

**MSP  
#16****MATH ERROR NOTICES: The IRS Does Not Clearly Explain Math Error Adjustments, Making It Difficult for Taxpayers to Understand and Exercise Their Rights****RESPONSIBLE OFFICIALS**

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**DEFINITION OF PROBLEM**

Under Internal Revenue Code (IRC) § 6213(b) and (g), the IRS is authorized, in specific instances, to assess tax without first issuing the statutory notice of deficiency (SNOD) that allows taxpayers access to the prepayment forum of the U.S. Tax Court. Previously this provision applied only to mathematical errors (*e.g.*,  $2 + 2 = 5$ ).<sup>1</sup> In 1976, acting on a request made by the IRS, Congress expanded math errors to include “clerical errors” (*e.g.*, inconsistent entries).<sup>2</sup>

Congress was concerned about granting the IRS this expanded authority and specifically directed that when the IRS makes a summary assessment for a mathematical error, the taxpayer must be given an explanation of the adjustment.<sup>3</sup> The explanation of the adjustment in the math error notice is critical to the taxpayer’s ability to challenge the adjustment and preserve his or her right to petition the U.S. Tax Court by requesting abatement within 60 days of the notice being sent.<sup>4</sup>

Although nearly four decades have passed since Congress instructed the IRS to explain math error adjustments to taxpayers, the explanations are often unclear, complex, and leave taxpayers confused. This makes it difficult for taxpayers to determine what, specifically, has been corrected on their returns and whether they should accept the adjustment or request a correction. Such confusion may drive the taxpayers to seek clarification of the notice by calling the IRS. However, reaching an employee might take days, since Accounts Management,<sup>5</sup> the IRS function responsible for answering these calls, answers less than two-thirds of incoming calls, thereby using at least a portion of the taxpayer’s 60 days to request an abatement of the adjusted tax.<sup>6</sup>

When the explanation of the math error adjustment is unclear, and the taxpayer spends valuable time seeking further guidance, the taxpayer’s *right to appeal an IRS decision in an independent forum* and the *right to be informed* are compromised, and the *right to challenge the IRS’s position and be heard* may be

1 Revenue Act of 1926, enacting IRC § 274(f). See H.R. Rep. No. 69-1, at 10-11 (1926).

2 Pub. L. No. 94-455, § 1206(b) (1976), enacting IRC § 6213(f)(2).

3 S. Rep. No. 94-658, 94th Cong., 2d Sess. 375 (1976); H. Rep. No. 94-658, 94th Cong., 2d Sess. 289 (1976).

4 IRC § 6213(b).

5 Internal Revenue Manual (IRM) 21.1.1.2, *Accounts Management Responsibilities* (Oct. 2014). The Accounts Management organization is responsible for taxpayer relations by answering tax law/account inquiries and adjusting tax accounts. In addition, it is responsible for providing taxpayers with information on the status of their returns/refunds, and for resolving the majority of issues and questions to settle their accounts.

6 Joint Operations Center (JOC), *Enterprise Snapshot Report*, FY 2014 (Oct. 16, 2014) (showing 64.39 percent Level of Service). In some cases the IRS has authority to make abatements on requests beyond the 60-day statutory period. See generally IRM 21.5.4, *General Math Error Procedures* (Oct. 1, 2014).

lost.<sup>7</sup> These problems may be compounded as further expansions of IRS math error authority are proposed, making it even more important for math error notices to follow the 1976 congressional directive.<sup>8</sup>

## ANALYSIS OF PROBLEM

### Background

#### *Deficiency Procedures*

Generally when the IRS identifies an error on a taxpayer's return that will result in an understatement of tax, the IRS notifies the taxpayer of the proposed deficiency. It first provides the taxpayer with a report, including the items to be adjusted and the tax, if any, reported on the original return and the correct tax according to the IRS. The taxpayer has 30 days to accept this proposed adjustment or request an administrative appeals conference with an Appeals Officer.<sup>9</sup>

