

## TAS Case Advocacy

Under IRC § 7803(c)(2)(A), the Office of the Taxpayer Advocate (the Taxpayer Advocate Service (TAS)) has four principal functions:

- Assist taxpayers in resolving problems with the IRS;
- Identify areas in which taxpayers are experiencing problems with the IRS;
- Propose changes in the administrative practices of the IRS to mitigate problems taxpayers are experiencing with the IRS; and
- Identify potential legislative changes that may be appropriate to mitigate such problems.

The first function described in the statute relates to TAS's case advocacy, which involves assisting taxpayers with their individual issues with the IRS. A fundamental part of helping taxpayers resolve their problems involves protecting taxpayer rights and reducing taxpayer burden.<sup>1</sup> The TAS Case Advocacy function is primarily responsible for direct contact with all types of taxpayers (including individuals, businesses, and tax exempt entities), their representatives, and congressional staff to resolve specific problems taxpayers are experiencing with the IRS. Information from these contacts and case results are vital to TAS's statutory mission to propose changes in the IRS's administrative practices to alleviate taxpayers' problems, and identify potential legislative changes to relieve such problems.<sup>2</sup> This section of the report discusses how TAS fulfills its mission to assist taxpayers with their specific issues and concerns involving IRS systems and procedures.<sup>3</sup>

### TAS CASE RECEIPT CRITERIA

Taxpayers typically seek TAS assistance with specific issues when:

- They experience a tax problem that causes financial difficulty;
- They are unable to resolve their issues directly with the IRS through normal channels; or
- An IRS action or inaction caused or will cause them to suffer a long-term adverse impact, including a violation of taxpayer rights.

TAS accepts cases in four categories: economic burden, systemic burden, best interest of the taxpayer, and public policy. See Figure 4.1.

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

2 TAS staff often use Case Advocacy's findings as the basis for many of the Most Serious Problems and Legislative Recommendations in the National Taxpayer Advocate's Annual Report to Congress.

3 TAS's other three functions involve identifying and proposing changes to systemic problems affecting taxpayers. TAS employees advocate systemically by identifying IRS procedures that adversely affect taxpayer rights or create taxpayer burden, and recommending solutions, either administrative or legislative, to improve tax administration. (Note: IRS employees, taxpayers, practitioners, and other external stakeholders can use the Systemic Advocacy Management System (SAMS) to submit systemic issues to TAS at <https://www.irs.gov/advocate/systemic-advocacy-management-system-sams>.)

FIGURE 4.1

# CASE ACCEPTANCE CRITERIA



As an independent organization within the IRS, the Taxpayer Advocate Service protects taxpayer rights under the Taxpayer Bill of Rights, helps taxpayers resolve problems with the IRS, and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS.<sup>A</sup> TAS case acceptance criteria fall into four main categories.

## ECONOMIC BURDEN

Economic burden cases are those involving a financial difficulty to the taxpayer: an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer.

- CRITERIA 1** The taxpayer is experiencing economic harm or is about to suffer economic harm.
- CRITERIA 2** The taxpayer is facing an immediate threat of adverse action.
- CRITERIA 3** The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
- CRITERIA 4** The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.

## SYSTEMIC BURDEN

Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer issue.<sup>B</sup>

- CRITERIA 5** The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
- CRITERIA 6** The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
- CRITERIA 7** A system or procedure has either failed to operate as intended, or failed to resolve the taxpayer's problem or dispute within the IRS.

## BEST INTEREST OF THE TAXPAYER

TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.<sup>C</sup>

- CRITERIA 8** The manner in which the tax laws are being administered raises considerations of equity, or has impaired or will impair the taxpayer's rights.

## PUBLIC POLICY

Acceptance of cases into TAS under this category will be determined by the National Taxpayer Advocate and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.<sup>D</sup>

- CRITERIA 9** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

A IRC § 7803(c)(2)(A)(i).

B TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See Internal Revenue Manual (IRM) 13.1.7.3(d), Exceptions to Taxpayer Advocate Service Criteria (Feb. 4, 2015). This IRM is temporarily amended until December 31, 2020. TAS, Interim Guidance Memo (IGM) TAS-13-0220-002, Interim Guidance on Exclusion From TAS Case Acceptance Criteria Taxpayers Impacted by Pre-Refund Wage Verification Hold and Amended Returns (Feb. 14, 2020).

C See IRM 13.1.7.2.3, TAS Case Criteria 8, Best Interest of the Taxpayer (Feb. 4, 2015).

D See TAS, IGM TAS-13-1120-0019, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (Nov. 20, 2020).

Economic burden (EB) cases often occur where an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer. In many of the economic burden cases, time is critical. If the IRS does not act quickly (*e.g.*, to remove a levy or release a lien), the taxpayer will experience additional economic harm.<sup>4</sup> Systemic burden cases include situations where an IRS process, system, or procedure has failed to resolve the taxpayer's issue.<sup>5</sup> Best interest of the taxpayer (Criteria 8) includes violations of the Taxpayer Bill of Rights.<sup>6</sup>

With respect to public policy cases (Criteria 9), the National Taxpayer Advocate has the sole authority to determine which issues are included in this criterion and will designate them by memorandum. The National Taxpayer Advocate issued an Interim Guidance Memorandum (IGM) on November 20, 2020 (effective until November 19, 2022), that designated Criteria 9 cases to include private debt collection; passport denial, revocation, or limitation; automatic exempt organization revocations due to failure to file an annual return or notice for three consecutive years; and congressional referred tax account-related inquiries (excluding stand-alone Economic Impact Payment (EIP) issues after November 23, 2020) that do not fit into any other category.<sup>7</sup>

## CASE RECEIPT TRENDS IN FISCAL YEAR 2020

In fiscal year (FY) 2020, TAS received 206,772 cases, 34,005 fewer cases than received in FY 2019, a decrease of 14 percent.<sup>8</sup> The most significant reason for this decrease in cases this fiscal year was the complete or partial shutdown of IRS core operations due to COVID-19, as discussed in detail later in this section. In addition to our case receipts, Intake Advocates also resolved another 29,117 taxpayer calls without the need to establish a TAS case.<sup>9</sup> Taxpayers who call the IRS National Taxpayer Advocate toll-free line, which is staffed by IRS employees, are transferred to the TAS Centralized Case Intake (TAS CCI) function if the IRS assistors are unable to assist the taxpayer and determine the taxpayer's issue meets TAS criteria.<sup>10</sup> Of the 55,760 taxpayer calls answered, TAS CCI assisted 52 percent of the taxpayers without creating a new case.<sup>11</sup> Providing taxpayers this assistance during the initial contact allows TAS to use its specialized skills and resources on more complex situations.

