

Taxpayers Whose Legitimate Returns Are Flagged by IRS Fraud Filters Experience Excessive Delays and Frustration in Receiving Their Refunds

RESPONSIBLE OFFICIALS

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TAXPAYER RIGHTS IMPACTED¹

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

EXPLANATION OF THE PROBLEM

The IRS's fraud filters flagged 5.2 million refunds in 2020.² It released most after verifying the taxpayer's identity or income and withholding (*i.e.*, most were legitimate refund claims).³ Taxpayers expect to receive their refunds quickly, and the IRS says it issues most within "21 calendar days" of e-filing (or within six weeks of mailing).⁴ But for about 25 percent of the returns flagged for income verification, refunds took longer than 56 days in 2020, and for about 18 percent of those flagged for identity verification, refunds took longer than 120 days.⁵

When taxpayers call the IRS about their refunds or use the Where's My Refund (WMR) tool on the IRS website or the IRS2go app, they cannot get specific information about the cause of the delay, what the IRS needs, and when they can expect the refund. Even if they could, the refund might be stuck between functions.⁶ This absence of specific information combined with the economic burden caused by delays drove over 65,000 taxpayers to seek TAS assistance with pre-refund identity or income verification in 2020. Income verification has been the number one reason for taxpayers to ask for TAS's help over the last three years.⁷

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

2 IRS, Identity Theft (IDT) and Integrity Verification Operation (IVO) Modeling Analysis Performance Report (Oct. 7, 2020) (data as of September 30, 2020).

3 IRS, IDT, and IVO Performance Report 3, 8-9 (Oct. 7, 2020).

4 IRS, Tax Season Refund Frequently Asked Questions, <https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions> (last visited Oct. 15, 2020). About 89.1 percent of individuals e-filed in fiscal year (FY) 2019. IRS 2018 Data Book (Sept. 30, 2019) (154,094,555 individuals filed, as shown in table 2, and 137,242,019 individuals e-filed, as shown in table 4).

5 IRS, RRP Non-IDT Performance Report 3 (Oct. 7, 2020); IDT, and IVO Performance Report 6 (Oct. 7, 2020). The IRS shutdown due to COVID-19 caused some of these delays. See *Supplemental Review of the 2020 Filing Season, infra*.

6 Internal Revenue Manual (IRM) 21.5.6.4.35.3.1, -R Freeze Phone Procedures for Accounts with Return Integrity Verification Operations (RIVO) Involvement (Oct. 1, 2020).

7 Taxpayer Advocate Management Information System (TAMIS) (Oct. 1, 2020; Oct. 1, 2019; Oct. 1, 2018).

Although the IRS has tried to expedite refunds, it needs technology upgrades and procedural improvements to do more. Upgrades would also improve communications with taxpayers, which would help the IRS provide better service and manage taxpayer expectations.

ANALYSIS

Background

Recent Legislation Gives the IRS Time to Verify Refunds Before Paying

Beginning in the 2017 filing season, the Protecting Americans From Tax Hikes (PATH) Act required employers and most other payers to submit third-party reporting information (*e.g.*, Form W-2, Wage and Tax Statement, and Form 1099-MISC, Miscellaneous Information) by January 31.⁸ It also required the IRS to hold all refunds to taxpayers claiming the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit until February 15.⁹ By accelerating third-party information reporting and delaying refunds, Congress made it easier for the IRS to match returns to third-party information reporting documents before paying refunds.

Recent legislation also permits the IRS to require more employers to report income and withholding electronically. In 2020, employers filing fewer than 250 Forms W-2 were exempt from the electronic filing requirement, but the Taxpayer First Act (TFA) reduced this threshold to 100 in 2021 and to ten thereafter.¹⁰ Once implemented, these changes should reduce the number of paper Forms W-2 that the Social Security Administration (SSA) must transcribe and accelerate the matching process.

Section 1206 of the TFA amended IRC § 7602(c) in 2019 to require the IRS to provide the taxpayer with notice that it intends to contact third parties at least 45 days prior to any contact. Thus, unless the IRS contacts the taxpayer to get authorization to make contact sooner (or another exception applies), a manual verification process that requires the IRS to contact a third party will take over 45 days.

The IRS's Return Integrity Verification Operation Aims to Prevent Fraud and Identity Theft

The IRS's Return Integrity Verification Operation (RIVO) prevents refund fraud by both taxpayers and third-party identity thieves.¹¹ When RIVO screens a return for potential identity theft (IDT), its Taxpayer Protection Program (TPP) asks the taxpayer to authenticate his or her identity either over the phone, online, by mail, or by visiting a Taxpayer Assistance Center (TAC).¹² If the taxpayer does not authenticate, the IRS does not process the return. If the taxpayer does not respond, the IRS eventually archives the return. If the taxpayer authenticates, RIVO's Pre-Refund Wage Verification Hold Program (PRWVH) screens it to determine if the income and withholding on the return match the IRS's Information Returns Master File (IRMF) data.¹³

8 Section 201 of the PATH Act of 2015 amended IRC § 6071 to require that certain information returns be filed by January 31, generally the same date that employee and payee statements are due. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 201 (2015).

9 Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 201 (2015) (codified at IRC §§ 6071(c) and 6402(m)).