If the taxpayer does not respond to the initial report, or does not prevail in the appeals conference, the IRS will issue a SNOD that sets forth the proposed deficiency in tax. It informs the taxpayer that he or she has 90 days from the date of the notice to file a petition to challenge the proposed deficiency in the U.S. Tax Court, the only judicial forum in which a taxpayer can challenge a tax liability before paying the liability in full.<sup>10</sup> The SNOD provides important procedural rights and protections. If the taxpayer does not timely file a petition with the Tax Court, the IRS will assess the proposed deficiency.<sup>11</sup>

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#### *Mathematical or Clerical Error Procedures*

Congress has given the IRS authority to circumvent these normal deficiency procedures in certain circumstances. IRC § 6213(b) authorizes the IRS to make a summary assessment of tax due where that addition is the result of a mathematical or clerical error on a return. To make this summary assessment, the IRS must explain the error to the taxpayer.<sup>12</sup> The taxpayer has 60 days from the date of the notice to request that the IRS abate the tax.<sup>13</sup> The IRS cannot begin to collect the tax due until the taxpayer has agreed to it or until the 60 days have passed.<sup>14</sup> If the taxpayer requests the tax be abated, the IRS must first use the deficiency procedures under IRC § 6212, described above, to increase the tax shown on the return.<sup>15</sup> It is also the

7 IRS, Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights> (last visited Aug. 20, 2014). Unclear notices may undermine the following taxpayer rights: the right to be informed, the right to pay no more than the correct amount of tax, the right to challenge the IRS's position and be heard, the right to privacy, and the right to a fair and just tax system.

8 IRC §§ 45R and 36C, and IRS Briefing, *Overview of the Accelerated Refund Assurance Program (ARAP)* (Oct. 6, 2011), on file with TAS. This briefing sets out areas where the IRS is considering requesting Congressional expansion of its math error authority. See also General Explanation of the Administration's Fiscal Year 2015 Revenue Proposals, Department of Treasury Greenbook (Mar. 2014), available at [http://www.treasury.gov/resource-center/tax-policy/Pages/general\\_explanation.aspx](http://www.treasury.gov/resource-center/tax-policy/Pages/general_explanation.aspx).

9 See IRS Publication 3498-A, *The Examination Process (Audits by Mail)* (Jan. 2014), available at <http://www.irs.gov/pub/irs-pdf/p3498a.pdf>. For times for requesting appeals conferences, see SERP IRM 4.19.13.14.2(2), *Transfer to Appeals* (Aug. 29, 2014).

10 IRC § 6213(a).

11 *Id.*

12 IRC § 6213(b)(1).

13 IRC § 6213(b)(2)(A).

14 IRC § 6213(b)(2)(B).

15 IRC § 6213(b)(2)(A).

only way for the taxpayer to preserve the right to challenge the adjustment in the Tax Court—the only prepayment judicial forum.<sup>16</sup>

### *The History of Math Error Authority*

Math error authority was first granted in 1926, when Congress authorized the Commissioner to make an assessment and collect the tax due because of a mathematical error that was apparent on the face of the return. This authorization also denied the taxpayer a right to appeal to the Board of Tax Appeals without defining what “mathematical error” means.<sup>17</sup> However, the courts generally limited the scope of math error authority to arithmetic errors.<sup>18</sup>

In 1976, Congress expanded the summary assessment authority to include clerical errors in addition to mathematical errors. The Tax Reform Act of 1976 set forth for the first time a definition of the phrase “mathematical or clerical error:”

- An error in adding or subtracting on the return;
- An incorrect use of a table related to the return;
- Inconsistent entries on the same return;
- Omitted information that is required to substantiate an entry on the return; and
- An entry that claims a deduction or credit amount in excess of the statutory limit, where that limit is described as a specific monetary amount or as a percentage, ratio or fraction.<sup>19</sup>

The House Ways and Means Committee noted that these changes were in response to IRS’s request to expand math error authority. The IRS justified this request by explaining that expanded authority would be useful, because the deficiency notice procedure was significantly more costly than the math error procedure, in terms of personnel and processing costs, as well as in collection delay costs.<sup>20</sup>

While understanding the IRS’s justification for requesting expansion of its summary assessment authority, the Joint Committee on Taxation explained Congress’ concerns about removing more situations from the deficiency procedures and placing them under the summary assessment procedures.<sup>21</sup> To address concerns raised by both the Joint Committee on Taxation and the Senate, Congress enacted IRC § 6213(b)(1),