4 IRC § 7803(c)(2)(C)(ii); Internal Revenue Manual (IRM) 13.1.7.2.1, TAS Case Criteria 1-4, Economic Burden (Feb. 4, 2015).

5 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.2, TAS Case Criteria 5-7, Systemic Burden (Feb. 4, 2015).

6 IRC § 7803(c)(2)(C)(ii); IRM 13.1.7.2.3 (Feb. 4, 2015). See also TBOR, [www.TaxpayerAdvocate.irs.gov/taxpayer-rights](http://www.TaxpayerAdvocate.irs.gov/taxpayer-rights); IRC § 7803(a)(3).

7 See IGM TAS-13-1120-0019, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (Nov. 20, 2020).

8 Data obtained from Taxpayer Advocate Management Information System (TAMIS) (Oct. 1, 2019; Oct. 1, 2020).

9 The TAS CCI function serves as the first contact for most taxpayers coming to TAS for assistance. Intake Advocates are responsible for answering calls and conducting in-depth interviews with taxpayers to determine the correct disposition of their issue(s). Intake Advocates take actions where possible to resolve the issue upfront, create cases after validating the taxpayer meets TAS criteria, and offer taxpayers information and assistance with self-help options. See IRM 13.1.16.2, TAS Intake Strategy (Aug. 14, 2020).

10 TAS also has Intake Advocates in the CCI function.

11 Data obtained from TAMIS (Oct. 1, 2020); IRS, Joint Operations Center (JOC), Snapshot Report (Sept. 30, 2020).

**FIGURE 4.2, TAS Case and Intake Receipts and Relief Rates, FYs 2019-2020<sup>12</sup>**

Case Categories	Receipts FY 2019	Receipts FY 2020	Percent Change	Relief Rates FY 2019	Relief Rates FY 2020	Percent Change
Economic Burden	141,768	120,357	-15.1%	77.2%	79.2%	2.5%
Systemic Burden	98,207	85,462	-13.0%	78.5%	79.4%	1.2%
Best Interest of the Taxpayer	560	418	-25.4%	79.7%	76.7%	-3.8%
Public Policy	242	535	121.1%	80.0%	77.4%	-3.3%
<b>Subtotal</b>	<b>240,777</b>	<b>206,772</b>	<b>-14.1%</b>	<b>77.8%</b>	<b>79.3%</b>	<b>1.9%</b>
Calls Resolved with Alternative Assistance	26,209	29,117	11.1%			
<b>Grand Total Receipts</b>	<b>266,986</b>	<b>235,889</b>	<b>-11.6%</b>			

**Most Prevalent Issues in TAS Cases, With a Focus on Economic Burden Cases**

Figure 4.3 compares the top ten sources of TAS receipts by issue for FY 2019 to FY 2020.<sup>13</sup>

**FIGURE 4.3, Top Ten Issues for FY 2020 Cases Received in TAS Compared to Same Type of Issue in FY 2019<sup>14</sup>**

Rank	Issue Description	FY 2019	FY 2020	FY 2020 Percent of Total	Percent Change FY 2019 to FY 2020
1	Pre-Refund Wage Verification Hold	91,747	68,499	33.1%	-25.3%
2	Unpostables and Rejects	10,292	15,784	7.6%	53.4%
3	Earned Income Tax Credit (EITC)	18,691	12,176	5.9%	-34.9%
4	Processing Original Returns	5,150	8,509	4.1%	65.2%
5	Health Insurance Premium Tax Credit for Individuals	3,971	8,287	4.0%	108.7%
6	Other Refund Inquiries and Issues	9,425	8,187	4.0%	-13.1%
7	Processing Amended Returns	9,427	7,676	3.7%	-18.6%
8	Taxpayer Protection Program (TPP) Issues	6,037	7,098	3.4%	17.6%
9	Identity Theft	8,490	5,900	2.9%	-30.5%
10	Injured Spouse Claims	7,892	3,668	1.8%	-53.5%
	Other TAS Receipts	69,655	60,988	29.5%	-12.4%
	<b>Total TAS Receipts</b>	<b>240,777</b>	<b>206,772</b>	<b>100%</b>	<b>-14.1%</b>

<sup>12</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct. 1, 2020).

<sup>13</sup> IRM 13.1.16.18.1.2, Primary Issue Code (Aug. 14, 2020) (stating the primary core issue code (PCIC) is a three-digit code that defines the most significant issue, policy, or process within the IRS that underlies the cause of the taxpayer's problem).

<sup>14</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct. 1, 2020). The "Other TAS Receipts" category encompasses the remaining issues not in the top ten.

More than half of TAS's case receipts continue to involve taxpayers experiencing an economic burden.<sup>15</sup> Because these taxpayers face potential immediate adverse financial consequences, TAS requires employees to work these cases using accelerated timeframes.<sup>16</sup>

Figure 4.4 shows the top five issues driving economic burden receipts in FY 2020 compared to FY 2019. TAS dedicates significant resources to resolving the systemic causes of these issues, and, as discussed in the Most Serious Problems section of this and past reports, provides recommendations to the IRS to improve processes that cause taxpayers to experience economic or systemic burdens.

