

IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2020 Annual Report to Congress

INTRODUCTION

IRC § 7803(c)(2)(B)(ii) requires the National Taxpayer Advocate to submit an Annual Report to Congress that, among other things, contains recommendations for administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers. For 2020, the National Taxpayer Advocate proposed 73 administrative recommendations to the IRS and 13 legislative recommendations to Congress.¹

By way of background, IRC § 7803(c)(3) provides that when the National Taxpayer Advocate submits recommendations to the Commissioner, “[t]he Commissioner shall establish procedures requiring a formal response ... within 3 months.” TAS submitted all administrative recommendations from the 2020 National Taxpayer Advocate’s report to the Commissioner shortly after publication. These included 73 administrative recommendations made in three sections of the report — the “most serious problems” (MSP) section, the “most litigated issues” (MLI) section, and the section containing the TAS research study. The Commissioner has provided written responses to these recommendations.

In this appendix, we present the problems, administrative recommendations, and responses in the following format:

- A problem statement for each MSP, some of the MLIs, and the TAS Research Study included in the 2020 Annual Report;
- A summary analysis of the problem;²
- The National Taxpayer Advocate’s recommendations to address the problem;
- The IRS’s narrative response;
- The National Taxpayer Advocate’s comments on the IRS’s narrative response; and
- A figure showing the IRS’s responses and actions relating to each recommendation, along with the National Taxpayer Advocate’s response.

TAS will provide quarterly updates on actions the IRS has agreed to implement. This information will be published on the TAS website.

1 See National Taxpayer Advocate 2020 Annual Report to Congress, <https://www.taxpayeradvocate.irs.gov/reports/2020-annual-report-to-congress/>.

2 See National Taxpayer Advocate 2020 Annual Report to Congress, *Executive Summary – Preface and Highlights*, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_ExecSummary.pdf.

Most Serious Problem #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****PROBLEM**

As the IRS faces the realities that come with an aging and shrinking 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. 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, relatively successfully, as the accounts receivable department for the U.S. government while also administering social programs and implementing congressional mandates. Unfortunately, the IRS has been unable to simultaneously fill and maintain its employee base, while also trying to replenish the losses incurred over the past decade.

ANALYSIS

The IRS has been facing human capital management issues for over a decade. According to IRS data, at the end of fiscal year (FY) 2020, of the 81,115 employees on payroll, 17,406 (approximately 21 percent of the IRS workforce) were eligible to retire, and that number rises to 20,767 (approximately 26 percent of the IRS workforce) when adding those who would be eligible to retire within the next year. Adding the average number of employees who leave the IRS each year for the private sector or another job (on average 5,576 employees), approximately 32 percent of IRS employees could leave over the next year. These figures are devastating and cannot be ignored. Something must change and change quickly.

The National Taxpayer Advocate is concerned that, due in part to insufficient staffing and hiring restrictions outside of its control, the IRS's Human Capital Office (HCO) is not equipped to handle the influx of hiring the IRS needs. While the Office of Personnel Management's (OPM's) End to End Hiring initiative goal of 80 days from identifying a need to fill a position to the day the selected candidate starts on the job was adopted by HCO, it continues to fall short as its actual hiring cycle time for FY 2020 was approximately 120 days, nearly 50 percent longer than its target goal for the year.

That National Taxpayer Advocate also believes that significant improvements are needed in the areas of recruitment and employee retention. Rather than simply posting a position and waiting for potential candidates to apply, the IRS should strengthen efforts to attract high-caliber students by utilizing external recruiters, career fairs, and networking with professional groups. Other potential recruitment strategies would include targeted ad campaigns and incentivized recruitment. The successes and best practices of other federal agencies and the private sector support these and other approaches. Regarding employee retention, having employee retention work focused at the corporate level does not seem to work, and the National Taxpayer Advocate believes that both recruitment efforts and employee retention efforts should be done primarily by

the individual IRS divisions with support from HCO, rather than having the majority of that work done at the corporate level.