16 IRC § 6213(b)(1).

17 Revenue Act of 1926, enacting IRC § 274(f). See also H.R. Rep. 69-1, at 10-11. The U.S. Tax Court was originally established in 1924 as the Board of Tax Appeals. Revenue Act of 1924, ch. 234 §§ 900(a), (k), 43 Stat. 336, 338. In 1969, the U.S. Tax Court was established as a legislative court under Article 1 of the Constitution. The Tax Reform Act of 1969, Pub. L. No. 91-172, § 951, 83 Stat. 730 (1969).

18 See, e.g., *Farley v. Scanlon*, 13 A.F.T.R.2d 932, 933 (E.D.N.Y. 1964) (interpreting mathematical error as “an error in computing the tax on what the return itself concedes to be income”); *Repetti v. Jamison*, 131 F. Supp. 626, 628 (N.D. Cal. 1955) (stating “the term... was meant to refer to errors in arithmetic” and noting that “Congress did not provide for a petition by the taxpayer to the Board of Tax Appeals in the case of such error... due to the fact that there can be no dispute as to a matter of arithmetical computation.”).

19 Pub. L. No. 94-455, § 1206(b) (1976), enacting IRC § 6213(f)(2). See also IRC § 6213(g)(2).

20 H.R. Rep. 94-658, at 289.

21 Joint Committee on Taxation, JCT 33-76, Assessments in Case of Mathematical or Clerical Errors (sec. 1206 of the Act and sec. 6213 of the Code) (Dec. 29, 1976). See also H.R. Rep. 94-658, at 289 and S. Rep. No. 94-938(I), 94th Cong., 2d Sess. 375 (1976) (Both provided that the IRS should phrase a notice to the taxpayer regarding inconsistent entries on the returns as to include questions designed to show why the IRS has chosen a particular entry. For example, if the taxpayer enters six exemptions, but then calculates for seven exemptions, the IRS should phrase its notices to show whether the taxpayer indeed is entitled to the greater number of exemptions rather than the lesser number.)

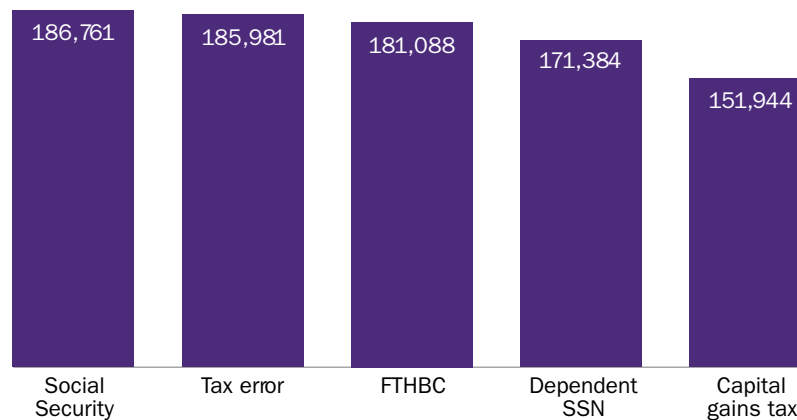
requiring that “[e]ach notice under this paragraph shall set forth the error alleged and an explanation thereof.”<sup>22</sup>

*The IRS Issues Millions of Math Error Notices, Impacting a Large Number of Low Income and Disadvantaged Taxpayers.*

The average annual math error volume from 2008 through 2014 was 7.5 million.<sup>23</sup> Between January 1, 2014 through November 2014, the IRS assigned 2,717,208 math errors to individual taxpayers. The most common adjustments include taxability of Social Security benefits, the First-Time Homebuyer Credit (FTHBC), and mismatches between the dependent’s name and Social Security number. The chart below shows the five most frequently issued math errors.