**FIGURE 4.4, Top Five Case Issues Causing Economic Burden Receipts in FY 2020 Compared to Same Type of Issue in FY 2019<sup>17</sup>**

Rank	Issue Description	FY 2019	EB Receipts as % Total EB Receipts FY 2019	FY 2020	EB Receipts as % Total EB Receipts FY 2020	EB Receipts Percent Change FY 2019 to FY 2020
1	Pre-Refund Wage Verification Hold	64,877	45.8%	48,051	39.9%	-25.9%
2	Unpostables and Rejects	6,610	4.7%	9,662	8.0%	46.2%
3	Earned Income Tax Credit (EITC)	13,190	9.3%	8,781	7.3%	-33.4%
4	Health Insurance Premium Tax Credit for Individuals	2,937	2.1%	6,293	5.2%	114.3%
5	Taxpayer Protection Program (TPP) Issues	3,974	2.8%	4,107	3.4%	3.3%

## IMPACT OF COVID-19

In the middle of the tax filing season, COVID-19 presented the IRS, including TAS, with an extraordinary challenge: to safeguard the health and safety of employees and taxpayers while administering the tax laws and assisting taxpayers with IRS issues. Adding additional challenges, the IRS was tasked with disbursing EIPs during the pandemic.<sup>18</sup>

<sup>15</sup> For the ninth consecutive fiscal year, more than half of TAS's case receipts involve taxpayer's experiencing EB. Data obtained from TAMIS (Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017; Oct. 1, 2018; Oct. 1, 2019; Oct. 1, 2020).

<sup>16</sup> IRM 13.1.18.3(1), Initial Contact (May 5, 2016). The TAS employee is required to contact the taxpayer or representative by telephone within three workdays of the taxpayer advocate received date (TARD) for criteria 1-4 cases and within five workdays of the TARD for criteria 5-9 cases to notify the taxpayer of TAS's involvement. Per IRM 13.1.18.1(1), Working TAS Cases (Feb. 1, 2011), TAS's policy is that cases involving EB will be worked sooner than other cases.

<sup>17</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct. 1, 2020).

<sup>18</sup> See Most Serious Problem: *Digital Communications: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers*, *supra.*; *IRS in the Pandemic*, Hearing Before the H. Subcomm. on Government Operations Committee on Oversight and Reform, 116th Cong. (Oct. 1, 2020) (statement of Erin M. Collins, National Taxpayer Advocate); Fiscal Year 2021 Objectives Report to Congress, *Systemic Advocacy Objective: Protecting the Rights of Taxpayers Impacted by the COVID-19 National Emergency and Restoring Much-Needed Taxpayer Services* 10-36.

## Economic Impact Payments and TAS

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act.<sup>19</sup> The primary goal of this act was to provide fast and direct economic assistance for American workers, families, and small businesses, including getting cash into the hands of citizens as quickly as possible. As quickly as the IRS was able to issue EIPs to millions of taxpayers, problems with EIPs began to emerge. TAS became aware of these problems directly from taxpayers, tax professionals, and congressional offices.

TAS's strategy for addressing the concerns of taxpayers with EIP issues changed as the situation evolved. At first, TAS did not open a case when taxpayers were solely seeking EIP assistance. Until the IRS established manual processes for correcting EIP issues, TAS assistance could not expedite or initiate an EIP. As the IRS made programming changes and created manual processing guidance, TAS moved quickly to change our case acceptance criteria to assist those taxpayers where we could help with EIP processing.

In April 2020, TAS modified the Taxpayer Advocate Management Information System (TAMIS) functionality to enable tracking of EIP-related inquiries and respective contacts. This TAMIS modification captured EIP-related data in devising and negotiating our course of action to assist taxpayers with individual EIP issues and systemic deficiencies. Between April 1, 2020 and September 30, 2020, TAS employees recorded 10,456 contacts with taxpayers involving questions and issues relating to EIPs.<sup>20</sup> Additionally, TAS received 449 EIP and COVID-related submissions on its Systemic Advocacy Management System (SAMS) in FY 2020.<sup>21</sup>

With the initial shutdown of IRS toll-free operations, including TAS toll-free lines, taxpayers began calling TAS local offices. TAS local office staffing was insufficient to handle the influx of calls, thereby sending the calls to voicemail. Unfortunately, our voicemail system had limited capacity and the phone system was not configured to direct taxpayers to other resources. To remedy this, TAS upgraded its voicemail volume capability, assigned TAS CCI employees to respond to telephone inquiries, and offered overtime to employees assisting with telephone inquiry responses. Additionally, TAS instituted a call gating system on its phone lines with new voicemail messaging to direct taxpayers to the appropriate resource and to better serve taxpayers calling about their EIP. These changes allowed TAS to focus its limited resources on the taxpayers most in need of direct assistance. The gating system remains in place and has successfully helped TAS manage the level of phone assistance requests and staffing resources needed to answer the calls.

Although TAS was able to provide education and self-help options to many taxpayers via IRS resources available on the IRS website and elevate issues to IRS Business Operating Divisions (BODs) and functions, TAS's advocacy efforts were limited because the IRS had limited programming in place to address and correct several EIP issues impacting large segments of taxpayers. Furthermore, the IRS was firm in its stance that no manual corrections were permitted and advised TAS that programming was in development to address many systemic issues and provide for future manual corrections. Without IRS processes in place to resolve these issues TAS was unable to assist taxpayers with EIP-only cases. TAS issued Interim Guidance Memorandum (IGM) TAS-13-0520-0011, Interim Guidance - Economic Impact Payments and TAS Case Acceptance, to modify TAS case acceptance criteria to exclude cases involving EIP-only issues. TAS continued to accept cases

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<sup>19</sup> The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. No. 116-136, 134 Stat. 281 (2020).

<sup>20</sup> Data obtained from TAMIS (Oct. 26, 2020).

<sup>21</sup> Data obtained from the Systemic Advocacy Management System (SAMS) (Oct. 1, 2020).

where we had a path forward to helping the taxpayer resolve an issue stemming from a filed 2019 return (or 2018 return if the 2019 return was not filed).

While TAS was initially unable to resolve individual EIP-related issues, TAS was at the forefront of advocacy through taxpayer education. TAS took action to provide information directly to taxpayers via telephone conversations, the TAS website, including the EIP Tool and Video, *How Do I Get An Economic Impact Payment?*, in addition to the National Taxpayer Advocate Blog, *During this National Emergency the IRS Is Called Upon to Issue Economic Impact Payments to All Eligible Americans: What Taxpayers Can Do to Speed Up Payment* (April 15, 2020).

