

Introduction: The Most Serious Problems Encountered by Taxpayers

IRC § 7803(c)(2)(B)(ii)(III) requires the National Taxpayer Advocate to submit an annual report to Congress that contains a summary of ten “Most Serious Problems” encountered by taxpayers.¹ While we use the methodology described below to identify the Most Serious Problems, the list remains inherently subjective in many respects.

A. METHODOLOGY OF IDENTIFYING THE MOST SERIOUS PROBLEMS

The National Taxpayer Advocate is in a unique position to identify the most pressing problems that the IRS faces and negatively impacts taxpayers’ service and their rights. Because TAS is an independent part of the IRS, it can serve as the advocate for the taxpayer and use the experience of its staff to identify taxpayer problems to make recommendations to improve the IRS from within the organization. TAS also works with hundreds of thousands of taxpayers and practitioners every year through its casework and outreach events, so it sees problems from an external perspective. TAS employees interact regularly with taxpayers and IRS employees to resolve taxpayers’ individual problems and make systemic fixes to widespread problems.

The National Taxpayer Advocate becomes aware of potential Most Serious Problems through multiple channels. Trends in TAS’s casework, referrals from congressional offices, research studies completed by TAS and outside groups, advocacy projects worked by the TAS’s Office of Systemic Advocacy, and findings from IRS taskforces and teams on which TAS participates often reveal issues. Additionally, the National Taxpayer Advocate hears directly from individuals, including IRS employees, taxpayers, tax practitioners, other external stakeholders, and through TAS’s Systemic Advocacy Management System and other channels.²

The National Taxpayer Advocate considers several factors in identifying, evaluating, and selecting the Most Serious Problems encountered by taxpayers. The ten issues in this year’s report are selected largely according to the following criteria:

- Impact on taxpayer rights;
- Number of taxpayers impacted;
- Financial impact on taxpayers;
- Visibility, sensitivity, and interest to stakeholders, Congress, and external indicators (*e.g.*, media, etc.);
- Barriers to tax law compliance, including cost, time, and burden;
- Taxpayer Advocate Management Information System (TAMIS) inventory data; and
- Emerging issues.

¹ In previous years, Congress tasked the National Taxpayer Advocate with identifying at least the 20 most serious problems impacting taxpayers. This change was the result of the recent passage of the Taxpayer First Act, Pub. L. No. 116-25, 133 Stat. 981 (2019).

² The Systemic Advocacy Management System is a database of systemic issues and information reported online to TAS by IRS employees and members of the public, <https://www.irs.gov/advocate/systemic-advocacy-management-system-sams>. TAS reviews and analyzes the submissions and determines a course of action, which can include information-gathering projects, immediate interventions, and advocacy projects. Internal Revenue Manual (IRM) 1.4.13.4.9.2, Systemic Advocacy Management System (SAMS) (Sept. 17, 2019).

B. TAXPAYER ADVOCATE MANAGEMENT INFORMATION SYSTEM LIST

The identification of the Most Serious Problems reflects not only the mandates of Congress and the IRC, but also TAS’s integrated approach to advocacy — using individual cases to detect trends and identifying systemic problems in IRS policy and procedures or the IRC. TAS tracks individual taxpayer cases on its internal system, TAMIS. The top 25 case issues, listed in Appendix 1, reflect TAMIS receipts based on taxpayer contacts in fiscal year (FY) 2020, a period spanning October 1, 2019, through September 30, 2020.

C. DATA COMPILATION AND VALIDATION

The data cited in the National Taxpayer Advocate’s annual reports generally come from one of three sources: (i) publicly available data such as the IRS Data Book, Government Accountability Office reports, and Treasury Inspector General for Tax Administration reports; (ii) IRS databases to which TAS has access; and (iii) IRS data that IRS operating divisions provide pursuant to TAS information requests. After TAS compiles data, TAS’s Office of Research and Analysis confirms it. In accordance with IRC § 7803(c)(2)(B)(ii)(XII), TAS then sends all data in the Most Serious Problem section of the report to the IRS for final verification prior to publication.

On the rare occasion where TAS and the IRS have a disagreement about data or the presentation of the data, we generally discuss it, and if a disagreement persists, we note it in the report. This process ensures data integrity and full transparency regarding data sources and reliability.