10 See TFA, Pub. L. No. 116-25, § 2301, 133 Stat. 981 (2019) (codified at IRC §§ 6011(e) and 6724(c)). In the case of a partnership, the number will be 200 for calendar year (CY) 2018, 150 for CY 2019, 100 for CY 2020, and 50 for CY 2021. *Id.*

11 IRM 25.25.6.1.7, Taxpayer Protection Program Overview (Apr. 28, 2020).

12 *Id.*

13 The IRMF maintains third-party payor data reported to the IRS.

When RIVO screens returns selected by non-IDT filters, it may contact employers or other third parties regarding income and withholding discrepancies, missing payor information, or questionable IRMF documents.¹⁴ If not verified and released during this stage, the return may be forwarded to other treatment streams, such as examination.¹⁵

The Return Integrity Verification Operation Has Been Working With TAS, But It Still Delays Many Legitimate Refunds

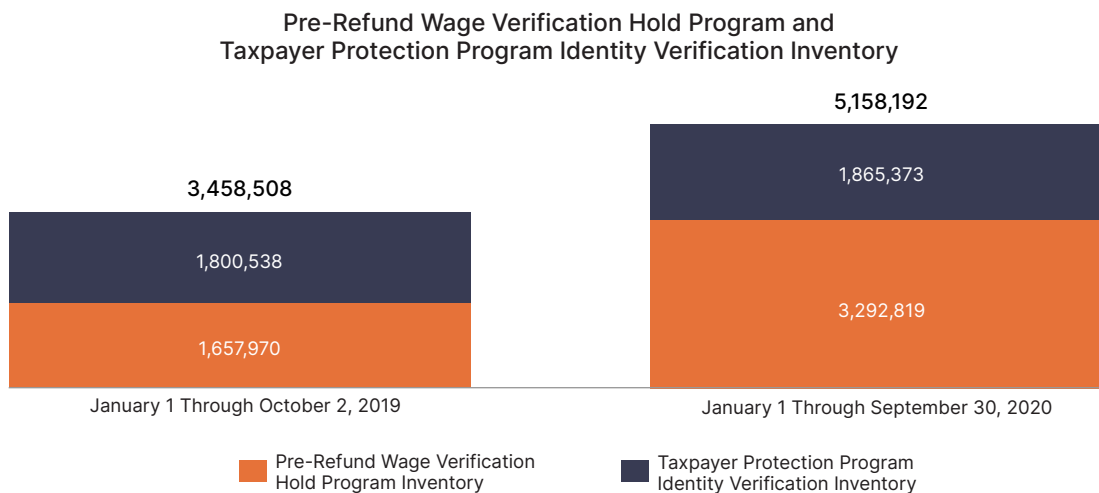
TAS recommended improvements to the RIVO program that are designed to keep taxpayers informed of the progress of their returns and refunds. The IRS agreed with many and has taken the following steps to improve the program in 2020:¹⁶

- The IRS and the SSA have been collaborating to reduce the processing time of paper Forms W-2;
- The IRS provides taxpayers whose refunds have been delayed by the PRWVH process with an interim letter every 60 days;
- The IRS issued a second TPP letter to those who do not authenticate their identity in response to the first letter;¹⁷ and
- The IRS has updated its initial contact Letter 4464C, Questionable Refund Hold, to instruct taxpayers to review the income and withholding they reported and to file an amended return to correct any errors. This new language should help empower taxpayers to accelerate their refunds.

The Return Integrity Verification Operation Screens Millions of Returns

The PRWVH and TPP programs review all returns claiming refunds and flag millions for additional screening each year, as shown in Figure 1.10.1.

FIGURE 1.10.1¹⁸



14 IRM 25.25.3.2, Verification of Income (Oct. 1, 2020).

15 IRM 25.25.13.3(3), Account Resolution Research (June 3, 2020).

16 See National Taxpayer Advocate Fiscal Year 2021 Objectives Report to Congress 138-143 (Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress*).

17 IRS response to TAS information request (Oct. 22, 2020) (item 23).

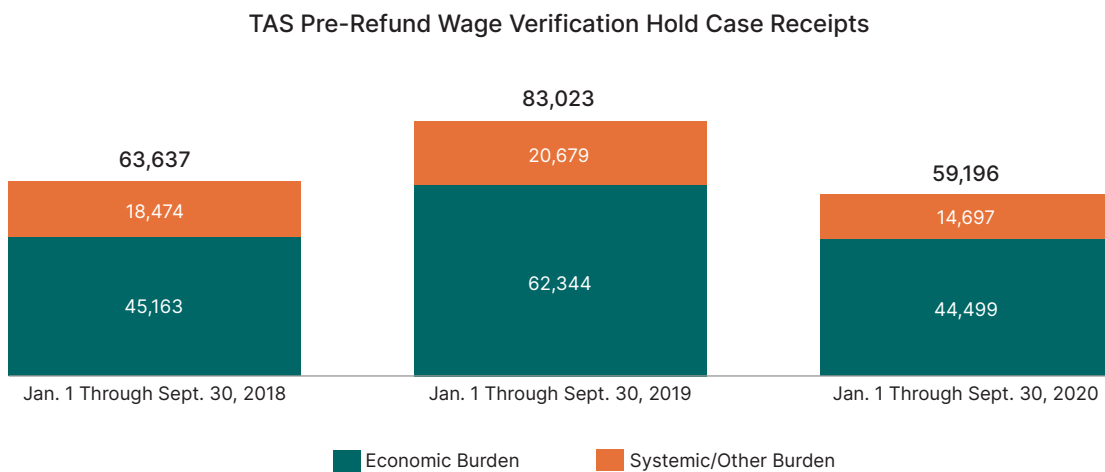
18 IRS, IDT, and IVO Performance Report 3, 8-9 (Oct. 7, 2020); IRS, IDT, and IVO Performance Report 3, 8 (Oct. 9, 2019). The returns selected automatically each year by PRWVH have been increasing because the IRS has been automating some of its filters.