In late July, the IRS announced systemic remedies for certain segments of taxpayers who did not receive the EIP for which they were eligible.<sup>22</sup> The IRS also defined limited circumstances where manual adjustments would be permitted and advised that programming was imminent. As a result of these commitments by the IRS, TAS modified its case acceptance criteria by issuing IGM TAS-13-0820-0016, *Interim Guidance – Economic Impact Payments and TAS Case Acceptance*, to accept those EIP-related issues where programming was in place to resolve the issue, or implementation of corrective programming was imminent.<sup>23</sup>

From April 1 to September 30, 2020, TAS accepted 2,077 cases with EIP-related issues, with 870 (42 percent) referred directly to TAS from congressional offices.<sup>24</sup> As the EIP is an advance payment of the Recovery Rebate Credit (RRC) authorized by the CARES Act, the IRS is statutorily prohibited from paying EIP after December 31, 2020. Instead, beginning January 1, 2021, taxpayers who did not receive an EIP or received less EIP than they were entitled to in calendar year 2020 can reconcile and claim the RRC on their 2020 income tax return.<sup>25</sup> TAS anticipates that taxpayers will continue to contact TAS to assist with RRC-related issues in the upcoming filing season.

## TAS Operations in the COVID-19 Environment

Early in the COVID-19 pandemic (March 2020), TAS employees transitioned to a telework environment.<sup>26</sup> However, the complete or partial shutdown of some core IRS operations negatively impacted the TAS organization and created barriers for taxpayers seeking assistance from TAS, whether in writing or via IRS toll-free hotlines. As shown in Figure 4.5, TAS case receipts through March were six percent higher in

22 See IRS, *IRS Takes New Steps to Ensure People With Children Receive \$500 Economic Impact Payments* (Aug. 14, 2020), <https://www.irs.gov/newsroom/irs-takes-new-steps-to-ensure-people-with-children-receive-500-economic-impact-payments>; See also IRS, *50,000 spouses to get catch-up Economic Impact Payments* (Aug. 25, 2020), <https://www.irs.gov/newsroom/irs-50000-spouses-to-get-catch-up-economic-impact-payments>.

23 See IGM TAS-13-0820-0016, *Interim Guidance - Economic Impact Payments and TAS Case Acceptance* (Aug. 7, 2020); Erin M. Collins, *Beginning August 10th, TAS Can Assist With Correcting EIP Amounts for Limited Groups of Taxpayers*, NATIONAL TAXPAYER ADVOCATE BLOG, <https://www.taxpayeradvocate.irs.gov/news/ntablog-beginning-august-10th-tas-can-assist-with-correcting-eip-amounts-for-limited-groups-of-taxpayers/> (Jul. 31, 2020); Erin M. Collins, *Need Help With Economic Impact Payment Issues? How TAS Can Assist Those That Qualify*, NATIONAL TAXPAYER ADVOCATE BLOG, <https://www.taxpayeradvocate.irs.gov/news/ntablog-need-help-with-economic-impact-payment-issues-how-tas-can-assist-those-that-qualify/> (Aug. 10, 2020).

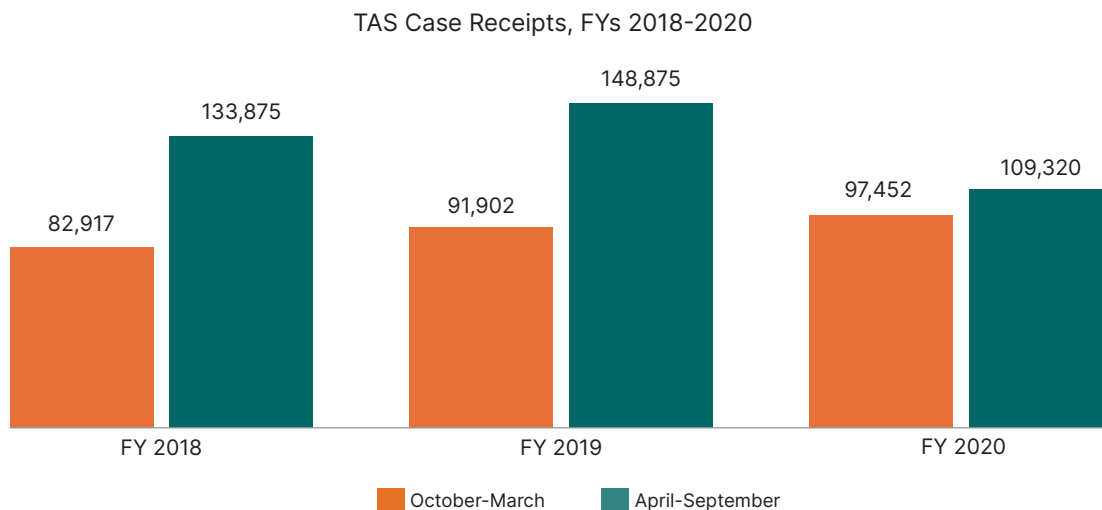
24 Data obtained from TAMIS (Oct. 26, 2020) for the period of April 1, 2020, through Sept. 30, 2020. When TAS identified an issue relating to EIP during the life of a case, TAS placed the code CARES on TAMIS. Some of these cases were received prior to FY 2020. TAS tracks EIP and other CARES issues with a National Office Use Field ("CARES") on our TAMIS system. Our employees manually code the case as a CARES case, once they identify the CARES issue. We provided instruction and guidance on this process to our staff. We conducted a review to determine how accurate our TAMIS coding was for these cases. Our review found a significant percentage of cases with CARES issues, but without the CARES TAMIS coding. As a result, our reporting of CARES issues may be understated. In October 2020, we provided EIP training to our employees that included how to code CARES issues on TAMIS to improve the future accuracy of CARES-related data on TAMIS.

25 IRC § 6428.

26 See IGM TAS-13-0320-0006, *Interim Guidance - Advocating for taxpayers while preventing the spread of COVID-19* (Mar. 17, 2020).

