

**Area of
Focus #5**

The IRS's Heavy Reliance on the Online Account Benefits Taxpayers Who Can Access the Application and Prefer Digital Interaction, But It Burdens Taxpayers Who Need or Prefer More Personalized Service

TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Pay No More Than the Correct Amount of Tax*
- *The Right to Confidentiality*

DISCUSSION

For years, the National Taxpayer Advocate has recommended that the IRS develop an online account application.² An online account application benefits those taxpayers who are able to access the digital system and who have the background, knowledge, experience, and preference to navigate through various complex transactions online. For that limited taxpayer population, the online account, in its current state and planned future releases, provides a convenient method to look up tax information, such as balance due, refund status, and case updates.

The IRS has developed some useful tools for taxpayers on the online account. However, we continue to have the following concerns.³

- While the first phase of the online taxpayer account provides balance due information, it does not provide guidance to taxpayers about how to resolve a dispute of the balance due amount provided;
- The IRS should initially limit third party access to the online account to those practitioners subject to Circular 230 oversight, with a goal of ultimately expanding access to unenrolled preparers who obtain a record of completion from the Annual Filing Season Program (AFSP) once the voluntary program requirements are strengthened;
- Approximately 33 million U.S. taxpayers have no broadband access at all, making it difficult for these individuals to access large files or conduct complex transactions on the online account;⁴ and

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

2 See, e.g., National Taxpayer Advocate 2013 Annual Report to Congress vol. 2, 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*).

3 In the 2016 Annual Report to Congress, the National Taxpayer Advocate raised concerns about the IRS "Future State" strategy's heavy reliance on service delivery through the online account. National Taxpayer Advocate 2016 Annual Report to Congress 1-41 (Special Focus: *IRS Future State: The National Taxpayer Advocate's Vision for a Taxpayer-Centric 21st Century Tax Administration*); National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences Is Critical As the IRS Develops an Online Taxpayer Account System*).

4 See National Taxpayer Advocate 2016 Annual Report to Congress vol. 2, 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*). The TAS survey research also found that such vulnerable groups as low income, seniors, and taxpayers with disabilities are less likely to have broadband access at home.

- If only approximately 30 percent of individuals satisfy the crucial e-authentication requirements, a significant portion of the individual taxpayer population is prevented from accessing the online account program.

Most importantly, the IRS “Future State” strategy fails to acknowledge that taxpayers need, not just prefer, to engage in a conversation with the IRS at many points in their transactions to understand how the complex rules and procedures apply to their particular facts and circumstances. Likewise, the IRS needs to talk with taxpayers to understand their unique situations. While the online account application is a good information retrieval tool, it is not a substitute for personalized service where an IRS employee actually takes the time to hear an explanation of the taxpayer’s unique facts and circumstances, and either explains the complex rules and procedures to the taxpayer or makes the appropriate adjustments to the taxpayer’s account. Accordingly, depriving taxpayers of adequate personalized service options jeopardizes many taxpayer rights, but most importantly the taxpayer’s *right to challenge the IRS’s position and be heard*.

Background

The IRS launched the first release of the online taxpayer account on November 16, 2016, and announced the launch to the public on December 1, 2016.⁵ Only individual taxpayers can create an account during the initial release, and they access the online account through the payments tab of the IRS official website. Once individual taxpayers pass the multi-factor e-authentication standards, they can view their current account balance, if applicable, and up to 18 months of payment history. They can also select payment options such as IRS Direct Pay, debit or credit card payments, or an application for an installment agreement.⁶ The IRS recently added the ability to access the IRS Get Transcript application through the online account, so taxpayers can obtain a transcript without logging in again to a separate application.⁷ Finally, by the end of 2017, the IRS tentatively plans to add more payment features as well as a fully-integrated transcript with search capabilities.⁸

TAS Continues to Work With the IRS As It Implements the Online Account for Individual Access

The first phase of the online account is very basic. It provides taxpayers with an account balance, 18 months of payment history, and three payment options.⁹ Taxpayers who have the ability to access the program may not necessarily be able to use it to resolve their particular need or issue. Others may become even more confused.

For example, consider a taxpayer who accesses the account landing page only to find a balance that seems substantially more than expected. The taxpayer will not want to merely choose one of the payment options. In the current phase of the application, the taxpayer would be forced to seek more personal assistance, such as in a walk-in center or by telephone. The National Taxpayer Advocate has suggested that the IRS provide a button indicating “I don’t think I owe this amount.” Once the taxpayer clicks on that button, the site should provide information on different options available to dispute the balance,

5 IRS News Release 2016-155, *IRS Launches New Online Tool to Assist Taxpayers with Basic Account Information* (Dec. 1, 2016).

6 IRS, *View Your Account Balance and Payment History*, <https://www.irs.gov/uac/view-your-tax-account> (last visited May 8, 2017).