TAS RECOMMENDATIONS

- [1-1] Hire additional HR Specialists to meet hiring demand.
- [1-2] Restructure internal hiring processes to improve cycle times.
- [1-3] Renegotiate the hiring process with the NTEU to allow for up to 50 percent of all hiring announcements to be filled externally.
- [1-4] Provide the IRS divisions with a single point of contact in the assigned HCO Employment Office for each of their hiring packages.
- [1-5] Allow the divisions to work their own announcements and hiring packages, when requested, while providing oversight, quality review, and technical support to ensure they follow the proper processes.
- [1-6] Conduct a research study to learn from successful recruitment strategies used by other federal agencies and the private sector.
- [1-7] Invest more time, effort, and money and be more proactive in its recruitment efforts.
- [1-8] Rather than hiring out to contractors, bring background check staff back to the IRS as full-time employees.
- [1-9] Work with the Department of Treasury to seek approval for additional direct-hire authority for critical IRS positions beyond IRS IT, and consider seeking legislative changes to expand critical pay authority for IRS positions beyond IRS IT.

IRS NARRATIVE RESPONSE

We appreciate the importance of an engaged workforce to our success in fairly and efficiently administering the tax laws and service our nation's taxpayers. As the Advocate notes, recruiting and retention efforts can face significant hurdles. Despite these challenges, we have made major strides over the past two years to streamline hiring activities, enhance the collaboration between the Human Capital Office (HCO) and the IRS business operating divisions, strengthen external partnerships, and increase transparency in the hiring process.

Here are some of the ways we are streamlining hiring and improving recruitment and retention, which address many of the Advocate's concerns:

- In April 2019, the IRS HCO restructured the hiring process, more than doubling hiring production and eliminating the hiring request backlog. A key aspect of this success was the adoption of a hiring "workstation" concept, a best practice at other federal agencies, which aligns hiring activities across the three major phases of the hiring process. This model improves transparency, accountability, and efficiency while providing a solid foundation for career development and training of human resources (HR) professionals.

- A career development program (Career+) was implemented to assess the proficiency levels of the HR staff and support the development of training plans. This effort resulted in the implementation of an 8-week comprehensive training course for the HCO hiring staff.
- We assigned Business Account Managers (BAMs) to each business unit to serve as a single point of contact to provide personalized, dedicated, and comprehensive service throughout the hiring process.
- The IRS is implementing a new Servicewide Knowledge Management initiative, which will greatly improve the transfer of knowledge from seasoned employees to our newer hires.
- We are exploring ways to make the hiring process more agile through negotiations with NTEU on our National Agreement.
- In 2019, we engaged the Schatz Strategy Group to assess and analyze the IRS recruitment strategy compared to other federal agencies and the private sector.
- Regarding recruitment, we recently reestablished our Recruitment Office, held enterprise-wide forums to share best practices, and increased our presence on social media and virtual platforms. Results of these efforts were shown in over 26,500 applicants and 700 recent graduate hires in the past seven months.

We recognize that we still have more work to do in the areas of recruitment, hiring, and retention; to that end, we appreciate the Advocate’s recommendations to increase funding and expand flexibilities for these activities. We will continue to refine and improve our strategies in these areas and are committed to attracting and retaining the best and the brightest talent available.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS acknowledges the efforts made by the IRS in some areas of hiring and recruitment. However, there is still room for improvement in supporting the IRS’s hiring and recruitment needs now and into the future. The IRS’s greatest resource is its employees, and it should do more to ensure the Service is adequately staffed. As the organization charged with carrying out hiring and recruitment, HCO is a service organization whose role is to meet the needs of the various business units and functions within the IRS. As such, HCO needs to ensure that it understands these needs and develops policies in line with them.

The IRS states it has streamlined hiring activities, enhanced collaboration between HCO and the IRS divisions, and increased transparency in the hiring process. However, when we spoke with HCO customers from across the IRS, their feedback indicated otherwise. Some of the main concerns raised involved time (to bring candidates onboard), and communication (or lack thereof) from HCO. While HCO has assigned Business Account Managers to each business unit to serve as a single point of contact, those outside of HCO have indicated that they often did not know whom to reach out to when they had a question or an issue with a hiring package. According to their customers, HCO has not done enough to streamline hiring activities, enhance collaboration with the divisions, and increase transparency in the hiring process — issues that are critical to address if the IRS is to make meaningful progress in recruiting and timely hiring qualified employees.