FY 2020 than during the same period in FY 2019.<sup>27</sup> However, after core IRS operations were shut down or functioning in a limited capacity, TAS case receipts ended up dropping nearly 27 percent from April to September FY 2019 compared to the same time period in FY 2020.<sup>28</sup>

**FIGURE 4.5<sup>29</sup>**



The IRS's main obstacles stemmed from its limited telework readiness and its inability to staff core IRS functions because certain work, such as answering phones, issuing notices, and opening and processing taxpayer correspondence, including paper-filed returns, could not be done remotely. Although the IRS attempted to manage taxpayer expectations by issuing guidance throughout the pandemic, taxpayers were still confused and did not have sufficient status updates or information on the delays and backlogs in the campuses. The IRS launched the Coronavirus Tax Relief and Economic Impact Payments webpage, via IRS.gov, along with various other IRS publications and notices, yet taxpayers encountered significant challenges and IRS communications failed to provide details on the disruption the IRS experienced and continues to experience in processing paper returns and correspondence. To ensure the safety of employees, the IRS like many other operations that rely on an in-person workforce, continues to limit the number of on-site employees, which has a direct impact on taxpayer service.

Many taxpayers experienced an abrupt change in their financial status and either desperately needed their tax refund and EIP to pay for living expenses or found that they were unable to voluntarily comply and pay their tax liabilities. At the same time, taxpayers could not contact the IRS in person or by phone and their mailed correspondence, including paper-filed returns, remained unopened, unprocessed, and in some instances returned. For several months, the IRS did not have processes in place to facilitate the production and mailing

<sup>27</sup> Data obtained from TAMIS (Apr. 1, 2019; Apr. 1, 2020). TAS compared case receipt data from Oct. 1 through Mar. 31 for FYs 2019 and 2020.

<sup>28</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct 1, 2020). TAS compared case receipt data from Apr. 1 through Sep. 30 for FYs 2019 and 2020. With the declaration of a national emergency under the Stafford Act on March 13, 2020, the IRS and TAS immediately took steps to protect the personal health and safety of employees and taxpayers.

<sup>29</sup> Data obtained from TAMIS (Apr. 1, 2018; Oct. 1, 2018; Apr. 1, 2019; Oct. 1, 2019; Apr. 1, 2020; Oct. 1, 2020).



of taxpayer notices. Subsequently, resumption of notice production presented complications of its own, as some backlogged notices included outdated information, requiring the IRS to include stuffers to clarify certain dates and information.

Core IRS operational shutdowns and the limited functionality of those operations remaining open made it difficult for taxpayers to contact the IRS for assistance. Consequently, this drastically changed how TAS received cases. As shown in Figure 4.6, TAS case receipts originating from taxpayers contacting TAS CCI (TAS toll-free operations that were shut down along with IRS toll-free operations) decreased by nearly 32 percent and IRS referrals decreased by nearly 67 percent. Taxpayers unable to receive assistance via the IRS toll-free hotline and TAS CCI began calling TAS's local offices, resulting in an increase in call volume by nearly 152 percent.<sup>30</sup>

**FIGURE 4.6, Comparison of the Way in Which TAS Received Cases From April Through September in 2019 and 2020<sup>31</sup>**

How TAS Received the Case	2019 (Apr. 1 Through Sept. 30)	2020 (Apr. 1 Through Sept. 30)	Percentage Change (Apr. 1 Through Sept. 30 2019 to 2020)
Taxpayer Sent TAS Form 911 or Correspondence	17,367	6,680	-4.0%
Taxpayer Called NTA Toll-Free	4,549	4,981	9.5%
Congressional Referral to TAS	6,634	29,490	344.5%
IRS Referral to TAS (at Taxpayer Request or IRS Identified)	92,908	30,963	-66.7%
Taxpayer Called the Local TAS Office	5,378	13,540	151.8%
Taxpayer Visited the Local TAS Office	2,138	88	-95.9%
Taxpayer Called the TAS CCI Line	19,901	13,578	-31.8%
<b>Total Case Receipts</b>	<b>148,875</b>	<b>109,320</b>	<b>-26.6%</b>

Another area where TAS saw a significant change in how it received cases involved congressional offices. With much of the IRS shut down, many taxpayers contacted their congressional office seeking assistance with account issues and EIP questions. Congressional office staff turned to TAS for assistance. TAS cases received from congressional offices increased nearly 345 percent from FY 2019 to FY 2020, during the April 1 through September 30 timeframe, accounting for 27 percent of TAS receipts during this period.<sup>32</sup>

The reasons taxpayers sought TAS assistance changed during the pandemic. As shown in Figure 4.7, while Pre-Refund Wage Verification Hold (PRWVH) receipts continued to be the number one reason taxpayers sought TAS assistance, during the last half of FY 2020, PRWVH receipts decreased 44 percent compared to the same period in FY 2019. TAS saw a significant increase in receipts from IRS operations that rely on

<sup>30</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct 1, 2020).

<sup>31</sup> *Id.*

<sup>32</sup> Data obtained from TAMIS (Apr. 1, 2019; Oct. 1, 2019; Apr. 1, 2020; Oct. 1, 2020). For additional discussion of TAS's congressional cases, see *Congressional Case Trends, infra*.

employees being physically present in the office to complete the work, such as Unpostables and Rejects, Health Insurance Premium Tax Credit for Individuals, and Processing Original Returns.

**FIGURE 4.7, Comparison of the Top Five Receipts From April Through September in 2020 to Same Type of Issue in 2019<sup>33</sup>**

Rank	Issue Description	2019 (Apr. 1 Through Sept. 30)	2020 (Apr. 1 Through Sept. 30)	Apr. 1 Through Sept. 30 2020 Percent of Total	Percent Change Apr. 1 Through Sept. 30 2019 to 2020
1	Pre-Refund Wage Verification Hold	59,158	33,111	30.3%	-44.0%
2	Unpostables and Rejects	7,964	13,202	12.1%	65.8%
3	Health Insurance Premium Tax Credit for Individuals	2,426	7,005	6.4%	188.7%
4	Processing Original Returns	3,015	6,562	6.0%	117.6%
5	Earned Income Tax Credit (EITC)	11,189	5,514	5.0%	-50.7%
Other TAS Receipts		65,123	43,926	40.2%	-32.5%
<b>Total TAS Receipts</b>		<b>148,875</b>	<b>109,320</b>	<b>100%</b>	<b>-26.6%</b>

Following the filing season, TAS will typically experience an increase in cases involving compliance issues related to examination and collection activities.