**FIGURE 1.16.1**<sup>24</sup>

**Most common math errors, January-November 2014**



An analysis of the most common math error adjustments shows the issues are complex and affect a diverse group of taxpayers. Many of these notices are sent to low income taxpayers who often face unique challenges when attempting to understand IRS correspondence. Specifically, between January through November 2014, the IRS mailed over 160,000 Earned Income Tax Credit (EITC) math error notices and over 92,000 Child Tax Credit (CTC) math error notices.<sup>25</sup> The EITC population particularly has a

22 S. Rep. No. 94-938(I), 94th Cong., 2d Sess. 375 (1976). See discussion above in footnote 21, which gives an example from the committee reports of how Congress expected these notices to read.

23 IRS, *Math Error Reports 480-62-11* (2008-2014), totaling over 52,700,000 math errors.

24 See IRS, *Document 6209* (Jan. 2014), at 9-10, describing taxpayer notice codes (TPNC): TPNC 131—We recalculated the taxable amount of your Social Security benefits; TPNC 209—The tax shown on your return was incorrect; TPNC 648—The First-Time Homebuyer Credit Repayment installment was added to your tax; TPNC 605—Because the dependent’s name does not match SSN records, the exemption was disallowed; TPNC 211—The capital gains tax shown on your return was incorrect. For numerical data, see IRS, *Math Error Report* (December 4, 2014).

25 IRS, *Math Error Report* (Dec. 4, 2014). TPNC 285 (Vol. 104,153) and TPNC 743 (55,991) are EITC notices, as are TPNCs 284, 286, 287, 288, 290, 291, 292, 293, 701, 702, 741 and 745; TPNC 251 (25,452), TPNC 252 (46,529), and TPNC 295 (20,417) are CTC or Additional CTC notices.

unique set of attributes, setting these taxpayers apart from the average taxpayer. For example, the average low income taxpayer may have:

- Limited English proficiency;
- Limited computer access;
- Low literacy rates;
- Low education levels; and
- Disabilities.<sup>26</sup>

When considering these variables, low income taxpayers are at higher risk of not understanding the explanation in the notice, and may not know how to challenge the adjustment.

### *Some Math Error Notices Remain Confusing Nearly Four Decades After Congress Directed the IRS to Make Them Clear.*

A TAS review of common math error notices, conducted in conjunction with this critique, has shown that math error notices lack clarity and make it hard for taxpayers to decide whether to accept the adjustment or request abatement. As discussed above, unique characteristics of the low income taxpayer population makes these taxpayers more vulnerable to confusion associated with math error notices. Vague and confusing explanations of math error adjustments may compromise the taxpayer's *right to challenge the IRS's position and be heard* because the taxpayer may be unable to effectively raise objections and provide additional documentation in response to an IRS proposed adjustment. Unclear explanations may also undermine the taxpayer's *right to be informed*, which includes the ability to know what is required to comply with tax laws.<sup>27</sup> Below are several examples of standardized math error explanations that are vague or confusing, and do not ensure that these rights are being adequately protected.

**Example One:** “We limited your total itemized deductions on your Schedule A, *Itemized Deductions*, because certain deductions on Schedule A are limited, if your adjusted gross income is more than the maximum amount.”<sup>28</sup>

This explanation is too vague to be easily understood. It is unclear what on Schedule A is being limited—medical expenses on line 4, miscellaneous expenses, on line 27, or the total amount of itemized deductions, on line 29?

**Example Two:** “We refigured your tax on page 2 of your tax return using the tax table, tax rate schedules, or capital gains tax computations. Because of an error on another part of your tax return we were unable to compute your tax on Form 8615, *Tax for Certain Children Who Have Investment Income*.”<sup>29</sup>

This explanation lacks both clarity and specificity. It does not tell the taxpayer what the error is on the return or even on what part of the return the error is located, and thus leaves the taxpayer to review the entire return in order to locate the error the notice is referencing.

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

27 See IRS, Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights> (last visited Aug. 20, 2014); Publication 1, *Your Rights as a Taxpayer* (June 2014).