Regarding recruitment, the IRS states it has “engaged the Schatz Strategy Group to assess and analyze the IRS recruitment strategy compared to other federal agencies and the private sector ...” However, we do not yet know the results of that assessment and how the IRS will use that assessment to improve recruitment efforts. While we are happy to see the IRS’s success with 26,500 applicants and 700 recent graduate hires in the past

seven months, without further context, we do not know what these numbers show. How many applicants do we normally have in a similar seven-month period? How many of those applicants were already IRS employees? How many of those applicants were under the age of 30? How many of those recent graduates were already IRS employees?

We appreciate the IRS’s acknowledgement that it still has work to do in the areas of recruitment, hiring, and retention. TAS will continue to advocate for the IRS’s hiring and recruitment needs and push HCO to ensure it is meeting the needs of the entire IRS to better position the IRS to provide quality service and protect taxpayer rights.

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| TAS Recommendation | [1-1] Hire additional HR Specialists to meet hiring demand. |
| IRS Response | IRS agrees to implement TAS recommendation in full, contingent upon funding and hiring approvals. |
| IRS Action | We have prepared a staffing plan to hire 200+ hiring support positions. |
| TAS Response | It is encouraging that the IRS plans to implement this recommendation in full. TAS understands that HCO has begun implementing this recommendation and has announced approximately 40 of those positions as of April 2021. |

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| TAS Recommendation | [1-2] Restructure internal hiring processes to improve cycle times. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | The IRS has already implemented this recommendation. We restructured the hiring process, more than doubling hiring production and eliminating the hiring request backlog. A key aspect of this success was the adoption of a hiring “workstation” concept, a best practice at other federal agencies, which aligns hiring activities across the three major phases of the hiring process. This model improves transparency, accountability, and efficiency while providing a solid foundation for career development and training of human resources (HR) professionals. A career development program (Career+) was also implemented to assess the proficiency levels of the HR staff and support the development of training plans. This effort resulted in the implementation of an 8-week comprehensive training course for the hiring staff. The IRS implemented the transition to USAStaffing as the new hiring platform to align with technology available and widely used across the federal government, which will increase efficiencies in the hiring process and further improve cycle times. |

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| TAS Response | TAS disagrees with this response. TAS would not have made a recommendation if we thought this issue had been corrected. Yes, hiring processes were restructured, but there is no tangible correlated success with the new processes as cycle times were still 150 percent of HCO's goal at the time of the report. Further, as several subject matter experts from the various BODs indicated in our discussions, they do not believe that the "workstation" concept is more efficient. Rather, they indicated that it has been very frustrating for them and does not appear to be working as well as the prior system. |
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| TAS Recommendation | [1-3] Renegotiate the hiring process with the NTEU to allow for up to 50 percent of all hiring announcements to be filled externally. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The IRS is exploring opportunities to make the hiring process more agile through National Agreement negotiations and, while the agency will propose ways to streamline the process, those processes are subject to negotiation with NTEU. The IRS agrees to review opportunities to expand external hiring and has already identified hiring activities as a top priority for fiscal year 2021 negotiations. Negotiations, mediation, and fact-finding are set to end in August 2021. However, if either party requests assistance from the Federal Service Impasses Panel, the process may not end until August 2022. |
| TAS Response | It is encouraging that the IRS agrees to implement this recommendation in part, and TAS stands ready to assist with these efforts where we can. We will continue to advocate for the IRS on these fronts, as the issues are important and need to be meaningfully and quickly addressed. |

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| TAS Recommendation | [1-4] Provide the IRS divisions with a single point of contact in the assigned HCO Employment Office for each of their hiring packages. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | This recommendation has been implemented. The Human Capital Office (HCO) assigned Business Account Managers to each business unit to serve as a single point of contact to provide personalized, dedicated, and comprehensive service throughout the hiring process. |