On March 25, 2020, the IRS released the *People First Initiative*, which provided relief for taxpayers on a variety of issues ranging from adjusting or postponing compliance actions, to adjusting or suspending key IRS compliance programs, to easing payment guidelines.<sup>34</sup> Since the IRS postponed these due dates and compliance activities, taxpayers who would normally seek TAS help during this timeframe did not need our assistance, and TAS experienced a corresponding decrease in case receipts with examination and collection compliance issues during the last half of FY 2020.<sup>35</sup> As the IRS resumes compliance activities, TAS anticipates taxpayers will again request TAS assistance with compliance issues.

For taxpayers accepted into TAS, TAS was limited in the advocacy and intervention it could timely provide. A large majority of cases remain unresolved pending resumption of normal IRS operations and implementation of IRS systems programming. While TAS was able to resolve some routine account issues, limited within the scope of statutory and delegated authority, often it took TAS longer to resolve the issues because of limited IRS staffing and others remain unresolved.<sup>36</sup>

<sup>33</sup> Data obtained from TAMIS (Oct. 1, 2019; Oct 1, 2020).

<sup>34</sup> IRS, IR-2020-59, IRS Unveils New People First Initiative; COVID-19 Effort Temporarily Adjusts, Suspends Key Compliance Program (Mar. 25, 2020), <https://www.irs.gov/newsroom/irs-unveils-new-people-first-initiative-covid-19-effort-temporarily-adjusts-suspends-key-compliance-program>.

<sup>35</sup> In FY 2020 (Apr. 1 through Sept. 30), TAS received 8,996 cases related to an examination issue (a decrease of 53.6 percent) and 4,914 cases related to a collections issue (a decrease of 44.0 percent) compared to 19,373 examination cases and 8,807 collection cases. Data obtained from TAMIS (Apr. 1, 2019; Oct. 1, 2019; Apr. 1, 2020; Oct. 1, 2020).

<sup>36</sup> IRM 1.2.2.12.2(1), Delegation Order 13-2 (Rev. 1), Authority of the National Taxpayer Advocate to Perform Certain Tax Administration Functions (Mar. 3, 2008).

As TAS lacks the statutory or delegated authority to resolve most taxpayer's problem, it coordinates with the responsible BODs/functions for resolution, a process necessary in 66 percent of TAS cases in FY 2019 and 61 percent in FY 2020.<sup>37</sup> TAS issues Operations Assistance Requests (OARs) supported by facts, research, and necessary documentation, to aid the BOD/function in understanding TAS's position and facilitate action.<sup>38</sup>

At the end of March 2020, IRS offices and processing centers were closed to mitigate the spread of COVID-19. During this time, TAS negotiated a process to have the IRS work our most critical cases that could not wait until the IRS resumed business. These closures created a backlog of paper-filed returns and other correspondence.<sup>39</sup> In May, the IRS started to resume business operations; however, the need for social distancing to protect employees necessitated a slow and cautious approach. This was especially difficult for those IRS operations whose work was not portable. Although TAS could have continued business as usual, sending an OAR to a non-operational BOD/function would be futile, exacerbate the backlog and waste resources. Instead, TAS collaborated with the BOD/functions and coordinated a process for the timed release of OARs to assist the BOD/functions with effectively managing OAR completion.

The process is multifaceted. TAS employees continue to case build and develop OARs. TAS forwards prepared OARs to designated Area Office analysts for tracking and to prioritize the OARs based on taxpayer hardship, balanced with the IRS's capability to enact resolution. The OARs that are not immediately issued to the BOD/functions are queued for scheduled release to the BOD/functions, at a rate and time in which the BOD/functions can meaningfully and impactfully resolve the issues. The objective was to wean the BOD/function off this process and ultimately resume the normal OAR process, which TAS has been able to do with some BOD/functions. However, the Wage and Investment (W&I) Submission Processing (SP) function in particular has not adequately resolved the volume of OARs it receives, despite accommodations TAS has extended, causing a backlog of OARs.<sup>40</sup> As shown in Figure 4.8, the average response times for OARs show significant increases from the second half of FY 2019 to 2020. For OARs to W&I, which constitutes the vast majority of TAS OARs, average response times more than doubled from 12 days to 30 and for the remaining OARs, mostly those to the Small Business/Self Employed (SB/SE) function, the average response times increased from 21 days to 35. In addition, the average age of those OARs that remain open is much higher than in the prior year because some IRS operations still have a backlog of work.<sup>41</sup>

37 Data obtained from TAMIS (Oct. 1, 2019; Oct. 1, 2020).

38 TAS closed 154,336 cases with OARs in FY 2019 and 124,985 in FY 2020. TAS can issue more than one OAR on a case. If the IRS already has an open control on an account, TAS must use the OAR process and request that the IRS function take the requested actions. Data obtained from TAMIS (Oct. 1, 2019; Oct. 1, 2020).

39 IRS, New Work at Home Directive Begins March 30 (Mar. 28, 2020), <https://www.irs.gov/newsroom/new-work-at-home-directive-begins-march-30-only-employees-directed-by-their-supervisor-to-perform-mission-essential-work-may-work-from-an-irs-pod>.

40 For OARs created from February 1 through October 16, 2020, the IRS had failed to address 2,543 OARs issued to W&I SP, and TAS had 3,667 unissued OARs that W&I refused to accept for a total backlog of 6,210 OARs. As of November 2, 2020, there were 222 OARs that W&I agreed to accept that TAS had not sent. Data obtained from TAMIS (Nov. 2, 2020).