D. THE IMPACT OF COVID-19

In the middle of the 2020 tax filing season, COVID-19 presented the IRS with an extraordinary challenge: to safeguard the health and safety of taxpayers and employees while administering the longest filing season ever. Before we introduce the Most Serious Problems, we want to highlight some challenges the IRS faced and continues to face in light of the COVID-19 pandemic.

The IRS’s Social Distancing in Response to Presidential Declaration of a National Emergency Negatively Impacted Taxpayer Service and Tax Administration

After the President declared a national emergency due to the COVID-19 pandemic, the IRS took steps to maximize social distancing to protect the personal health and safety of taxpayers, employees, contractors, stakeholders, and local communities.³ These precautions resulted in the partial or complete cessation of core IRS functions nationwide. The IRS’s main challenge was that many core operations (*e.g.*, answering phones, opening and processing taxpayer correspondence and paper-filed returns, and issuing notices) were not portable. To further complicate matters, the IRS was tasked with administering the relief provisions in Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), including distribution of economic impact payments (EIPs) “as rapidly as possible” early in the pandemic.⁴

³ Proclamation No. 9994, 85 Fed. Reg. 15, 337 (Mar. 13, 2020).

⁴ The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. No. 116-136, § 2201, 134 Stat. 281 (2020).

As the pandemic increased in severity and spread across the nation, the IRS significantly modified operations through the following actions:

- Closed Taxpayer Assistance Centers (TACs) by ending walk-in and in-person appointments;⁵
- Ceased walk-in services at local TAS offices;⁶
- For mission-critical operations that required employees to work in a campus or IRS office setting, the IRS modified staffing to enhance social distancing;⁷ and
- Directed all employees to telework if their work duties are portable or could be adapted to work offsite, even if such employees were not telework-eligible.⁸

Understandably, as a result of these actions, the operations of many IRS functions temporarily ceased. Although the IRS obtained laptops and needed software to give employees the ability to work remotely (having issued more than 15,000 laptops to customer service representatives and thousands more to non-customer-facing employees),⁹ telework was not an option for some employees. Many employees had to adapt their work duties or were unable to work altogether, as some assignments were impossible to perform at home (*e.g.*, receiving or sending taxpayer correspondence by mail, accessing computer systems, and answering toll-free phone lines). In some instances, these operational adaptations resulted in the partial or complete cessation of core IRS functions throughout the entire country.

5 IRS Commissioner, Protecting You; Protecting the Nation: New Steps to Safeguard Employees (Mar. 19, 2020).

6 *Id.*

7 *Id.*

8 IRS, 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) (Mar. 27, 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>.

9 IRS response to fact check request (Nov. 19, 2020).

FIGURE 1.0.1, COVID-19 Timeline¹⁰

March 13, 2020	President declares the COVID-19 outbreak in the United States a national emergency.
March 16, 2020	TAS instructs telework-eligible employees to begin teleworking full-time and announces changes to allow for telework-ineligible employees to begin teleworking.
March 20, 2020	In response to the national emergency, the IRS temporarily closes all Taxpayer Assistance Centers and discontinues face-to-face service.
March 21, 2020	The Treasury Department and the IRS announce federal tax filing due date is postponed to July 15, 2020.
March 25, 2020	The IRS announces the People First Initiative, providing compliance relief to taxpayers experiencing uncertainty and hardship from COVID-19. This includes postponing collections and limiting enforcement procedures.
March 27, 2020	The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) is enacted. The act provides \$2.2 trillion in economic relief to healthcare, businesses, and individuals, including economic impact payments.
March 30, 2020	The IRS evacuation order becomes effective. All employees, whose work is portable or can be adapted to work offsite, are instructed to evacuate and work from home.
April 24, 2020	The Paycheck Protection Program and Health Care Enhancement Act is enacted. This law provides \$484 billion in additional funding to programs under the CARES Act.
May 22, 2020	The IRS announces a June 1 reopening plan for “mission-critical” employees; TAS telework plan remains in place.
June 1, 2020	The IRS began to reopen by recalling certain employees back to their respective offices.
June 5, 2020	Congress enacted the Paycheck Protection Program Flexibility Act of 2020.
Aug. 28, 2020	The Treasury Department and the IRS issued guidance for employers to defer withholding and payment of the employee’s portion of Social Security tax if wages are below a certain amount.
Nov. 2, 2020	The IRS announced the Taxpayer Relief Initiative, providing temporary revised collection procedures to assist taxpayers in settling their tax debts.
Nov. 21, 2020	Deadline for taxpayers to register for Economic Impact Payments and to claim the supplemental \$500 payments for qualifying children.