28 TPNC 186 (Document 6209).

29 *Id.*

By contrast, the following example taken from the legislative history illustrates just how clear, specific, and simply worded Congress expected an explanation of a math error assessment to be:

**Example:** A notice regarding an inconsistency in the number of dependents listed on the taxpayer's return might read as follows: "You entered six dependents on line x but listed a total of seven dependents on line y. We are using six. If there is one more, please provide corrected information."<sup>30</sup>

Yet, the IRS's current math error notice for this issue (*i.e.*, inconsistent number of dependents on the return) falls short by not specifying the discrepancy. The current notice states:

We changed your total exemption amount on page 2 of your tax return because there was an error in the number of exemptions provided on lines 6a, 6d, and/or computation of your total exemption amount.<sup>31</sup>

The IRS should organize a team, which would include TAS, to review and rewrite explanations of math error adjustments, where necessary, to ensure congressional intent is being met. This would reduce confusion among taxpayers and save limited IRS resources used for rework associated with unclear notices.

### *Notice Review Procedures Need Improvement to Ensure Clarity and Consistency.*

Math error notices are generally written, updated, and cleared using the same process as any other notice, which involves several layers of review.<sup>32</sup> The Wage and Investment (W&I) Submission Processing Division creates the content for the math error notices, then works with the Office of Taxpayer Correspondence (OTC) to develop the language for each math error notice using plain writing principles. Once the OTC creates a prototype of a notice and the business unit concurs, the notice is sent to the IRS Office of Chief Counsel for legal sufficiency review, and other stakeholders are given the opportunity to review and comment. However, the TPNC review process does not include TAS.<sup>33</sup>

The IRS has not evaluated whether its notice review process results in effective math error notices.<sup>34</sup> The OTC has conducted math error notice studies, but these studies are focused on the rate of taxpayer response after receiving a math error notice and not necessarily on the clarity of the notices. Taxpayers may fail to respond to a math error notice because they do not understand what is being communicated, not because they agree with a math error adjustment. A recent report by the Treasury Inspector General for Tax Administration (TIGTA) showed that the process for reviewing letters and notices does not always ensure that they are written in plain language.<sup>35</sup> Specifically, the report showed that about 50 percent of

30 See H.R. Rep. No. 94-658, 94th Cong., 2nd Sess. (1976). See also Joint Committee on Taxation, JCT 33-76, *Assessments in Case of Mathematical or Clerical Errors* (sec. 1206 of the Act and sec. 6213 of the Code) (Dec. 29, 1976).

31 IRS, *Document 6209* (2014), TPNC 200.

32 IRS response to TAS information request (July 31, 2014).

33 *Id.*

34 W&I has not conducted research studies or taxpayer focus groups to gauge the effectiveness of its notices in explaining the adjustment.

35 See Plain Writing Act of 2010, Pub. L. No. 111-274, 124 Stat. 2861 (2010).



the letters and 66 percent of the notices reviewed were determined not to be clearly written or did not provide sufficient information.<sup>36</sup>

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**When the explanation of the math error adjustment is unclear, and the taxpayer spends valuable time seeking further guidance, the taxpayer's right to appeal an IRS decision in an independent forum and the right to be informed are compromised, and the right to challenge the IRS's position and be heard may be lost.**

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In certain circumstances, when the IRS examiner determines there is no standard explanation to insert in the math error notices for the particular situation, the examiner can insert his or her own explanation of the adjustment.<sup>37</sup> These “*ad hoc*” explanations are not subject to the same review process as the standard ones. While the Internal Revenue Manual provides for a review by a peer of the examiner,<sup>38</sup> without further guidance this limited review may not ensure that the explanation of the adjustment is clear and that similar explanations are provided to taxpayers in similar situations.

Between January 1, 2014, and December 4, 2014, examiners exercised the option to use non-standard explanations 14,477 times.<sup>39</sup> This means that over 14,000 math error explanations that went out to taxpayers, in large part, escaped scrutiny about whether the notice was clear and provided taxpayers with an adequate explanation of the proposed adjustment. Considering that the specified IRM provides examiners no clear instructions on how to write these *ad hoc* explanations,<sup>40</sup> and given the insufficient amount of training IRS employees receive on writing in general, these *ad hoc* explanations may fall short of the directive to provide clear explanations, and may instead confuse taxpayers.<sup>41</sup>

To improve math error notice review procedures the IRS should design and conduct research studies and focus groups with taxpayers that measure taxpayers’ understanding of the adjustment. Additionally, the IRM should set forth a template of explanations to be used when an examiner is deviating from a standard explanation. The template could provide an outline of the elements to be included in the explanation, with examples. TAS should be included in the development of such a template.