41 Data obtained from TAMIS (Oct. 1, 2019, Oct. 1, 2020).

**FIGURE 4.8, Comparison of Closed OARs, Closed OAR Response Time, Open OARs, and Open OAR Age by IRS Division/Function, FYs 2019 and 2020<sup>42</sup>**

OAR BOD	Fiscal Year 2019				Fiscal Year 2020				As of Sept. 30, 2020	
	First Half of FY (Oct. 1 - Mar. 31)		Second Half of FY (Apr. 1 - Sept. 30)		First Half of FY (Oct. 1 - Mar. 31)		Second Half of FY (Apr. 1 - Sept. 30)		Open OARs	Open OAR Average Age (Days)
	OARs	Closed OAR Response Time from Creation (Days)	OARs	Closed OAR Response Time from Creation (Days)	OARs	Closed OAR Response Time from Creation (Days)	OARs	Closed OAR Response Time from Creation (Days)		
Appeals	242	54	311	54	296	41	179	57	72	116
CI	80	25	79	29	55	22	18	43	5	40
LB&I	384	54	318	55	357	50	192	63	98	103
SB/SE	13,269	25	15,394	21	15,648	22	10,313	35	2,549	82
TE/GE	268	28	225	21	264	26	135	28	22	73
W&I	66,617	16	125,545	12	69,400	15	67,575	30	13,220	50
All BODs	80,868	18	141,873	13	86,020	16	78,412	30	15,976	56

## TAS USES TAXPAYER ASSISTANCE ORDERS TO ADVOCATE EFFECTIVELY

While the COVID pandemic impacted much of TAS's work, we continued to use our available authorities to advocate for taxpayers. The Taxpayer Assistance Order (TAO) is a powerful statutory tool, delegated by the National Taxpayer Advocate to Local Taxpayer Advocates (LTAs) to resolve taxpayer cases.<sup>43</sup> LTAs issue TAOs to order the IRS to take certain actions, cease certain actions, or refrain from taking certain actions.<sup>44</sup> A TAO may also order the IRS to expedite consideration of a taxpayer's case, reconsider its determination in a case, or review the case at a higher level.<sup>45</sup> If a taxpayer faces significant hardship and the facts and law support relief, an LTA may issue a TAO if the IRS refuses or otherwise fails to take the action TAS requested to resolve the case.<sup>46</sup> Once TAS issues a TAO, the BOD must comply with the request or appeal the issue for resolution at higher management levels.<sup>47</sup> Only the National Taxpayer Advocate, the Commissioner or Deputy Commissioner of Internal Revenue may rescind a TAO issued by the National Taxpayer Advocate or designee, and unless that rescission occurs, the BOD must abide by the action(s) ordered in the TAO.<sup>48</sup>

In FY 2020, TAS issued 96 TAOs, the lowest number of TAOs issued in the past five years. With the complete or partial shutdown of IRS core operations, TAS recognized that in most instances, the IRS simply would not be able to comply with a TAO. Of the 96 TAOs issued, the IRS complied with 75 of them in

42 Data obtained from TAMIS (Oct. 1, 2019, Oct. 1, 2020). Nine OARs closed in FY 2019 and ten open OARs in FY 2020 had no BOD identified; these OARs are included in the All BODs total.

43 IRC § 7811(f) states that for purposes of this section, the term "National Taxpayer Advocate" includes any designee of the National Taxpayer Advocate. See IRM 1.2.2.12.1, Delegation Order 13-1 (Rev. 1), Authority to Issue, Modify or Rescind Taxpayer Assistance Orders (Mar. 17, 2009).

44 IRC § 7811(b)(2); Treas. Reg. § 301.7811-1(c)(2); IRM 13.1.20.3, Purpose of Taxpayer Assistance Orders (Dec. 15, 2007).

45 Treas. Reg. § 301.7811-1(c)(3); IRM 13.1.20.3, Purpose of Taxpayer Assistance Orders (Dec. 15, 2007).

46 IRC § 7811(a)(1)(A); Treas. Reg. § 301.7811-1(a)(1) and (c).

47 IRM 13.1.20.5(2), TAO Appeal Process (Dec. 9, 2015).

48 IRC § 7811(c)(1); Treas. Reg. § 301.7811-1(b).

an average of 23 days, meaning the IRS did not have a significant disagreement as to the resolution, and the taxpayers could have had relief sooner if the IRS had been more responsive to TAS.<sup>49</sup> Figure 4.9 reflects the results of all FY 2020 TAOs. Figure 4.10 shows the TAOs issued by fiscal year.

**FIGURE 4.9, Actions Taken on FY 2020 TAOs Issued<sup>50</sup>**

Action	Total
IRS complied with the TAO	75
IRS complied after the TAO was modified	2
TAS rescinded the TAO	12
TAO pending (in process)	7
<b>Total</b>	<b>96</b>

**FIGURE 4.10, TAOs Issued FYs 2015-2020<sup>51</sup>**

Fiscal Year	TAOs Issued
2015	236
2016	144
2017	166
2018	1,489
2019	617
2020	96

TAOs issued in FY 2020 resolved taxpayer issues and protected fundamental taxpayer rights. For example, TAS issued nine TAOs to assist taxpayers that had filed amended returns that were:

- Not processed timely by the IRS;
- Selected for examination but not timely assigned for resolution; or
- Processed, but account adjustments were not input correctly.

TAS issued 11 TAOs to advocate for taxpayers facing revocation, limitation, or denial of a passport under IRC § 7345.<sup>52</sup> In 2018, the IRS began implementing the legislatively directed program to certify taxpayers' seriously delinquent tax debts to the Department of State. The statute provides exceptions to passport certification for certain debts under specific circumstances.<sup>53</sup> The National Taxpayer Advocate accepts cases

49 Data obtained from TAMIS (Oct. 1, 2020).

50 *Id.*

51 Data obtained from TAMIS (Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017; Oct. 1, 2018; Oct. 1, 2019; Oct. 1, 2020).

52 Pub. 1, No. 114-94, Div. C, Title XXXII, § 32101, 129 Stat. 1312, 1729-32 (2015) (codified at IRC § 7345) (hereinafter Fixing America's Surface Transportation (FAST) Act). Data obtained from TAMIS (Oct. 1, 2020).