Most returns flagged for additional screening by RIVO are not fraudulent. It verified and released 72 percent of the refunds processed by the PRWVH program and 63 percent of those processed by TPP in calendar year (CY) 2019.¹⁹

Tens of Thousands of Taxpayers Come to TAS for Assistance

When taxpayers need their refunds quickly to avoid an economic burden, or a systemic problem exists (e.g., the IRS has not responded within established timeframes), taxpayers may ask TAS for assistance.²⁰ In PRWVH cases, TAS checks to see if the taxpayer’s third-party information reporting documents are on the system.²¹ If they are and they match the return, TAS may ask RIVO to release the refund. If not, TAS may ask the taxpayer to provide a written statement from the employer (or payor) or to permit RIVO to contact the employer (or payor). TAS helps tens of thousands of taxpayers with these delays each year, as shown in Figures 1.10.2 and 1.10.3.

FIGURE 1.10.2²²

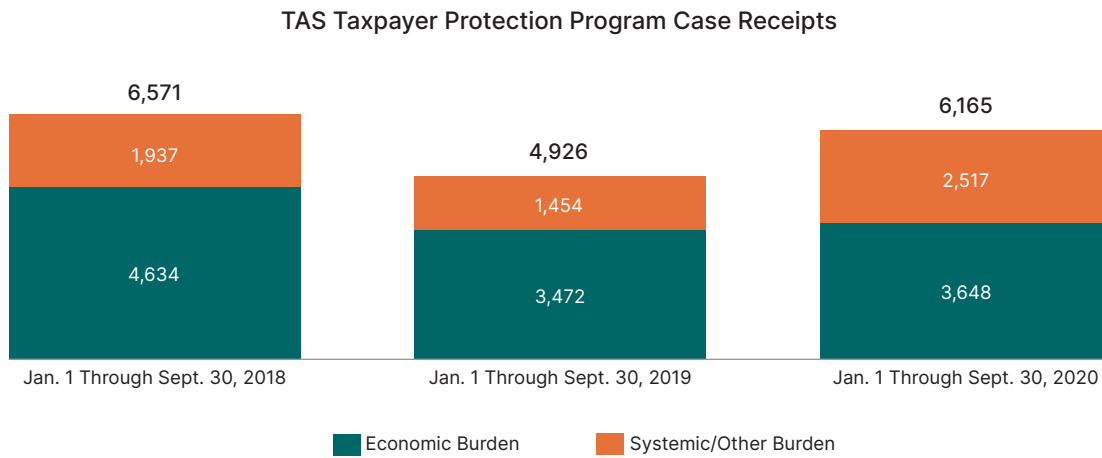


19 IRS, RRP Non-IDT Performance Report 15 (Jan. 29, 2020); Wage and Investment (W&I), Business Performance Review Q4 FY 2020 (Nov. 5, 2020) (showing the IDT false detection rate for 2019). The non-IDT false detection rate was 66 percent in CY 2020 as of October 7. IRS, RRP Non-IDT Performance Report 2 (Oct. 7, 2020); Comparable figures are not available for IDT in 2020.

20 IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria (Feb. 5, 2016).

21 TAS, Case Assistance by Issue Code (CABIC), Issue Code 045, Initial Actions (July 2020).

22 TAMIS (Oct. 1, 2020; Oct. 1, 2019; Oct. 1, 2018).

FIGURE 1.10.3²³

In 2019, TAS accepted PRWVH cases that met its eligibility criteria any time after the IRS could issue refunds (*i.e.*, after February 15 for many returns), but TAS changed its criteria on February 14, 2020, to delay acceptance of PRWVH cases until four weeks after the filters stopped the refund.²⁴ As a result, TAS received fewer PRWVH cases in 2020 than in 2019. TAS determined that its involvement during the first four weeks added little to no value, and this additional time allowed the IRS to release more refunds on its own. Of the refunds it released, 63 percent were released within 28 days, thus supporting TAS's decision to alter its criteria.²⁵ Another factor that may have reduced TAS's PRWVH caseload was the IRS's inability to accept calls between March 21 and the end of April – calls that might otherwise have generated referrals from the IRS to TAS.²⁶ Notwithstanding these factors, the number one reason that taxpayers asked TAS for assistance during 2020 was for help with the PRWVH program, and this has been the number one reason for the last three years.²⁷

Manual Procedures and Referrals to Other Functions Delay Refunds

Manual Reviews Delay Refunds

The IRS's systemic checks were quick in 2020 — two days on average for IDT cases after the taxpayer authenticated his or her identity and five days on average for automated PRWVH filter selections after the IRS received the third-party information reporting data.²⁸ The returns flagged by other (non-automated) filters were delayed longer — 39 days on average for certain manual filters used by PRWVH because they

²³ TAMIS (Oct. 1, 2020; Oct. 1, 2019; Oct. 1, 2018).

²⁴ TAS also accepted cases referred by Congress or if the taxpayer needed TAS's help to bypass a refund offset. TAS, TAS-13-0220-0002, Interim Guidance on Exclusion from TAS Case Acceptance Criteria Taxpayers Impacted by Pre-Refund Wage Verification Hold and Amended Returns (Feb. 14, 2020); SERP Alert 20A0037, TAS Referrals (Jan. 21, 2020).

²⁵ IRS, RRP Non-IDT Performance Report 3 (Oct. 7, 2020).

²⁶ See, e.g., IRS SERP Alert 20A0135, Product Line Closure (issued Mar. 24, 2020 and rescinded May 7, 2020); IRS SERP Alert 20A0191, TPP Guidance During Continued COVID-19 Closures (Apr. 29, 2020) (TPP line opened on April 27); IRS SERP Alert 20A0207, Accounts Management to Open Some Phone Lines on Monday May 18, 2020 (May 19, 2020); IRS, SERP Alert 20A0172, RIVO Compliance Treatment Inventories/Notice Changes Due to Ogden Site Centralized Printing Services Closures (issued Apr. 10, 2020 and rescinded Sept. 29, 2020: "RICS cannot issue letters/notices for any inventory type until further notice.").