### *Unclear Math Error Notices May Harm Taxpayers’ Ability to Timely Exercise Their Rights.*

Notices that are not clearly written or do not contain sufficient information erode a taxpayers’ *right to challenge the IRS’s position and be heard*.<sup>42</sup> Specifically, if notices are not simple and clear, taxpayers

36 TIGTA, Ref. No. 2014-40-076, *Processes Are Needed to Ensure that Letters and Notices Are Written in Compliance with the Plain Writing Act* (Sep. 12, 2014). TIGTA’s evaluation of statistically valid samples of 18 letters and 38 notices that were revised or redesigned during Fiscal Year 2013 identified that nine (50 percent) of the letters and 25 (66 percent) of the notices are not clearly written and structured or do not provide sufficient information. This report did not focus on math error notices specifically, but its findings are applicable to all IRS notices, including math error notices.

37 See IRM 3.14.1.6.17.12, *Key 100—Non-Standard TPNC Explanations Not Computer Generated* (Jan. 1, 2014) (referencing TPNC 100).

38 See IRM 3.14.1.6.17.12(7), *Key 100—Non-Standard TPNC Explanations Not Computer Generated* (Jan. 1, 2014) (i.e., a cursory quality review within Submission Processing only. Ad hoc notices are not reviewed by the IRS Office of Chief Counsel or the OTC).

39 IRS, *Math Error Report 480-62-11* (Dec. 4, 2014).

40 IRM 3.14.1.6.17.12, *Key 100—Non-Standard TPNC Explanations Not Computer Generated* (Jan. 1, 2014) (referencing TPNC 100). The only guidance provided to examiners on how to develop these *ad hoc* explanations is as follows: “When none of the standard TPNCs adequately describe an error condition on the return, the ERS tax examiner selects TPNC 100 and attaches a 3 x 5 slip of paper containing a specific math error explanation (or a unique number) to the tax return (or ELF print on an electronically filed return).”

41 National Taxpayer Advocate 2013 Annual Report to Congress 40 (Most Serious Problem: *Employee Training: The Drastic Reduction in IRS Employee Training Impacts the Ability of the IRS to Assist Taxpayers and Fulfill Its Mission*).

42 IRS, *Taxpayer Bill of Rights*, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights> (last visited Aug. 20, 2014).

cannot understand the rationale for the change to their returns and fail to request abatement within 60 days, thereby forfeiting their opportunity to contest the assessment in Tax Court, compromising their *right to appeal an IRS decision in an independent forum*. As a result, affected taxpayers may face IRS collection action.

Additionally, taxpayers can no longer depend on getting through to the IRS's toll-free line within a reasonable amount of time to get a question answered regarding a notice. The level of service (LOS) on Accounts Management's phone lines was less than 65 percent for October 2013 through September 2014.<sup>43</sup> This low level of service makes it difficult for taxpayers to get their questions answered and the abatement requests completed in time. For example, if a taxpayer spends 45 days of the 60-day period trying to get through to the IRS to find out *why* it has assessed additional tax, he or she might not have time to collect needed documentation to request an abatement of the tax within 60 days, ultimately losing access to the Tax Court.<sup>44</sup> This may be particularly harmful to taxpayers for whom a prepayment forum is most critical (*i.e.*, low income taxpayers who cannot afford to pay the tax in full and then file a claim for refund).

Even though the taxpayer is not required to provide documentation to substantiate the abatement request, the option of submitting the request without documentation is not clearly set out in math error notices.<sup>45</sup> Sending the taxpayer a clear initial notice with a simple explanation of the adjustment, and clarifying that the taxpayer can request abatement without supporting documentation, would mitigate the need for the taxpayer to attempt calling the IRS, and would reduce taxpayer burden.