¹⁰ Proclamation No. 9994, 85 Fed. Reg. 15,337 (Mar. 13, 2020); TAS, TAS Takes Measures to Protect Employees and Taxpayers (Mar. 16, 2020); IRS, Taxpayer Assistance Center Statement (Mar. 20, 2020), <https://www.irs.gov/newsroom/taxpayer-assistance-center-statement>; IRS, Tax Day Now July 15: Treasury, IRS Extend Filing Deadline and Federal Tax Payments Regardless of Amount Owed (Mar. 21, 2020), <https://www.irs.gov/newsroom/tax-day-now-july-15-treasury-irs-extend-filing-deadline-and-federal-tax-payments-regardless-of-amount-owed>; 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>; CARES Act, Pub. L. No. 116-136, 134 Stat. 281; IRS, Human Capital Office, New Work at Home Directive Begins March 30 (Mar. 30, 2020); Paycheck Protection Program and Health Care Enhancement Act, Pub. L. No. 116-139 134 Stat. 620; TAS, TAS Telework Flexibilities Remain in Place as IRS Offices Begin to Reopen (May 22, 2020); IRS, IR-2020-195, Guidance Issued to Implement Presidential Memorandum Deferring Certain Employee Social Security Tax Withholding (Aug. 28, 2020); IRS, IR-2020-248, IRS Makes It Easier to Set Up Payment Agreements; Offers Other Relief to Taxpayers Struggling With Tax Debts (Nov. 2, 2020); IRS, IR-2020-260, Register by Nov. 21 to Get an Economic Impact Payment; Same Deadline for Federal Beneficiaries to Get Missed \$500 Per Child Payments (Nov. 19, 2020). While the IRS officially started recalling some employees on June 1, 2020, some IRS employees returned to their offices before that date.

The IRS Struggled to Maintain Adequate Telephone Service or Provide Taxpayers With Face-to-Face Service at Taxpayer Assistance Centers for Months

As the pandemic unfolded, IRS executives, like those in many agencies, weighed the health and safety of taxpayers and its employees as the highest priority in making business and operational decisions. The IRS's main obstacles stemmed from its inability to staff core IRS functions due to the lack of portability of duties, such as answering phones, issuing notices, and opening and processing taxpayer correspondence and paper-filed returns.

The IRS's decision to shut down core operations significantly reduced the services it provided to taxpayers and practitioners. Beginning in March 2020, taxpayers and practitioners had difficulty contacting the IRS in person and on the phone, and their mailed correspondence and paper-filed returns sat unopened and unprocessed for months. As an alternative, the IRS steered taxpayers to use self-help online tools, which were not necessarily accessible or preferred by some taxpayers.¹¹

In early June, the IRS slowly recalled limited staff, but efforts to maximize social distancing remain in place today and many employees are still teleworking.¹² By October, the IRS's internal networks supported approximately 57,000 employees online concurrently.¹³ However, the impact of COVID-19 could have significant downstream consequences for taxpayers for months to come. Due to the continuing spread of the virus, office shutdowns might be required again during the 2021 filing season. If that happens, some of these problems are likely to recur.

While the IRS's "People First Initiative" Provided Temporary Relief From Enforcement Actions, Some Taxpayers Still Faced Compliance Challenges

In the early weeks of the pandemic, the IRS announced the "People First Initiative," which suspended many enforcement actions and provided taxpayers with much-needed filing and payment deadline postponements until July 15, 2020, among other relief.¹⁴ The IRS temporarily stopped opening most new examinations and suspended most collection actions between April 1 and July 15 as part of the initiative (with the notable exception of compliance actions required to prevent the expiration of limitation periods for assessment or collection).¹⁵ However, taxpayers undergoing existing examinations and collection actions still faced challenges. The IRS's operational adaptations placed taxpayers undergoing enforcement actions in a difficult position due to mail stoppage, suspension of notices, and inability to interact with the IRS in person, by phone, and through the mail. Meanwhile, even while enforcement actions were suspended, interest and penalties continued to accrue on tax liabilities. Those taxpayers undergoing examinations and collection actions that commenced before the national emergency still needed to interact with the IRS.