²⁷ TAMIS (Oct. 23, 2020).

²⁸ IRS response to TAS information request (Oct. 22, 2020) (items 16 and 17).

require manual reviews — and some of these reviews take much longer because they require third-party contacts.²⁹ About a quarter of them took longer than 56 days.³⁰ Returns flagged and authenticated by TPP before PRWVH verified them were delayed by 67 days on average, and 18 percent were delayed over 120 days (though the IRS shutdown due to COVID-19 caused some of these delays).³¹

Some Returns Get Stuck in Transit Between Functions

When RIVO transfers a return from the PRWVH program to another IRS function such as Examination, the IRS does not immediately assign an employee to work the case.³² From the taxpayer's perspective, his or her refund seems to get stuck. RIVO does not currently track this period³³ but is in the preliminary stages of developing a methodology.³⁴ For tax year 2018 returns processed in 2019, PRWVH referred 149,405 returns to another compliance function.³⁵ These referrals sometimes delayed valid refund requests. The IRS issued full refunds on 17,736 (12 percent) after a median of 47 weeks (*i.e.*, 329 days), and as of September 24, 2020, 29,365 (20 percent) had still not reached the function — they were still sitting in transit between functions.³⁶

The IRS should eliminate the time returns are in transit between functions by automatically assigning them in downstream functions and notifying the taxpayer. The IRS's Wage and Investment (W&I) Division should adopt as a measure the number of taxpayers who wait more than 60 days for their refunds. This measure would help the IRS focus on removing the roadblocks that some taxpayers face in getting their refunds.

Technology Upgrades and Procedural Changes Could Improve Service

Taxpayers expect to receive their refunds shortly after they file their returns. Although the IRS website warns that refunds requested on returns with errors or affected by IDT or fraud could take longer, taxpayers submitting legitimate refund requests do not expect a delay. The IRS's website says “we issue most refunds in less than 21 calendar days” of e-filing (or within six weeks of mailing).³⁷ Both the PRWVH and TPP send letters that say the process can take longer — up to 60 days with PRWVH or up to nine weeks after a taxpayer verifies his or her identity with TPP.³⁸ But not all taxpayers receive, read, or understand the IRS's letters.³⁹

29 IRS, RRP Non-IDT Performance Report 3 (Oct. 7, 2020).

30 *Id.*

31 IRS, IDT, and IVO Performance Report 6 (Oct. 7, 2020). The IRS is working with TAS to conduct a focus group to determine why taxpayers do not always verify their identity promptly; however, it was postponed due to COVID-19.

32 After TAS recommended RIVO send the taxpayer a letter to provide a contact in another function before closing a case as unverified, it responded: “...with our systemic Questionable Return Program (QRP) process, we are unable to provide specific contact information regarding the site/employee at this time...” National Taxpayer Advocate Fiscal Year 2019 Objectives Report to Congress 143 (Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress, IRS Response to Recommendation 4-7*).

33 IRS, W&I Comprehensive Data Dictionary Plus the Agency Priority Goal (Feb. 27, 2020).

34 W&I response to TAS information request (Oct. 23, 2020) (item 20) (“Cycle Time is currently not tracked, however, RIVPM is in the preliminary stages of establishing a methodology for tracking cycle time.”).

35 Compliance Data Warehouse (CDW) Individual Master File (IMF) Transaction History and IRTF F1040 Tables (Nov. 12, 2020).

36 *Id.* (all data is as of September 24, 2020).

37 IRS, Tax Season Refund Frequently Asked Questions, <https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions> (last visited Oct. 15, 2020).

38 IRM 25.25.6.2, Written Responses to Letter 4883C, Letter 5071C, Letter 5447C, Letter 5747C, Letter 6167C, or Letter 5216 (Oct. 1, 2020). Although one recent survey indicated that nearly eight in ten taxpayers are willing to wait up to at least 30 “additional” days for the IRS to verify their identity, it is unclear what they viewed as the baseline. W&I Strategies & Solutions, Highlights from the 2019 Taxpayer Experience Survey (TES) 4 (Feb. 2020). Moreover, most were not willing to wait an additional 60 days or more. *Id.*

39 For example, one TAS study found “almost 40 percent [of those receiving an Earned Income Tax Credit (EITC) audit notice]... did not understand what the IRS was questioning ... [and] only about half of the respondents felt that they knew what they needed to do in response to the audit letter.” See, e.g., National Taxpayer Advocate 2018 Annual Report to Congress vol. 2, at 100, 103-104 (Research Study: *What Influence Do IRS Audits Have on Taxpayer Attitudes and Perceptions? Evidence From a National Survey*).

Moreover, even these timeframes can be unrealistic.⁴⁰ If taxpayers try to determine the status of their refunds, they are likely to be frustrated for many reasons.