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| TAS Response | <p>TAS understands that HCO believes the BAMs suffice for a single point of contact for BODs. However, several of our BOD contacts noted issues in their experience with the BAMs. The issues noted primarily involved the concern that the BAMs were often unable to answer simple questions about a specific hiring package, and it could take days to get a response to a question. Not having a single point of contact who can quickly answer specific questions on hiring packages is problematic for the BODs, and it causes greater inefficiencies for HCO. Further, it has downstream effects on candidates applying for positions. This needs to be addressed so that the process is more efficient for all parties involved.</p> |
| TAS Recommendation | <p>[1-5] Allow the divisions to work their own announcements and hiring packages, when requested, while providing oversight, quality review, and technical support to ensure they follow the proper processes.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. The business units and the Human Capital Office (HCO) share responsibility for planning and execution of the IRS hiring process, and we believe the current model is effective and efficient. HCO is committed to partnering with the business units to continue to refine hiring activities. Monthly meetings are scheduled between the business units and HCO's Business Account Managers to address concerns and facilitate ongoing improvements.</p> |
| IRS Action | <p>N/A</p> |
| TAS Response | <p>While TAS has noticed some improvements in its hiring processes, it is discouraging that HCO is not willing to accept assistance from the BODs in this area. With the potential for a ten percent increase to IRS funding in FY 2022, there will likely be a significant wave of IRS hiring on the horizon. TAS has concerns that HCO is not ready to deal with the influx of hiring activity. We don't believe HCO should discount the BODs' offer of assistance with hiring. Many of the staff in these organizations came from HCO and receive the same training as the HCO staff. The monthly meetings with the BAMs have been helpful in addressing some issues, but having the BAMs serve as a conduit to address questions related to hiring packages throughout the various workstation phases further slows the process. While HCO believes that the current model is effective and efficient, it is clear from reviewing the cycle times and visiting with subject matter experts from impacted BODs that there is significant room for improvement.</p> |
| TAS Recommendation | <p>[1-6] Conduct a research study to learn from successful recruitment strategies used by other federal agencies and the private sector.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in full.</p> |

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| <p>IRS Action</p> | <p>We have already implemented this recommendation. The IRS engaged the Schatz Strategy Group to assess and analyze the IRS recruitment strategy compared to other federal agencies and the private sector. As a result, the IRS reestablished a Recruitment Team within the Strategic Talent Analytics & Recruitment Solutions (STARS) Office, implemented quarterly enterprise-wide forums to share best practices, and increased our presence on social media and virtual platforms. Results of these efforts were shown when we launched a new IRS Forward program for recent graduates, which resulted in over 26,900 applicants and 900 recent graduate hires in from June 2019 to January 2021 solely from this program. Of these, 291 were under the age of 30 and an additional 195 were between ages 30-39. Ninety percent of the recent graduate hires were hired from external announcements.</p> |
| <p>TAS Response</p> | <p>It is hard to come to any conclusions regarding this data without additional context. We are happy that the IRS has realized some success with its new targeted program for recent graduates. While 26,900 applicants and 900 recent graduate hires over the course of a year and a half sounds great, without further context, we do not know what these numbers demonstrate.</p> |
| <p>TAS Recommendation</p> | <p>[1-7] Invest more time, effort, and money and be more proactive in its recruitment efforts.</p> |
| <p>IRS Response</p> | <p>IRS agrees to implement TAS recommendation in full, contingent on funding.</p> |
| <p>IRS Action</p> | <p>Funding dependent, the IRS will increase recruitment staffing and spending to expand on the current recruitment portfolio which includes developing advertising collateral (videos, gifs., recruitment flyers, images, and communication), maintaining a social media presence, using nationally recognized virtual job boards, developing and maintaining relationships with schools, and participating at in-person and virtual career fairs.</p> |
| <p>TAS Response</p> | <p>It is encouraging that the IRS agrees to implement this recommendation in full. We are optimistic that the funding received is sufficient to expand the IRS's recruitment efforts significantly.</p> |
| <p>TAS Recommendation</p> | <p>[1-8] Rather than hiring out to contractors, bring background check staff back to the IRS as full-time employees.</p> |

