would not complete these returns (*i.e.*, "Casualty losses are out of scope for the entire VITA program.").⁵⁵

The IRS contends that it provides an electronic version of Form 1040 through its agreement with the Free File Alliance (*i.e.* Free File and Free Fillable Forms), and that there are no gaps in this delivery system for "qualified" taxpayers. However, we believe the existing system needs improvement. It does not support electronic filing for all forms and schedules in the 1040 series, does not leverage the computational capability of today's computers,

⁵³ TIGTA, Ref. No. 2012-40-088. *Ensuring the Quality Review Process Is Consistently Followed Remains a Problem for the Volunteer Program: Highlights 1* (July 27, 2012).

⁵⁴ TAS, VITA Site Survey (April 2012).

⁵⁵ *Tax Return Preparation Options: Hearing Before the S. Comm. on Finance, 108th Cong. 5* (2006) (Statement of Nina E. Olson, National Taxpayer Advocate); Hurricane Katrina National Partner Conference Call, Speaker Notes 4 (Nov. 29, 2005); SPEC Nationwide Hurricane Katrina Conference Call, Minutes 3 (Oct. 26, 2005); Alert: AM IMF/BMF 07057, Scheduling pro-bono assistance for taxpayers affected by Hurricanes Katrina, Rita and Wilma (Nov. 22, 2007). The IRS reported that it would no longer be taking referrals for scheduling *pro bono* assistance due to Hurricanes Katrina, Rita, and Wilma, noting that all VITA sites have closed with the passing of the October 16 extension deadline. CARE no longer has the ability to refer these requests to the practitioner community. "If taxpayers or their representatives request assistance, please advise them this assistance is no longer available."

with fillable worksheets that could transfer computations to the fillable forms, and is not currently available to 100 percent of U.S. taxpayers. As we explained in the report, and as the National Taxpayer Advocate stated in her 2006 testimony, the government should make it possible for *all* taxpayers — not just “qualified” taxpayers — to file their returns electronically without having to pay a fee.⁵⁶ If the IRS developed a government-provided electronic version of the Form 1040 — that would allow taxpayers to e-file any of the 1040 series forms and schedules, with computational capability and with links to forms, instructions, worksheets, and publications — all individual taxpayers could prepare and e-file their returns for free.

Finally, the IRS asserts that, in 1998, Congress recommended that it cooperate with the private sector, and encourage competition to increase electronic filing, and that moving to a return free tax system without first simplifying the tax code would require substantive changes in tax administration. However, the National Taxpayer Advocate would point out that, at the same time, in the same law, Congress required the IRS to develop a return free tax system. Moreover, given that we are now discussing the need for accelerated, real-time, tax information for fraud prevention, as well as for improved accuracy, the National Taxpayer Advocate believes the IRS has presented a feeble, archaic, response, one grounded in 20th Century tax administration and technology.

Recommendations

In conclusion, the National Taxpayer Advocate recommends that the IRS:

1. Develop a government-provided electronic version of the Form 1040 that allows taxpayers to e-file all 1040 series forms and schedules, with computational capability and with links to forms, instructions, related worksheets, and publications.
2. Develop a portal to a government-controlled database from which taxpayers can import third-party data.
3. Allow taxpayers to make appointments for return preparation at TACs, and accommodate walk-in customers.
4. Accelerate the deployment of FSA terminals to TACs, and encourage more VITA and TCE sites to use them.
5. Continually reassess procedures for maintaining VITA site information and ensuring that telephone assistors provide the information callers need to access services, and implement measures to improve accuracy, including requiring IRS phone assistors to use the VITA Site Locator and monitoring accuracy through quality review and contact recording.

⁵⁶ *Tax Return Preparation Options: Hearing Before the S. Comm. on Finance, 108th Cong. 2 (2006)* (Statement of Nina E. Olson, National Taxpayer Advocate).