7 IRS, *View Your Tax Account Information*, <https://www.irs.gov/uac/view-your-tax-account>; Luca Gattoni-Celli, *IRS Adds Get Transcript to Online Taxpayer Accounts*, *Tax Notes Today* (May 11, 2017).

8 Wage and Investment (W&I) response to TAS information request (Sept. 1, 2016); Services and Enforcement (S&E) ESC, *Online Account Status Briefing 5* (Nov. 17, 2016); IRS 10-day response to MSP fact check (Dec. 20, 2016).

9 The online account can be accessed from the following IRS payments page: <https://www.irs.gov/payments/finding-out-how-much-you-owe> (last visited Nov. 27, 2016).

including return amendment, audit reconsideration, refund claims, penalty abatement, innocent spouse, injured spouse, identity theft, return preparer fraud, and doubt as to liability for offer in compromise. As of the date of printing, the IRS is conducting usability testing on different ways to convey these options to the account user.¹⁰ In addition, the National Taxpayer Advocate has encouraged the IRS to increase the 18-month payment history to at least 24 months to provide useful information for refund claims.¹¹

Restricting Third Party Access of the Online Account to Circular 230 Practitioners Is a Crucial Taxpayer Protection Measure the IRS Must Take From Inception of the Application

In previous annual reports, the National Taxpayer Advocate raised concerns regarding preparer access to the online account. Specifically, we are concerned that the IRS will expose taxpayers to potential harm due to preparer incompetence or misconduct if it does not restrict access to only those preparers subject to IRS oversight pursuant to Circular 230.¹² Once it strengthens the testing requirements in the AFSP, the IRS should expand access to those preparers who obtain the AFSP record of completion.¹³ When the National Taxpayer Advocate raised this recommended restriction on preparer access during the dozen National Taxpayer Advocate Public Forums held around the country, the proposal received overwhelming support.¹⁴

The IRS Office of Online Services (OLS) is currently planning the parameters and features of the online account for third party access. The Product Management division of OLS has committed to share the prototype with TAS in various stages of development and consider our comments and suggestions for improvement.¹⁵ It also plans to test a prototype of a third party account at the 2017 IRS Nationwide Tax Forums. We urge the IRS to proceed cautiously in testing this prototype at the Tax Forums, because such testing might unnecessarily raise expectations with the unenrolled preparer population. It is ill-advised to request this group to user test the prototype only to subsequently bar access.

Taxpayers Without Broadband Access Will Not Be Able to Use the Online Account

While the online account will benefit many taxpayers, there is still a significant population that cannot access the account. TAS survey research has shown that approximately 33 million U.S. taxpayers have no broadband access at all. Taxpayers with internet service connections slower than broadband will likely

10 MediaBarn, *IRS Online Account – Research Findings, Test Periods: February & March* (Mar. 28, 2017).

11 National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences Is Critical As the IRS Develops an Online Taxpayer Account System*). Under IRC § 6511(a), a taxpayer must file a claim for credit or refund of an overpayment within: 1) three years from the time the return was filed, or 2) two years from the time the tax was paid, whichever is later. If no return was ever filed by the taxpayer then the claim must be filed within two years of payment of the tax.

12 31 U.S.C. § 10.3.

13 The National Taxpayer Advocate supports providing access to certain preparers, but only if they have satisfied robust minimum competency standards, which include a one-time “entrance” examination to test basic competency in return preparation and continuing education courses to ensure preparers keep up to date with the many frequent tax-law changes. The current voluntary Annual Filing Season Program does not satisfy this threshold. For a detailed description of these recommendations, see National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences is Critical as the IRS Develops an Online Taxpayer Account System*); National Taxpayer Advocate 2015 Annual Report to Congress 64-70 (Most Serious Problem: *Preparer Access to Online Accounts: Granting Uncredentialed Preparers Access to an Online Taxpayer Account System Could Create Security Risks and Harm Taxpayers*).

14 For details on the National Taxpayer Advocate Public Forums on Taxpayer Service Needs and Preferences, including submitted written statements from panelists as well as full transcripts of the forums, see <https://taxpayeradvocate.irs.gov/public-forums> (last visited Mar. 30, 2017).

15 Meeting with IRS Office of Online Services (Mar. 28, 2017).

experience delays when attempting to access large files or complex web pages. In addition, 14 million U.S. taxpayers have no internet access at all.¹⁶

Crucial e-Authentication Requirements Impose a Barrier to Entry for a Significant Population

In the 2016 annual report, we raised concerns about the IRS's reliance on the online account for service delivery even though a substantial portion of those who attempt to create accounts cannot satisfy the necessary strict e-authentication requirements.¹⁷ Immediately after the IRS established its current online account in Fall 2016 with three-factor security authentication, only about 30 percent of the taxpayers who attempted to create an online account were able to do so.¹⁸ Further, as of May 20, 2017, of the approximately 1.6 million account registration attempts since the application launched, only about 21 percent (334,328) were successful.¹⁹ Thus, while it is absolutely essential to protect the integrity of taxpayer data, e-authentication creates a barrier to access. The IRS recognizes that providing this security has implications for how many taxpayers will be able to access their accounts electronically; however, it has failed to acknowledge that these security protections mean that many will need to contact the IRS by telephone or in taxpayer assistance centers (TACs).