11 IRS, IR-2020-99, IRS.gov Helps Taxpayers Get Tax Information They Need; Find Tools for Filing, Paying, Checking Accounts and Answering Questions (May 21, 2020), <https://www.irs.gov/newsroom/irs-gov-helps-taxpayers-get-tax-information-they-need-find-tools-for-filing-paying-checking-accounts-and-answering-questions>.

12 Wage and Investment Division (W&I), Business Performance Review Quarter 3 FY 2020 3 (Aug. 7, 2020).

13 *IRS in the Pandemic, Hearing Before the H. Comm. on Oversight and Reform, Subcomm. on Government Operations*, 116th Cong., at 5 (Oct. 7, 2020) (statement of Charles P. Rettig, IRS Commissioner), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Rettig%20Testimony.pdf>.

14 IRS, Filing and Payment Deadline Extended to July 15, 2020 - Updated Statement (Mar. 21, 2020), <https://www.irs.gov/newsroom/payment-deadline-extended-to-july-15-2020>; 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>.

15 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>.

The IRS developed temporary workaround procedures to enable taxpayers and representatives to digitally communicate with the IRS, but these procedures are set to expire at the end of 2020.¹⁶ In addition, in early November, the IRS announced the IRS Taxpayer Relief Initiative to provide relief to taxpayers struggling to settle their tax debts due to COVID-19 by making it easier to enter into installment agreements and by providing additional relief.¹⁷

The IRS Temporarily Halted Opening and Processing Mail, Resulting in a Backlog of Unprocessed Tax Returns and Taxpayer Correspondence

Beginning in March 2020, the IRS stopped opening and processing mail. IRS campuses fully resumed mailroom operations by June 3, 2020, but still have not worked through the entire backlog.¹⁸ The mail backlog included paper-filed returns (original and amended), paper checks, and taxpayer correspondence, meaning that millions of taxpayers waited extended periods for the IRS to process their returns or review submitted documents. As of the Commissioner's testimony on November 20, 2020, the IRS still had a significant backlog of correspondence, including approximately three million pieces of unopened mail and 6.8 million returns in process.¹⁹

For taxpayers expecting refunds, the long delays were frustrating, and this frustration was compounded for those who experienced a sudden financial hardship and desperately need their tax refunds. In addition to burdening taxpayers, processing delays resulted in overpayment interest costs and rework for the IRS.²⁰

After Closing for Weeks, the IRS Notice Production Centers Mailed Backlogged Notices That Were Confusing and Outdated

The IRS fully closed its notice production centers by April 8 with partial reopening by June 15. The IRS was able to program some systems to stop or postpone system generation of some, but not all, correspondence, which resulted in a backlog of work once Correspondence Production Services reopened.²¹ After reopening the centers in early June, due to programming limitations and the extensive manual time requirements to correct the notices, the IRS determined that it could not reasonably have the backlogged notices reflect updated response dates promptly. The IRS mailed notices as originally generated, and millions of taxpayers received notices bearing dates that were weeks or even months old, many with response dates that had passed. The IRS included an informational insert in over 1.8 million notices for the purpose of informing taxpayers

16 See, e.g., Memorandum From Sunita B. Lough, Deputy Commissioner, Services and Enforcement Employees for All Services and Enforcement Employees, Control Number: NHQ-01-0620-0002, (1) Approval to Accept Images of Signatures and Digital Signatures [and] (2) Approval to Receive Documents and Transmit Encrypted Documents by Email (June 12, 2020), <https://www.irs.gov/pub/foia/ig/spder/nhq-01-0620-0002.pdf>; IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue (Oct. 23, 2020), <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>.

17 IRS, IR-2020-248, IRS Makes It Easier to Set Up Payment Agreements; Offers Other Relief to Taxpayers Struggling With Tax Debts (Nov. 2, 2020).

18 Email from Charles Rettig, IRS Commissioner, to all IRS employees (June 3, 2020).

19 *IRS Operations and COVID-19 Recovery, Hearing Before the H. Comm. on Ways and Means, Subcomm. on Oversight*, 116th Cong. (Nov. 20, 2020) (statement of Charles P. Rettig, IRS Commissioner), <https://www.c-span.org/video/?478161-1/irs-oversight-hearing>.