Customer Service Representatives Do Not Provide Specific Information

When a taxpayer calls the toll-free line to ask about a refund, a customer service representative (CSR) may tell him or her to ensure his or her income, expenses, and credits are correct and to file an amended return if necessary.⁴¹ Because CSRs are not required to compare return information to payor data,⁴² they generally do not give taxpayers specific information about the cause of the delay or ways to expedite the refund.⁴³ CSRs often have to fill out a form and refer the issue to RIVO or send the taxpayer to TAS so that TAS can explain why the IRS is holding his or her refund.⁴⁴ Although some IDT victims who call about an open case can use a program-specific toll-free number and get a particular employee's contact information,⁴⁵ the IRS has no similar system or program-specific toll-free number for non-IDT cases.⁴⁶

The IRS should change its procedures to require CSRs to (1) analyze the taxpayer's account so they can provide the same guidance as TAS,⁴⁷ and (2) have RIVO employees respond to taxpayer inquiries that the CSR cannot answer.⁴⁸ Once a RIVO employee responds to the taxpayer, he or she should serve as a single point of contact for the taxpayer's PRWVH follow-up questions, at least until the IRS issues the refund or opens a case in another function.⁴⁹

Online Tools Do Not Provide Specific Information Until Refunds Are Approved

IRS websites and letters raise the expectation that taxpayers can track refunds with precision on the WMR tool on IRS.gov or the IRS2Go app. But this tool and app have only three statuses (*i.e.*, return received, refund approved, or refund sent). They only provide a personalized estimate of when the taxpayer will receive

40 CSRs were recently advised to inform taxpayers calling about TPP verification: "advise the taxpayer it could take 16 weeks or longer to process their documentation, due to COVID delays." IRS, SERP Alert 20A0144, Treatment of TPP Taxpayers Sent to TAC during COVID-19 Shutdown (July 30, 2020).

41 IRM 21.5.6.4.35.3.1.2(2), -R Freeze Phone Procedures for Accounts with Return Integrity Verification Operations (RIVO) Involvement (Oct. 1, 2019).

42 IRM 1.1.13.4.2, Modernization Development and Delivery (MDD) (Dec. 21, 2018).

43 IRM 21.5.6.4.35.3.1, -R Freeze Phone Procedures for Accounts with Return Integrity Verification Operations (RIVO) Involvement (Oct. 1, 2020); *Continued Oversight Over the Internal Revenue Service: Joint Hearing Before the H. Subcomm. on Health Care, Benefits, and Administrative Rules and H. Subcomm. on Government Operations*, 115th Cong. (2018) (statement of Nina E. Olson, National Taxpayer Advocate).

44 See, e.g., IRM 21.5.6.4.35, -R Freeze (Oct. 1, 2020) (referral to TAS on Form 911); IRM 21.5.6.4.35.3, -R Freeze Overview for Accounts with Return Integrity Verification Operations (RIVO) Involvement (Jan. 13, 2020) (referral to RIVO on Form 4442).

45 IRM 25.23.12.5.1(7), Telephone Inquiries Regarding Identity Theft Victim Assistance (IDTVA) Tax-Related Cases (Oct. 1, 2020) ("If you are unable to assist the taxpayer by responding to their questions and concerns as it relates to the open IDTVA case, use the IDTVA tool to find the controlling IDTVA employee's contact information. Provide the taxpayer with the IDTVA toll-free number (855-343-0057), IDTVA's employee's name, six-digit extension and Tour of Duty (TOD), and availability based on the taxpayer's time").

46 For further discussion of this issue, see, e.g., National Taxpayer Advocate Fiscal Year 2019 Objectives Report to Congress 160-167 (Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress, IRS Response to Recommendation 19-2*).

47 The IRS provides specific information about the discrepancy by letter before contacting third parties. See IRM 25.25.3.9, Manual Verification Procedures (Oct. 1, 2020) (discussing Letter 6255C). In addition, the IRS plans to "provide taxpayers with visibility to third-party data before filing." See IRS Integrated Modernization Business Plan 24 (Apr. 2019), https://www.irs.gov/pub/irs-utl/irs_2019_integrated_modernization_business_plan.pdf.

48 RIVO employees work cases referred to the Automated Questionable Credit or Wage/Withholding Only programs. IRM 25.25.11, Wage and Withholding Only (WOW) (Notice CP 05A) Procedures (Sept. 15, 2020); IRM 25.25.7, Automated Questionable Credit Program (Sept. 15, 2020). RICS is responsible for many of the resulting examinations. See IRM 4.19.20, Automated Correspondence Exam (ACE) Processing Overview (Dec. 16, 2019).

49 For a further discussion of this issue, see, e.g., National Taxpayer Advocate 2018 Annual Report to Congress 52-64 (Most Serious Problem: *Navigating the IRS: Taxpayers Have Difficulty Navigating the IRS, Reaching the Right Personnel to Resolve Their Tax Issues, and Holding IRS Employees Accountable*).

a refund after the IRS has approved it; an automated refund hotline provides the same information.⁵⁰ The IRS website says that “sometimes, when we are still reviewing your return... [the tool or app] will display instructions or an explanation of what we are doing.”⁵¹ But the tool and app do not remind taxpayers that they will need to wait another eight to nine weeks for their refund after they authenticate their identity.⁵² They also do not alert taxpayers that the IRS has not received or processed third-party information reporting documents or let them know if the IRS has referred their returns to another function (*e.g.*, Examination).

The IRS should develop modern technology to ensure its fraud screens do not delay legitimate refunds while still blocking fraudulent claims.

The IRS should improve service by updating the WMR tool, the IRS2Go app, and the automated refund hotline with more specific information about why refunds are delayed; what the IRS needs (*e.g.*, verification of taxpayers’ identity, income, or withholding, or permission to contact a third party); a convenient way to provide the information (*e.g.*, via upload, phone, fax, or in person); an updated estimate of when the IRS will issue the refund if the taxpayer responds to inquiries timely; and whom to contact for more information.