While the online account application is a good information retrieval tool, it is not a substitute for personalized service where an IRS employee actually takes the time to hear an explanation of the taxpayer's unique facts and circumstances, and either explains the complex rules and procedures to the taxpayer or makes the appropriate adjustments to the taxpayer's account.

TAS will be able to assess how e-authentication impacts taxpayers firsthand during 2017. Beginning in April 2017, TAS began conducting a pilot of the Taxpayer Digital Communication (TDC) Secure Messaging system. TDC uses the same e-authentication requirements as the online account, also known as Secure Access. TAS is conducting the pilot in the following four offices: Dallas, Nashville, New Orleans and Cleveland. The pilot will only include unrepresented taxpayers involved in Earned Income Tax Credit (EITC) or levy cases. TDC enables TAS to send and receive electronic webmail, along with certain digital documents, to and from taxpayers through a secure portal. Taxpayers will be able to communicate within the system using computers, smartphones, or tablets. Once inside the secure portal, taxpayers will be able to respond to their assigned case advocate and upload scanned or photographed documents. This pilot is expected to run through September 2017, with the possibility for an extension of up to a year. TAS will gather data about every step of the process, including the e-authentication process and ease and frequency of system use. We expect this data to assist us in better understanding

16 See National Taxpayer Advocate 2016 Annual Report to Congress vol. 2, 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*). The TAS survey research also found that such vulnerable groups as low income, seniors and taxpayers with disabilities are less likely to have broadband access at home. See also Aaron Smith, Pew Research Center, *Record Shares of Americans Now Own Smartphones, Have Home Broadband* (Jan. 12, 2017).

17 National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences Is Critical As the IRS Develops an Online Taxpayer Account System*).

18 IRS response to TAS fact check (Dec. 20, 2016) (providing data through Dec. 18, 2016). The IRS declined to provide us with an updated official Secure Access pass rate and has said it will no longer make the rate available. Email from IRS Identity Assurance Executive to National Taxpayer Advocate (Mar. 4, 2017).

19 IRS, Wage and Investment Division, Joint Operations Center (JOC), *Online Account External Launch Weekly Report* (week ending May 20, 2017). The registration rate increased to 27 percent by May 20, 2017.

the ability of taxpayers to participate in the IRS online applications with Secure Access e-authentication requirements.²⁰

FOCUS FOR FISCAL YEAR 2018

In Fiscal Year 2018, TAS will:

- Finalize the administration of and report on the final survey results on *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service* to determine the particular usefulness of channels for various types of activities, as reported by the taxpayers;²¹
- Work with OLS as it designs and implements future releases of the online account to ensure that the program addresses taxpayer needs and preferences, especially those expressed at the 2016 National Taxpayer Advocate Public Forums and the TAS focus groups held at the 2016 IRS Nationwide Tax Forums, and identified in our 2016 interim survey report and upcoming 2017 survey results on *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service*;
- Participate in user tests of prototypes for future releases of the online account to ensure that the program is clearly presented and written in plain language, and addresses suggestions provided in previous user tests;
- Advocate for low income and other vulnerable populations who have low broadband rates, taxpayers who cannot pass the strict e-authentication requirements, and other taxpayers who need or prefer personal interaction, by working with the IRS to ensure it maintains meaningful and high-quality service options for these populations;
- Work with the IRS to restrict preparer access to taxpayers' online accounts to those who are regulated by Circular 230, with the ultimate goal of expanding access to record of completion holders of the voluntary AFSP once the testing component is strengthened; and
- Assess the impact of the TAS TDC pilot to determine the impact of the Secure Access e-authentication requirements on taxpayers attempting to participate in the pilot.

20 Small Business/Self-Employed (SB/SE) Exam launched a pilot of TDC in December 2016, allowing select taxpayers to correspond digitally with Exam regarding their audits. The pilot involved between 4,000 and 5,000 taxpayers selected for audits of itemized deductions. IRS SERP Alert 17A0048, *Secure Messaging Pilot for SBSE Correspondence Exam (TDC)* (Feb. 6, 2017); IRS SERP Alert 16A0336, *Secure Messaging Pilot for SBSE Correspondence Exam (TDC)* (Dec. 20, 2016); Luca Gattoni-Celli, *IRS Plans to Launch Secure Messaging Pilots for Exams*, TAS, TAX NOTES TODAY (Feb. 2, 2017).

21 For a report on the interim results of the survey through November 16, 2016, see National Taxpayer Advocate 2016 Annual Report to Congress vol. 2, 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*); see also TAS Research Initiatives, *infra*.