20 The IRS generally provided penalty relief by abating failure to file, failure to pay, and bad or dishonored check penalties once they processed the returns and checks as received on the "IRS received date" rather than on the date the IRS actually processed it. IRC §§ 6651(a), 6657; TAS, Case Guidance: IRS Continues to Process Mail Backlog (Aug. 24, 2020); SERP Alert 20A0339, Paper Check Processing Delays (Aug. 13, 2020); IRS SERP Alert 20A0321, Bad Check Penalty Relief Due to Remittance Processing Delays (Aug. 3, 2020). In addition, the IRS paid interest to individual taxpayers who filed their tax year (TY) 2019 returns on or before July 15, 2020. The overpayment interest accrued from the original April 15 due date, rather than from the postponed due date of July 15. IRC §§ 6611; 7508(c); IRS, Millions of Taxpayers Receive a Tax Refund Interest Payment, <https://www.irs.gov/newsroom/millions-of-taxpayers-receive-a-tax-refund-interest-payment> (last visited Oct. 20, 2020).

21 See IRS, SERP Alert 20A0211, Postponement of Account Settlement of Balance Due Tax Returns (May 20, 2020) (Rev. July 2, 2020).

that tax had been assessed against them and demanding that they pay a balance due (“notice and demand”), math error notices, or Collection Due Process.²² The inserts informed taxpayers of the new, updated pay-or-respond deadlines, but some taxpayers inevitably were confused and did not know whether or how to respond.²³ Because telephone service was limited, many taxpayers did not know where to turn.²⁴

Some Taxpayers Did Not Receive Their Full EIPs Due to IRS Programming Errors or Factual Issues and the IRS Decided It Did Not Have the Resources to Resolve This Year

On March 27, 2020, the CARES Act was signed into law. It directed the IRS to make EIPs of \$1,200 to each “eligible individual” and an additional \$500 for each qualifying child “as rapidly as possible.”²⁵ The IRS took immediate steps and made significant efforts to expedite programming its systems; coordinate with the Social Security Administration, the Department of Veterans Affairs, and the Bureau of the Fiscal Service; issue guidance to the public; create a dedicated Coronavirus webpage; and develop two online tools (“Get My Payment” and “Non-Filers Enter Payment Info Here”) to provide eligible individuals with the ability to track their EIPs or file a short return listing their qualified children to receive an additional child payment. The IRS began issuing these payments around April 10, 2020. As of October 7, 2020, the IRS delivered more than 160 million payments, totaling more than \$270 billion, most by direct deposit and some by paper check or prepaid debit card.²⁶

The IRS reached out to potentially eligible individuals who typically do not file federal income tax returns and had not yet registered to claim EIPs.²⁷ Because the EIP is an advance of a credit for an individual’s 2020 tax return, the IRS must issue the payment by the end of 2020. The IRS encouraged individuals to register for the EIP through an online “Non-Filers” tool created for taxpayers without a return filing obligation by November 21, 2020, to allow the IRS time to process and pay the EIP this calendar year.²⁸

22 See Erin M. Collins, Keep an Eye on Your Mailbox: Millions of Backlogged Notices Are Being Mailed Over the Next Few Months, Some Reflect Expired Action Dates. But Don’t Panic, See Inserts Providing Extended Due Dates, NATIONAL TAXPAYER ADVOCATE BLOG (June 22, 2020), <https://www.taxpayeradvocate.irs.gov/news/ntablog-a-digital-mailbox-rule-is-required-as-the-irs-steers-taxpayers-toward-self-help-digital-tools/>; IRS, IRS Statement on Balance Due Notices (June 12, 2020), <https://www.irs.gov/newsroom/irs-statement-on-balance-due-notices>.

23 Notice 1052-A, Important! You Have More Time to Make Your Payment; Notice 1052-B, Important! You Have More Time to Make Your Payment; Notice 1052-C, Important! You Have More Time to Appeal; *Id.* A supplemental Letter 544-C was mailed on August 7, 2020, advising taxpayers that they had until September 8, 2020, to request a CDP hearing. SERP Alert 20A0333, Federal Payment Levy Program (FPLP) and State Income Tax Levy Program (SITLP) Collection Due Process (CDP) Notices (Aug. 12, 2020); IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue (Oct. 23, 2020), <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>.

24 In October 2020, the IRS also issued supplemental 3064C letters notifying taxpayers who received 105-C, Claim Disallowed and 106-C, Claim Partially Disallowed, letters of the incorrect dates included in the letters and providing correct dates. IRS SERP Alert 20A0440, 105C/106C Incorrect Dates and Supplemental Correspondence (Oct. 21, 2020).