Many Taxpayers Cannot Verify Their Identity Online

Even though some TPP letters offer taxpayers the option to verify their identities using the IRS’s ID Verify website, many cannot.⁵³ Before a taxpayer can use ID Verify, he or she must first get through “Secure Access” — the same authentication required for creating an online account. Less than half succeeded in 2020.⁵⁴ Although online security is important, unsuccessful attempts frustrate taxpayers. The IRS has tentative plans to allow taxpayers to reach ID Verify after authenticating through a new system called Secure

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- 50 IRM 21.4.1.4, Refund Inquiry Response Procedures (Oct. 1, 2020). Despite being automated, this hotline received 22.9 million calls and only provided a 60 percent level of service in FY 2020. IRS, Joint Operations Center, Snapshot Report (Sept. 30, 2020).
- 51 IRS, Tax Season Refund Frequently Asked Questions, <https://www.irs.gov/refunds/tax-season-refund-frequently-asked-questions> (last visited Oct. 21, 2020). Although nine out of ten respondents to one recent survey used web-enabled cell phones, only about a third were willing to use the IRS2Go app to get information about their refunds. W&I Strategies & Solutions, Highlights from the 2019 Taxpayer Experience Survey (TES) 7 (Feb. 2020). The IRS says it has improved the messages for returns suspended in the TPP. IRS response to TAS information request (Oct. 22, 2020) (“At the beginning of the filing season, a change request was carried out to enhance messaging for Where’s My Refund for accounts in the Taxpayer Protection Program”).
- 52 IRM 21.4.1.6, Internet Refund Fact of Filing (IRFOF) (Oct. 1, 2018); IRM Exhibit 21.4.1-3, Internet Refund Fact of Filing Reference Numbers (June 22, 2018). The tool may display a code that a telephone assistor can explain if the taxpayer calls the IRS or finds meaning of the code in the IRM. Although two of the codes translate to “Refund delayed, pulled for review,” they do not appear to indicate that the refund has been delayed by TPP or PRWVH, explain what the IRS needs to process the refund, or give the taxpayer an updated estimate of when he or she can expect his or her refund. *Id.*
- 53 ID Verify is an IRS website that allows taxpayers to verify their identity using the IRS letter they received, the return referenced in the letter, a previous year return, and supporting documents filed with those returns. See, *e.g.*, IRS, Understanding Your 5071C Letter, <https://www.irs.gov/individuals/understanding-your-5071c-letter> (last visited Oct. 28, 2020).
- 54 The collective authentication rate for those IRS online applications requiring the highest level of assurance authentication (LOA3), such as online accounts and taxpayer digital communications, was about 42 percent in FY 2020. PGLD response to TAS information request (Oct. 13, 2020). For additional information about the information needed to pass Secure Access authentication, see IRS, Secure Access: How to Register for Certain Online Self-Help Tools, <https://www.irs.gov/individuals/secure-access-how-to-register-for-certain-online-self-help-tools> (last visited Oct. 16, 2020). Note that the option to receive an activation code by mail was not available for several months during the COVID-19 pandemic, and this impacted the verification rate.

Access Digital Identity beginning in July 2021, but it is not clear how much easier it will be for taxpayers to authenticate.⁵⁵

Taxpayers Are Only Temporarily Allowed to Verify Their Identity by Fax

During the COVID-19 shutdown, taxpayers could not verify their identity by phone or in person at a TAC because the IRS closed its call centers and TACs. The IRS began allowing taxpayers to submit verification documents by eFax (or mail) if they were unable to use other verification methods.⁵⁶ The IRS should continue to accept verification information by eFax, at least until it has an easier way to accept it electronically.

Technology Upgrades Could Expedite Refunds and Save Resources

RIVO uses an obsolete case management and screening system called Return Review Program Legacy Component (RRPLC) (or Electronic Fraud Detection System), which the IRS has been planning to replace for more than a decade.⁵⁷ Just maintaining RRPLC has cost the IRS about \$26 million over the last two fiscal years,⁵⁸ but due to budget constraints, most other modernization backlog items planned for FY 2020 were put on hold.⁵⁹ Nonetheless, small fixes can have large payoffs.

Example: In January 2020, W&I reiterated its longstanding request for upgrades to RRPLC because the system lacked the ability to systemically update and verify certain withholding and income information.⁶⁰ Even if that information confirmed the taxpayer was due a refund, the system did not release the refund automatically.⁶¹ W&I requested upgrades estimated to cost \$19,249.51 because manual procedures (*i.e.*, uploading information and releasing refunds), which can result in errors and delays, consumed about *100 full-time employees each year*.⁶²

Other upgrades to various systems could help the IRS release refunds more quickly. Once the IRS determines that it should release a refund, its systems can take ten days to do so.⁶³ A more robust systemic process could release refunds more frequently (*e.g.*, every day). It might also save the IRS time and the cost of paying interest on delayed refunds. Similarly, many returns that PRWVH cannot verify are sent to other treatment

55 IRS, Secure Access Digital Identity (SADI) & App Integration Overview (Sept. 2020). For further discussion of the IRS's new authentication protocol, see Most Serious Problem: *Digital Communications: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers*, *supra*.

56 IRS, SERP Alert 20A0144, Treatment of TPP Taxpayers Sent to TAC during COVID-19 Shutdown (rev. July 30, 2020).

57 See Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2017-20-080, *The Return Review Program Increases Fraud Detection; However, Full Retirement of the Electronic Fraud Detection System Will Be Delayed* 7 (Sept. 25, 2017). Although the IRS recently replaced one of RRPLC's screening components called Discoverer with a system called the Selections and Analytics Platform (or SNAP), other parts of the system are still obsolete.

58 W&I response to TAS information request (Oct. 23, 2020) (item 14).

59 *Id.* (item 13).