### *Expansion of Math Error Authority Into More Complicated Areas of Tax Law May Further Increase the Challenge for the IRS to Provide Clear Explanations.*

Over the past several years, Congress has expanded the IRS's math error authority to more complicated areas of tax law, such as the Earned Income Tax Credit (EITC) and First-Time Homebuyer Credit (FTHBC), making it more difficult to develop simple explanations of adjustments.<sup>46</sup> This challenge may increase as the President's budget proposal for fiscal year 2015 contains a recommendation that would create an entirely new category called "correctable errors." The passage of this recommendation would permit the IRS to correct errors where:

- The information provided by the taxpayer does not match information in government databases;
- The taxpayer has exceeded the lifetime limit for claiming a deduction or credit; or

43 JOC, Enterprise Snapshot Report, FY 2014 (Oct. 16, 2014).

44 Not all IRS math error notices plainly disclose to taxpayers that the right to contest the assessment may be exercised without submitting proof. See, e.g., IRS Letter CP 12. See also Systemic Advocacy Management System (SAMS) 31192, requesting that IRS disclose IRC § 6213(b)(2)(A) rights in IRS Letter CP 10.

45 See, e.g., IRS Letter CP 12 which states: "If you are unable to provide us additional information that justifies the reversal and we believe the reversal is in error, we will forward your case for audit. This step gives you formal appeal rights, including the right to appeal our decision in court."

46 Besides the five "mathematical or clerical" error types listed in IRC § 6213(g)(2)(A) through (E), math error authority also includes mistakes such as missing Taxpayer Identification Numbers (TINs) for dependency exemptions or EITC, and missing verification of the FTHBC, in IRC § 6213(g)(2)(F) through (P). See National Taxpayer Advocate 2011 Annual Report to Congress 74 (Most Serious Problem: *Expansion of Math Error Authority and Lack of Notice Clarity Create Unnecessary Burden and Jeopardize Taxpayer Rights*). In the 2011 Annual Report, the National Taxpayer Advocate discussed the challenges expanded math error authority imposes on the IRS and made a legislative recommendation to Congress that would require an IRS analysis, in conjunction with the National Taxpayer Advocate, before any such expansion could be enacted. National Taxpayer Advocate 2011 Annual Report to Congress 524 (Legislative Recommendation: *Mandate that the IRS, in Conjunction with the National Taxpayer Advocate, Review Any Proposed Expanded Math Error Authority to Protect Taxpayer Rights*).



- The taxpayer has failed to include with the return documentation that is required by statute.<sup>47</sup>

This proposal goes beyond the initial grant of mathematical or clerical error authority. With such an expansion of IRS's math error authority a possibility, the need to live up to the original congressional directive regarding clear explanations of adjustments becomes even more critical, because more taxpayers may become subject to the summary assessment procedures.

## CONCLUSION

In 1976, in exchange for granting the IRS expanded math error authority, Congress instructed the IRS to provide taxpayers with an explanation of any math error adjustment. Nearly four decades later, some math error notices remain vague and ambiguous, leaving affected taxpayers confused as to what has been changed on their returns and what they need to do next. Attempting to clarify the notice by calling the IRS toll-free line may take days, since it only answers slightly more than half its calls, thereby eating away at the taxpayer's 60 days to request an abatement of the adjusted tax. Unclear math error notices increase taxpayer burden and jeopardize the taxpayer's *rights to be informed, to challenge the IRS's position and be heard, and to appeal an IRS decision in an independent forum.*

## RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Organize a team, which would include TAS, to review all current explanations of math error adjustments, and rewrite where necessary, to ensure the congressional directive is being met.
2. Set forth an IRM template for non-standard math error adjustment explanations that provides an outline of the elements to be included in the explanation, with examples. The IRM should also require that these explanations be developed and approved by the OTC, Chief Counsel, and the National Taxpayer Advocate or delegate.
3. Update math error notices to clearly disclose that the taxpayer may request abatement without providing an explanation or substantiating documentation.

<sup>47</sup> General Explanation of the Administration's Fiscal Year 2015 Revenue Proposals, Department of Treasury Greenbook (Mar. 2014), available at [http://www.treasury.gov/resource-center/tax-policy/Pages/general\\_explanation.aspx](http://www.treasury.gov/resource-center/tax-policy/Pages/general_explanation.aspx).