25 CARES Act, Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335 (2020) (codified at IRC § 6428).

26 See *IRS in the Pandemic: Hearing Before the Subcomm. on Government Operations of the H. Comm. on Oversight and Reform*, 116th Cong. (Oct. 7, 2020) (written statement of Charles P. Rettig, IRS Commissioner).

27 IRS, IR-2020-242, To Help Non-Filers, IRS Sets Nov. 10 as ‘National EIP Registration Day,’ Register at IRS.gov for Economic Impact Payment (Oct. 23, 2020), <https://www.irs.gov/newsroom/to-help-non-filers-irs-sets-nov-10-as-national-eip-registration-day-register-at-irsgov-for-economic-impact-payment>.

28 *Id.*

The significant majority of eligible individuals receive their EIPs promptly and without incident.²⁹ However, some eligible individuals did not receive their EIPs, and other individuals did not receive the full amounts.³⁰ The IRS initially took the position that many of these individuals would have to wait until they filed their 2020 tax returns (in 2021) to claim recovery rebate credits against their 2020 tax liabilities.³¹ However, it subsequently agreed to correct its programming errors and pay additional amounts in 2020 in certain circumstances, primarily to individuals with issues that could be identified and resolved via automation.³²

Other EIP administration issues resulted from IRS system limitations that require the agency to rely on manual processes. Where the EIP had been disbursed based on information in the IRS's system, the IRS initially said the individual had to wait until filing a 2020 return next year to claim a 2020 recovery rebate credit. Some individuals, after receiving their EIPs, filed 2019 returns that should have resulted in increased EIP amounts.³³ The challenge the IRS faced was determining how to identify which individuals filed subsequent returns permitting increased EIP amounts, then manually adjusting their account information, and manually issuing second payments — a time-consuming task. This is yet another example of how aged IRS systems that rely too heavily on manual processes can burden taxpayers, requiring eligible individuals to wait nearly an entire year to receive payments Congress directed the IRS to disburse to them “as rapidly as possible.” By year-end, many individuals still had not received the full amount of EIP for which they are eligible and will need to claim a recovery rebate credit on their 2020 income tax return.

E. THE MOST SERIOUS PROBLEMS ENCOUNTERED BY TAXPAYERS IN 2020

In the Most Serious Problems we included in this year's annual report, we tried to be cognizant of the impact of COVID-19. The challenges faced by taxpayers, representatives, and the IRS during the COVID-19 crisis were heightened by the IRS's reliance on outdated technology and a decade of budget cuts. To improve taxpayer service and to enable the IRS to do a better job of collecting taxes that are due under the law, the IRS requires significant additional resources.

-
- 29 IRS, IR-2020-180, 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 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2020-46-041, *Interim Results of the 2020 Filing Season: Effect of COVID-19 Shutdown on Tax Processing and Customer Service Operations and Assessment of Efforts to Implement Legislative Provisions* (June 2020), <https://www.treasury.gov/tigta/auditreports/2020reports/202046041fr.pdf>. TIGTA generally gave the IRS high marks for its efforts. Payments started going out on April 10, just two weeks after the passage of the CARES Act, and by TIGTA's reckoning, about 98 percent of the payment amounts were correctly computed.
- 30 Government Accountability Office, GAO-20-701, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions* (Sept. 21, 2020), <https://www.gao.gov/reports/GAO-20-701/>.
- 31 National Taxpayer Advocate Fiscal Year 2021 Objectives Report to Congress 46-68 (Systemic Advocacy Objective: *Reducing Burden Resulting From the Implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act*).
- 32 For example, some of the programming errors related to qualifying children claimed on the non-filer tool, injured spouses who had their portion of the EIP erroneously offset against their spouses' past due child support, and taxpayers who filed a joint return with an incarcerated spouse had their portion of the EIP erroneously stopped. See *IRS in the Pandemic: Hearing Before the Subcomm. on Government Operations of the H. Comm. on Oversight and Reform*, 116th Cong. (Oct. 7, 2020) (written statement of Erin M. Collins, National Taxpayer Advocate). In addition, the U.S. District Court for the Northern District of California entered a permanent injunction in *Scholl v. Mnuchin*, No. 20-cv-05309 (N.D. Cal. Oct. 14, 2020), prohibiting the IRS from denying an EIP to someone who is incarcerated if they meet the criteria.
- 33 For example, when the IRS issued the EIP to an eligible individual, it correctly applied the CARES Act and relied on the individual's 2018 return information in determining the amount of the EIP. After the issuance of the EIP, the individual filed a 2019 return reflecting a qualifying child who was not included on the 2018 return. Although the individual may be entitled to an additional \$500 payment, the IRS's system was not programmed to identify which EIP recipients filed subsequent returns and whether it needed to recalculate if any additional payments should be made. The CARES Act instructed the IRS to use the information in its system, either 2018 return information or 2019 return information, in calculating the advance credit for 2020. The CARES Act provided a true-up provision for additional payments with the filing of the individual's 2020 income tax return. TAS encouraged the IRS to find workarounds to make additional payments, but considering the IRS's current IT capabilities, the task was significant.