60 TAS discussed this problem in 2018. See National Taxpayer Advocate 2018 Annual Report to Congress 79, 88 (Most Serious Problem: *False Positive Rates: The IRS's Fraud Detection Systems Are Marred by High False Positive Rates, Long Processing Times, and Unwieldy Processes Which Continue to Plague the IRS and Harm Legitimate Taxpayers*) ("Because Electronic Fraud Detection System (EFDS) does not interact with the IRS system that maintains third-party income information, employees must enter the third-party information into EFDS one document at a time, and then manually release the refunds.").

61 IRS, Unified Work Request (UWR) #234153 (Jan. 31, 2020); W&I response to TAS information request (Oct. 23, 2020) (RPT Governance Board Minutes (Aug. 2020)).

62 IRS, UWR #234153 (Jan. 31, 2020); W&I response to TAS information request (Oct. 23, 2020) (RPT Governance Board Minutes (Aug. 2020)).

63 W&I response to TAS information request (Oct. 23, 2020) (item 5(d) discusses the manual release of TPP refunds); IRM 21.4.4.3(3)(a), Why Would a Manual Refund Be Needed? (Oct. 1, 2020) (indicating a manual refund may be necessary if a taxpayer needs it in less than ten days); IRM 25.6.1.9.12.2.1, Generalized Unpostable Framework (GUF) (May 15, 2017) (indicating items that do not "post" to the IRS's master file are sorted and addressed weekly).

streams manually.⁶⁴ A systemic referral process could expedite refunds. If the IRS scanned taxpayer and employer correspondence and stored it on RRPLC or an upgraded system, then various functions could avoid duplicate requests for information. However, these improvements are not a priority if they are viewed as maintenance of an obsolete legacy system.

The IRS has denied several of RIVO's requests.⁶⁵ The TFA, which became law on July 1, 2019,⁶⁶ requires the IRS Chief Information Officer to develop and implement a multiyear strategic information technology modernization plan.⁶⁷ Although the IRS has not released its plan as of this writing, it should give priority to the upgrades that would speed refunds to taxpayers and improve service as part of the IRS's overall business service modernization.

CONCLUSION AND RECOMMENDATIONS

The IRS should develop modern technology to ensure its fraud screens do not delay legitimate refunds while still blocking fraudulent claims. The technology should also timely inform taxpayers about their refund delays; ways to expedite their refund (*e.g.*, by verifying their identities, ensuring the IRS has their information reporting documents, or responding to other IRS inquiries); contact information for relevant IRS employees; and an up-to-date estimate of when the IRS will pay the refund (if verified). CSRs, the refund hotline, the IRS's WMR tool, and IRS2Go app should all provide taxpayers with the same up-to-date information. If taxpayers call, CSRs should research and disclose the reason for the delay and what the taxpayer needs to do to expedite the case. The IRS should also permit CSRs to refer a taxpayer to a RIVO employee who should act as the taxpayer's single point of contact for followup questions. If the IRS fails to keep taxpayers informed, more taxpayers will be harmed, and they will continue to ask TAS for help.

The IRS should continue to allow taxpayers to provide documents needed to authenticate their identities by fax, email, or document upload. When merely receiving documents electronically, the IRS should not require significantly more authentication than when it receives a fax or letter from the taxpayer. Removing unnecessary barriers to electronic submissions would reduce taxpayer burden, especially for taxpayers with mobility or transportation challenges, and would free up TAC employees to assist taxpayers with problems requiring in-person presence. As discussed elsewhere in this report, a secure online account platform could allow those taxpayers to elect to receive letters, notices, and other updates on the status of their returns electronically without the need to mail correspondence.⁶⁸

64 W&I response to TAS information request (Oct. 23, 2020) (item 8).

65 For a discussion of the IRS's challenges with IT modernization, see, *e.g.*, Most Serious Problem: *Information Technology Modernization: Antiquated Technology Jeopardizes Current and Future Tax Administration, Impairing Both Taxpayer Service and Enforcement Efforts*, *supra*.

66 TFA, Pub. L. No. 116-25, § 2101, 133 Stat. 981 (2019).

67 TFA, Pub. L. No. 116-25, §§ 2101-2103, 133 Stat. 981, 985-86 (2019).

68 See, *e.g.*, Most Serious Problem: *Digital Communications: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers*, *supra*; Erin M. Collins, Lessons Learned From COVID-19: The Critical Need to Improve IRS Digital Services, NATIONAL TAXPAYER ADVOCATE BLOG (Sept. 1, 2020), <https://www.taxpayeradvocate.irs.gov/news/ntablog-lessons-learned-from-covid-19-the-critical-need-to-improve-irs-digital-services/>.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate preliminarily recommends that the IRS:

1. Offer taxpayers with refunds flagged during the fraud screening processes an electronic option that provides them with:
 - a. More accurate estimates of when they can expect to receive a refund (*e.g.*, offer estimates before the refund is approved instead of just afterward);
 - b. What specific information the IRS needs to verify;
 - c. Whom the taxpayer can contact with questions; and
 - d. How to upload identity verification information (*e.g.*, by using a cell phone or camera) without first passing through Secure Access.
2. Make permanent the temporary procedures that allow taxpayers to submit identity verification documents by eFax, at least when other modes of communication are unavailable.
3. Upgrade IRS systems so the taxpayer is automatically informed of the status of his or her case when it moves to another treatment stream (*e.g.*, Examination) or when a case is automatically opened in those downstream functions, and so any authorized IRS employee can see the status of the case and related taxpayer correspondence.
4. Fund technology upgrades to expedite legitimate refund requests while continuing to modernize and replace obsolete IRS systems.
5. Update procedures so CSRs can provide specific information to taxpayers about how to expedite a refund (*i.e.*, identify a specific discrepancy) and ask that RIVO employees respond to the taxpayer's inquiry.
6. Measure and evaluate W&I's performance based on how many taxpayers with legitimate refunds its fraud filters flag and how many must wait more than 60 days to receive their refunds.