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| IRS Response | <p>IRS does not agree to implement TAS recommendation. The IRS ceased conducting its own background investigations in 2019 because aging investigation cycle times were negatively impacting the ability of the Service to meet its hiring needs and increasing exposure to risk. We added a prescreen process instead to allow employees to onboard with certain checks shortly after selection and investigations were outsourced. The authority to conduct IRS background investigations is with the Defense Counterintelligence and Security Agency (DCSA), which conducts approximately 97 percent of all federal background investigations across government. It would be cost-prohibitive to stand up an IRS background investigation team (which would require staffing, training, travel, technology, and contracts) and it would be counter-productive in driving increased agility, efficiency, effectiveness, and security as directed by the IRS Strategic Plan.</p> |
| IRS Action | N/A |
| TAS Response | <p>TAS understands HCO's response. However, subject matter experts from several BODs noted issues with background investigations. If there are things that HCO or the IRS can do to further improve the way these are worked for the IRS, it would be beneficial for all parties involved.</p> |

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| TAS Recommendation | <p>[1-9] Work with the Department of Treasury to seek approval for additional direct-hire authority for critical IRS positions beyond IRS IT, and consider seeking legislative changes to expand critical pay authority for IRS positions beyond IRS IT.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in full.</p> |
| IRS Action | <p>(1) We will seek additional approval for direct-hire authority for critical positions. The IRS has prepared a request for direct-hire authority for filing season positions and routed it through the appropriate channels for approval and submission to the Office of Personnel Management.</p> <p>(2) We will consider seeking legislative changes to expand critical pay authority for IRS positions beyond IRS IT. The Human Capital Office will partner with Legislative Affairs to discuss legislative changes that would allow the IRS to expand the Streamlined Critical Pay Authority beyond IT-related positions where a level of expertise and knowledge exceeds those that exist in the IRS and federal government.</p> |
| TAS Response | <p>It is encouraging that the IRS agrees to implement this recommendation in full. We are encouraged that HCO will be able to get some traction in these areas, as it would be beneficial to the IRS as a whole.</p> |

Most Serious Problem #2**TELEPHONE AND IN-PERSON SERVICE: Taxpayers Face Significant Difficulty Reaching IRS Representatives Due to Outdated Information Technology and Insufficient Staffing****PROBLEM**

The ability to speak to an IRS employee over the phone or in person and receive quality service is critical to meeting taxpayer needs. However, the current budget requested by the IRS and approved by Congress targets level of service (LOS) measurements for fiscal year (FY) 2021 at 60 percent, which means that four out of every ten taxpayers calling the IRS cannot get through to a customer service representative (CSR). Additionally, there were 401 Taxpayer Assistance Centers (TACs) in 2011, and now only 358. With the enactment of the Taxpayer First Act (TFA), the IRS can pursue novel approaches to improve customer service via an omnichannel approach, however, it lacks sufficient resources. Problems with IRS customer service were exacerbated during the COVID-19 pandemic. For example, nearly all free tax preparation sites for elderly and low-income taxpayers closed, resulting in a nearly 30 percent drop in free returns filed compared to last year.

ANALYSIS

The IRS uses innovative technology on a limited basis but needs more funding to expand. For example, customer callback technology lets taxpayers choose between waiting on the line or receiving a call back when an assistor is available. The IRS estimates that using the callback feature saved 50,973 hours on hold in January 2020. To address long wait times, the IRS launched a text chat pilot in 2017, with an average wait time of 35 seconds in FY 2020. In early 2021 the IRS will be introducing a “natural language” pilot, which allows interaction with the taxpayer by having the phone system ask an open-ended question and wait for a response.

TACs are unique because they provide a wide range of key IRS services with a physical presence in local communities where resources and support are lacking. TACs use Virtual Service Delivery, which provides video conferencing technology to assist taxpayers at IRS partner sites. The IRS is shifting to video conferencing technology that allows taxpayers to attend a virtual appointment from any computer, tablet, or mobile phone. Videoconferencing technology could fill voids in TAC services or provide service in remote areas.

TAS RECOMMENDATIONS

- [2-1] Prioritize expanding customer callback technology to relieve taxpayers of the frustration associated with long hold times and low levels of service.
- [2-2] Provide taxpayers with the option of receiving face-to-face service through videoconferencing technology. The IRS’s use of this technology was restricted during the initial months of the pandemic due to limited bandwidth, which the IRS must address as it further incorporates this technology into its operations.