For the 2020 annual report, the ten Most Serious Problems are as follows:

1. IRS RECRUITMENT, HIRING, AND EMPLOYEE RETENTION: Quality Taxpayer Service and Protection of Taxpayer Rights Are Directly Linked to the IRS's Need to Improve Its Recruitment, Hiring, and Retention Strategies

The IRS's success as an agency depends almost entirely on its workforce. Even with outdated technology and a shrinking budget, the IRS has continued to serve as the accounts receivable department for the U.S. government while also administering social programs and implementing congressional mandates. Because the agency's success relies so heavily upon its workforce and their skillsets, it is imperative that the IRS not only receive the funding necessary to support programs but also be able to attract, hire, and retain the right talent at the right time to deliver these programs. While technology has helped somewhat in mitigating workforce losses, the IRS faces an inability to simultaneously hire and maintain full-time equivalent employees while also trying to catch up and replenish the losses incurred over the past decade. As the IRS faces the realities that come with an aging workforce, its inability to attract, hire, and retain younger generations of workers threatens its ability to fairly and efficiently administer the tax laws while providing the best customer service to our nation's taxpayers.

2. TELEPHONE AND IN-PERSON SERVICE: Taxpayers Face Significant Difficulty Reaching IRS Representatives Due to Outdated Information Technology and Insufficient Staffing

The IRS typically receives about 100 million telephone calls per year.³⁴ The Accounts Management (AM) phone lines have the highest call volumes and are used for account inquiries and tax law questions. The IRS closed all AM phone lines supported by Customer Service Representatives (CSRs) for both taxpayers and tax professionals beginning on March 30, 2020, and began slowly resuming phone service on April 27, 2020. Automated phone lines remained operational throughout the pandemic. A main reason the IRS initially struggled to provide service on the assistor-supported lines was the inability of CSRs to perform their duties while teleworking. The IRS addressed this issue by shipping thousands of laptops to CSRs at their telework locations. All major phone lines reopened by June 26, 2020, but callers continue to experience long waits.

3. ONLINE RECORDS ACCESS: Limited Electronic Access to Taxpayer Records Through an Online Account Makes Problem Resolution Difficult for Taxpayers and Results in Inefficient Tax Administration

Due to limited technology systems, the IRS operates under a largely paper-based system, requiring taxpayers to keep copies of paper correspondence or call the IRS for assistance. This system leads to inefficiencies because taxpayers lack the ability to access necessary filing information, resulting in taxpayer delays and dissatisfaction with tax administration. Taxpayers should be provided a simple way to access their IRS tax records and account information. The National Taxpayer Advocate recognizes the IRS is aware of these customer expectations and is progressing toward providing similar services. However, due to years of limited funds, the IRS has only been able to add some online services in a piecemeal fashion. The COVID-19 pandemic highlighted the necessity for robust online services to taxpayers and their representatives.

³⁴ IRS, Joint Operations Center Snapshot Reports, Enterprise Total (week ending Sept. 30, 2020).

4. DIGITAL COMMUNICATIONS: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers

To protect the health and safety of taxpayers and employees, the IRS shut down all Taxpayer Assistance Centers (TACs) on March 19. Although the IRS has some videoconferencing capability, the TACs could not continue to provide service while employees teleworked. The IRS lacks the server capacity to virtually connect employees working remotely with taxpayers seeking TAC appointments. The IRS began to gradually reopen TACs in phases starting on June 29, but taxpayers must make appointments and limited services are available. The COVID-19 related closures and resulting challenges exposed critical shortcomings in IRS service and communication channels.