Legislative Recommendation to Congress

The National Taxpayer Advocate recommends that Congress:

1. Provide the IRS with predictable multiyear funding to expand digital services, expedite the release of legitimate refunds, and keep taxpayers informed about the status of their refunds, as part of its overall modernization plan.⁶⁹

⁶⁹ For more detailed recommendations, see National Taxpayer Advocate 2020 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 6-8 (*Provide the IRS With Sufficient Funding to Meet Taxpayer Needs and Improve Federal Tax Compliance*). See also Most Serious Problem: *Digital Communications: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers*, *supra*; Most Serious Problem: *Information Technology Modernization: Antiquated Technology Jeopardizes Current and Future Tax Administration, Impairing Both Taxpayer Service and Enforcement Efforts*, *supra*.

IRS COMMENTS

We appreciate your support of the IRS goals of detecting and mitigating refund fraud while working to decrease burden on taxpayers who have filed legitimate returns. Roughly 98% of refund returns are not selected by fraud filters. The remaining 2% often have reported information that may not adhere to known patterns and may not have the information returns needed to validate reported amounts.

Without proper validation, the IRS risks issuing improper refunds. In 2019, the Taxpayer Protection Program (TPP) identity theft (IDT) filters protected \$2.5 billion in revenue and Return Review Program (RRP) Non-IDT filters protected \$1 billion in revenue.

We understand the concerns of how refund delays can impact taxpayers, and we continue to collaborate with internal and external partners, including the Taxpayer Advocate Service, to refine and automate refund fraud filters where appropriate. Each year, we consider several factors to make the most efficient selections and improve performance while continuing to achieve our high level of protection:

- **Measure and monitor:** The IRS added new metrics to reports of IDT and Non-IDT selections to track the resolution timeframe for false-positives to ensure no significant increase in process times.
- **Improve model selection through advanced analytics:** The IRS refreshes RRP models and filters for IDT and Non-IDT annually. The IRS reviews and updates dependent database filters annually to improve performance. We are also testing other selection approaches to determine effectiveness.
- **Improve case processes through automation:** The IRS conducted a significant overhaul of the RRP Non-IDT and systemic verification process to automate verification and processing of returns. Instead of scoring returns once at filing, the IRS is now re-scoring returns every time new third-party data is received and moving the case to the right process status instead of waiting for a manual verification. We are seeking updates to our technology and evaluating other ways to further improve these processes.
- **Improve taxpayer communications:** For 2020, all returns held in TPP for more than 90 days were scheduled for a second notice. Due to resources impacted by COVID-19, the secondary letter process was on hold until October 2020. Non-IDT selections were scheduled for interim notice every 60 days.
- **Leverage third-party data:** In 2018, the IRS began a pilot with the Bureau of the Fiscal Service (BFS) to determine if bank account information on a TPP return can be validated by BFS (a process also used for other agency payments). Based on the 2019 preliminary results, the IRS sent a secondary notice to taxpayers with matching accounts after 45 days of no response. During 2020, because of COVID-19, returns with matching bank information were immediately released from TPP.

Due to COVID-19, taxpayers experienced significant delays in the return process because of the closure of IRS sites and processes. The IRS worked to mitigate these delays by resolving as many cases

(including IDT inventory) as possible using available resources and data. As of November 2020, the IRS has not closed any cases due to no response from taxpayers, and will continue to extend the timeline to allow taxpayers to resolve their issues quickly once they are able to contact the IRS.

TAXPAYER ADVOCATE SERVICE COMMENTS

We all agree that IDT and non-IDT screens help protect taxpayers and the government, and that most taxpayers receive their refunds without delay. But a substantial number of taxpayers whose legitimate refunds are delayed by the IRS's screening process do not know the reason for the delay. TAS appreciates RIVO's ongoing efforts to (1) track the resolution timeframe for false-positives, (2) improve return selection through advanced analytics, (3) rescore returns every time new third-party data is received, (4) send more regular notices to taxpayers whose refunds are delayed, and (5) leverage more third-party data, such as bank account information that can be validated by BFS. These activities should help reduce false positives, speed the release of legitimate refunds, and improve customer service. However, the IRS needs to take additional steps to fully address these problems and provide more transparency to taxpayers whose refunds are being held and a status update regarding the timing of the pending determination.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

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2. Make permanent the temporary procedures that allow taxpayers to submit identity verification documents by eFax, at least when other modes of communication are unavailable.
3. Upgrade IRS systems so the taxpayer is automatically informed of the status of his or her case when it moves to another treatment stream (*e.g.*, Examination) or when a case is automatically opened in those downstream functions, and so any authorized IRS employee can see the status of the case and related taxpayer correspondence.
4. Fund technology upgrades to expedite legitimate refund requests while continuing to modernize and replace obsolete IRS systems.

5. Update procedures so CSRs can provide specific information to taxpayers about how to expedite a refund (*i.e.*, identify a specific discrepancy) and ask that RIVO employees respond to the taxpayer's inquiry.
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⁷⁰ For more detailed recommendations, see National Taxpayer Advocate 2020 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 6-8 (*Provide the IRS With Sufficient Funding to Meet Taxpayer Needs and Improve Federal Tax Compliance*). See also Most Serious Problem: *Digital Communications: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers*, *supra*; Most Serious Problem: *Information Technology Modernization: Antiquated Technology Jeopardizes Current and Future Tax Administration, Impairing Both Taxpayer Service and Enforcement Efforts*, *supra*.