53 IRM 5.19.1.5.19.4, Discretionary Certification Exclusions (Dec. 26, 2017); IRM 5.1.12.27.4, Discretionary Exclusions From Certification (Dec. 20, 2017).

from taxpayers facing passport issues as a matter of public policy.<sup>54</sup> These TAOs enabled taxpayers who otherwise would have been unable to travel internationally for work, medical treatment, or significant life events (marriages and funerals of immediate family). In four TAOs, taxpayers entered into installment agreements to resolve their past due tax debts, but because they had imminent travel plans, TAS used the TAO to expedite removal from passport certification/revocation.<sup>55</sup> In another four cases, the taxpayers took action to correct their balances due by filing correct returns, audit reconsiderations, or delinquent returns with refunds to reduce their liabilities, making them eligible for removal from passport certification/revocation.<sup>56</sup> Using TAOs in this way resulted in bringing these taxpayers with seriously delinquent tax debts back into communication with the IRS to address their balances due and compliance issues, resulting in long-term resolution for both the taxpayer and the IRS.

These TAO examples show how this tool can be used to protect fundamental taxpayer rights, such as:

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

## CONGRESSIONAL CASE TRENDS

TAS independently reviews all tax account inquiries it receives via members of Congress. In FY 2020, the TAS congressional receipts totaled 35,257 cases, a 232 percent increase from the previous fiscal year.<sup>57</sup> The shutdown of IRS operations due to COVID-19 caused this noticeable increase, as many taxpayers were unable to contact the IRS and sought assistance from their Congressional Representatives and Senators as a last resort. As discussed above, TAS was challenged with delays in resolving many taxpayer issues.<sup>58</sup> The National Taxpayer Advocate sent a letter to all congressional offices through the LTAs to address the impact of COVID-19 on TAS and the limitations to timely respond to inquiries and taxpayer's needs.<sup>59</sup> Figure 4.1.1 highlights the top ten issues in congressional cases for FY 2020. The PRWVH receipts increased by nearly 380 percent. Unpostables and rejects, processing original returns, and other refund inquiries or issues were the largest increases, yet TAS was unable to work these issues until the IRS resumed operations and worked through backlogs.

54 See TAS-13-1120-0019, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (Nov. 20, 2020). See also National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress (Area of Focus: *TAS Will Continue to Assist Taxpayers in Exercising Their Administrative Rights While They Face Passport Consequences*).

55 Data obtained from TAMIS (Oct. 1, 2020).

56 *Id.*

57 From April through September, TAS cases received from congressional offices increased nearly 345 percent from FY 2019 to FY 2020. See *Impact of COVID-19, supra*. Data obtained from TAMIS (Apr. 1, 2019; Oct. 1, 2019; Apr. 1, 2020; Oct. 1, 2020).

58 See *Impact of COVID-19, supra*.

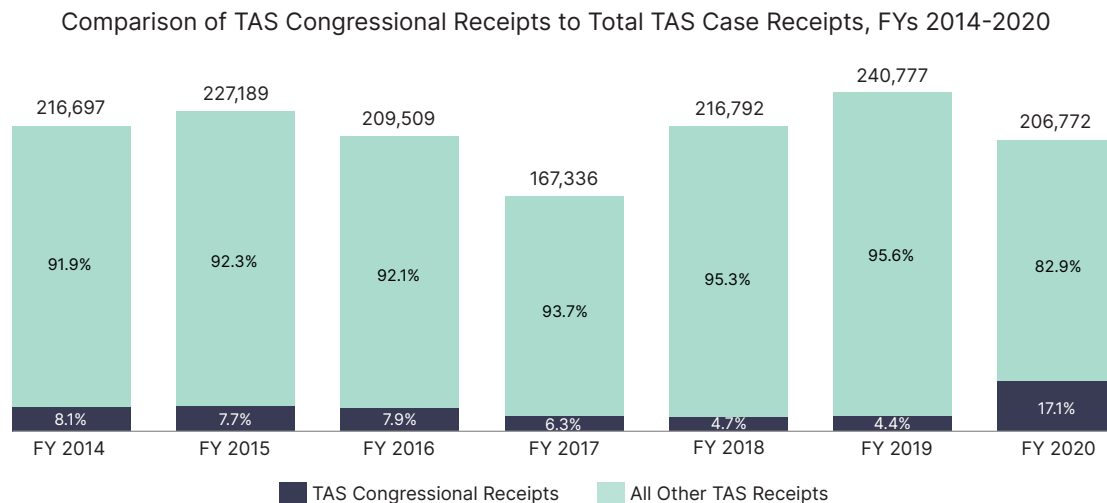
59 National Taxpayer Advocate letter to Congressional Representatives and Senators dated April 15, 2020.

**FIGURE 4.11, TAS Top Ten Congressional Receipts by Primary Core Issue Codes for FY 2020 Compared to Same Type of Issue in FY 2019<sup>60</sup>**

Rank	Issue Description	FY 2019	FY 2020	Percent Change
1	Pre-Refund Wage Verification Hold	1,597	7,659	379.6%
2	Unpostables and Rejects	322	3,252	909.9%
3	Processing Original Returns	408	3,196	683.3%
4	Other Refund Inquiries and Issues	577	1,113	92.9%
5	Taxpayer Protection Program Issues	189	1,154	510.6%
6	Affordable Care Act Health Insurance Premium Tax Credit for Individuals	203	1,117	450.2%
7	Identity Theft	242	710	193.4%
8	Processing Amended Returns	462	646	39.8%
9	Earned Income Tax Credit (EITC)	316	668	111.4%
10	Injured Spouse Claims	171	558	226.3%
<b>Other Issues</b>		<b>6,133</b>	<b>15,184</b>	<b>147.6%</b>
<b>Total Congressional Receipts</b>		<b>10,620</b>	<b>35,257</b>	<b>232.0%</b>

Figure 4.12 illustrates the TAS congressional receipts from FY 2014 to FY 2020.

**FIGURE 4.12, Comparison of TAS Congressional Receipts to Total TAS Case Receipts, FYs 2014-2020<sup>61</sup>**



60 Data obtained from TAMIS (Oct. 1, 2019; Oct 1, 2020).

61 Data obtained from TAMIS (Oct. 1, 2014; Oct. 1, 2015; Oct. 1, 2016; Oct. 1, 2017; Oct. 1, 2018; Oct. 1, 2019; Oct 1, 2020).