5. E-FILING AND DIGITALIZATION TECHNOLOGY: Failure to Expand Digitalization Technology Leaves Millions of Taxpayers Without Access to Electronic Filing and Wastes IRS Resources

For those taxpayers with the capability, electronic filing (e-filing) has many benefits for taxpayers and IRS. The transmission of data is quick, more accurate, and less costly. Digitalizing data also gives the IRS more flexibility to allow employees to work remotely. The IRS's antiquated IT systems and infrastructure present significant obstacles to expanding e-filing and digitizing paper returns. For example, although taxpayers can e-file returns and forms, more than 40 active forms still require paper filing. The IRS should expand its electronic filing capabilities to allow all taxpayers an e-filing option, regardless of the return or any associated schedules, documents, and attachments. And for those taxpayers that choose or do not have the ability to electronically file it must also improve the processing of paper returns by expanding existing technology and implementing new technology. These actions will reduce burden to both taxpayers and the IRS, as well as produce long-term cost savings.

6. INFORMATION TECHNOLOGY MODERNIZATION: Antiquated Technology Jeopardizes Current and Future Tax Administration, Impairing Both Taxpayer Service and Enforcement Efforts

Despite its responsibility for collecting the most tax revenue in the world and its vital role in social benefits administration, the IRS operates with severely outdated information technology (IT) systems and infrastructure. Without a substantial overhaul of its IT systems, the IRS cannot provide first-rate taxpayer service or efficiently carry out its voluntary compliance, enforcement and collection efforts. The consequence of not fully modernizing IT systems can range from minor inconvenience (*e.g.*, requiring taxpayers who choose to e-file their tax returns to still submit some paper forms) to major catastrophe (*e.g.*, taxpayers being unable to e-file or make payments, and the IRS being unable to process tax returns and disburse refunds). As the nation's tax collector, the IRS can ill afford to have system outages.

7. CORRESPONDENCE EXAMS: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits

The Restructuring and Reform Act of 1998 required that IRS correspondence "include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee." However, more than 20 years later, the IRS still has not meaningfully implemented this provision regarding its correspondence audit programs, which is the largest percentage of all examinations. This makes it difficult and frustrating for taxpayers or their representatives to reach a single point of contact at the IRS who is accountable and knowledgeable about their audit. The

IRS correspondence audit program, as designed, leaves taxpayers without the ability to reach a single point of contact — which diminishes the customer experience, creates IRS inefficiency, and hinders opportunities to engage and educate our nation’s taxpayers.

8. INTERNATIONAL: The IRS’s Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS

The National Taxpayer Advocate applauds Congress and the IRS for their enforcement efforts to curtail international tax abuses. However, the IRS’s treatment of IRC §§ 6038 and 6038A foreign information reporting penalties as systemically assessable is legally unsupportable, administratively problematic, and imposes costs, delays, and stress for taxpayers. Bifurcating income tax and international information penalties has created inefficient, expensive, and unnecessary procedures for taxpayers with offshore income and assets. This approach is unsuited to these penalties, as demonstrated by high abatement rates.

9. AMENDED RETURNS: The IRS Processes Most Amended Returns Timely But Some Linger for Months, Generating Over a Million Calls That the IRS Cannot Answer and Thousands of TAS Cases Each Year

The IRS typically processes amended tax returns within 16 weeks. Although true for most amended returns, a subset takes longer to process. For example, if the amended return is selected for audit, processing will likely take several more months and sometimes the IRS will simply stop processing them. In these situations, the “Where’s My Amended Return?” tool is of little help because it does not explain where an amended return is in the processing pipeline or estimate when processing will be complete. When taxpayers request an abatement of tax on an amended return, the IRS sometimes refuses to consider the claim and issues a denial form letter without an adequate explanation to the taxpayer. In FY 2019, the IRS’s failure to keep taxpayers informed of the status of their amended returns generated over 2.2 million calls, 1.4 million of which it was able to answer, and resulted in over 9,400 TAS cases.

10. REFUND DELAYS: Taxpayers Whose Legitimate Refunds Are Flagged by IRS Fraud Filters Experience Excessive Delays and Frustration in Receiving Their Refunds

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). 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. When taxpayers call the IRS about their refunds or use the “Where’s My Refund?” tool on the IRS website or the IRS2go app, often they cannot get specific information about the cause of the delay, what the IRS needs, and when they can expect the refund. The IRS needs technology upgrades and procedural improvements to provide more prompt service, to provide transparency, and information to better manage taxpayer expectations.