- [2-3] Continue to explore alternative telephonic support by developing an automated telephone tool designed to complete specific software-based tasks and/or voice chatbot. Either system could handle routine questions or tasks which would free up CSRs for those individuals who have more complex issues or have a need to speak with a human.
- [2-4] Continue to explore the feasibility of incorporating and providing incentives for partner sites to implement the use of videoconferencing software into the VITA and TCE programs.
- [2-5] Ensure meaningful performance measures for existing and/or newly emerging telephone, online, and in-person assistance methods to objectively measure customer service.
- [2-6] Provide dedicated multiyear funding to increase the “Level of Service” on both the IRS’s Accounts Management and Compliance telephone lines to 80 percent, with average hold times not to exceed five minutes. The IRS needs congressional support to continue and maintain upgrades allowing the IRS to make new investments in staffing, training, and improved telecommunications technology.

IRS NARRATIVE RESPONSE

The IRS is continually working to improve service delivery to taxpayers who have questions or need assistance. All face-to-face and toll-free customer service was suspended in late March 2020, in response to state and local shelter-in-place orders due to the COVID-19 pandemic. The IRS immediately began developing plans to safely return to business and re-establish in-person and telephone services including the rapid enabling of employees to telework.

The IRS began reopening toll-free telephone lines on April 13, 2020, with the major toll-free telephone lines open by June. For example, after reopening, the Automated Collection System (ACS) level of service (LOS) was 58.7%, with an average wait time of 15 minutes. By the end of September, nearly 11,000 telework and in-office Customer Service Representatives (CSR) were answering calls and/or working priority paper inventory. The IRS was able to deliver a fiscal year (FY) 2020 CSR LOS of 53.1% (53.5% for the extended filing season) and end the FY with a paper inventory of comparable to previous years, plus any correspondence mail yet to be opened. The CSR LOS is dependent on the level of funding available for staffing resources to address telephone demand for assistors. The IRS has a full suite of measures and metrics used to evaluate services available for taxpayers online, in-person, on the telephone, and related to paper processing.

The IRS quickly deployed a dedicated Economic Impact Payment (EIP) toll-free line, to provide informational recordings, on April 11, 2020. In mid-May, the IRS staffed the line with vendor-provided assistors to answer non-account EIP-related questions. The EIP line included Over-the-Phone Interpreter service to allow for assistance in multiple languages. Through the end of July, this line had handled over 1.9 million calls. The IRS also assisted with answering over 185,000 FEMA calls with a 99.6% LOS in the wake of several hurricanes that hit the country during 2020.

Taxpayer Assistance Centers (TAC) began a return to limited, appointment-only, service in late June. In FY 2020, we provided face-to-face assistance to more than a million taxpayers, including almost 80,000 taxpayers without appointments. We continue to resolve many potential visits through the TAC toll-free appointment service line. The IRS plans to relaunch a pilot in early FY 2021 of the Web Service Delivery to assess our capability to provide face-to-face service to taxpayers via a virtual connection.

The IRS continues to develop technology improvements. Text chat has expanded to 11 of the 19 ACS call sites (including bilingual sites), and now allows taxpayers to attach documents such as installment agreement forms and delinquent returns. The IRS plans to expand customer callback from five to 16 toll-free applications in FY 2021, with future expansions planned subject to available funding. The IRS is exploring natural language capabilities on the EIP line to allow callers to self-route to get help with queries.

To mitigate the pandemic impact, most training for customer service focused employees is being conducted virtually. The IRS developed a strategy for VITA/TCE partners to provide virtual assistance where needed, increased hiring to reduce the number of unstaffed TACs to the lowest level since 2017 and is equipping more employees with new laptops for in-office and remote work.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS acknowledges the efforts made by the IRS to restore taxpayer services after the state and local shelter-in-place orders across the country took effect. The IRS navigated a process of enabling employees to telework. The IRS also continued working on implementing new technology, such as the callback feature, which has proven to be a success for the IRS and taxpayers. It ensured training was available in the new virtual environment.

However, even before the pandemic, the IRS requested funding levels that only allow for a 60 percent LOS. This did not allow for top quality customer service. The pandemic only exacerbated existing problems. TAS identified weak spots brought on by the pandemic, such as an inability to obtain tax preparation services through VITA or TCE. To offer the best service possible to taxpayers and to fulfill the IRS’s plan to create a concierge system for taxpayers, the IRS must receive dedicated multiyear funding. This funding should prioritize callback technology and videoconferencing technology, both services that benefit taxpayers. Last, the IRS must consider metrics such as first contact resolution when it makes its decisions for allocating resources for taxpayer service.

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| TAS Recommendation | [2-1] Prioritize expanding customer callback technology to relieve taxpayers of the frustration associated with long hold times and low levels of service. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | The IRS agrees expanding customer callback technology on the toll-free telephone lines will relieve taxpayer burden of waiting in a live queue for an available customer service representative and can also help improve the level of service by reducing call abandons and retries. In FY 2019, the IRS began a multi-year, phased initiative to deploy customer callback technology as part of the IRS Modernization Plan by piloting customer callback technology on one telephone line. The IRS expanded the technology to five telephone lines in FY 2019 and to sixteen telephone lines in FY 2021 to offer the service to more taxpayers. The IRS is also upgrading the call center infrastructure as part of the overall strategy to expand the customer callback option and, based upon available funding, reach our goal of an optimal use of the technology by the end of FY 2024. |

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| TAS Response | It is encouraging that the IRS has agreed to implement our recommendation. We look forward to working with the IRS as it expands customer callback technology. |
| TAS Recommendation | [2-2] Provide taxpayers with the option of receiving face-to-face service through videoconferencing technology. The IRS's use of this technology was restricted during the initial months of the pandemic due to limited bandwidth, which the IRS must address as it further incorporates this technology into its operations. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS plans to implement the recommendation of using face-to-face services as widely as possible, based upon available funding and other considerations. The recent IRS report to Congress on the Taxpayer First Act aligns with this recommendation in envisioning a seamless taxpayer experience, including integration of digital, telephone, and face-to-face channels. If additional resources are made available and security requirements to protect taxpayer data can be met, we will be able to implement this important vision. |
| TAS Response | We appreciate the IRS's agreement and understand that funding limitations will impact the ability to meet this recommendation. Videoconference technology will play an important role in providing a seamless taxpayer experience. Pursuing this option as a priority will benefit the taxpayer experience through improved quality service. |
| TAS Recommendation | [2-3] Continue to explore alternative telephonic support by developing an automated telephone tool designed to complete specific software-based tasks and/or voice chatbot. Either system could handle routine questions or tasks which would free up CSRs for those individuals who have more complex issues or have a need to speak with a human. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |

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| IRS Action | <p>The IRS agrees alternative telephone support utilizing self-service automated responses to frequently asked questions (FAQs) is desirable to free up customer service representatives for more complex issues. For example, the IRS has already developed several self-service tools to assist with the extremely high telephone demand associated with Economic Impact Payments (EIPs), including an Economic Impact Payment Center webpage³ with FAQs and the capability for taxpayers who establish an account on IRS.gov/account⁴ to view the amount of the EIP they received when preparing their 2020 return so they can reconcile any EIP received with the allowable amount.</p> <p>The IRS has also been exploring natural language technology to help address the high EIP telephone traffic by utilizing intelligent automation to understand the caller's request and provide responses from a database of approved responses. We have also been working on a conversational artificial intelligence voice and chat bot that will address routine collection issues through self-help options.</p> |
| TAS Response | <p>It is encouraging that the IRS has agreed to implement our recommendation. We look forward to learning about progress made in this area and working with the IRS in implementing the alternative telephone support.</p> |

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| TAS Recommendation | <p>[2-4] Continue to explore the feasibility of incorporating and providing incentives for partner sites to implement the use of videoconferencing software into the VITA and TCE programs.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in full.</p> |
| IRS Action | <p>The IRS has implemented a strategy to ensure that all available videoconferencing platforms, including virtual assistance, are available for partner use to deliver critical tax preparation services to taxpayers while balancing the security of taxpayer information during the 2021 filing season and beyond.</p> <p>For example, the IRS conducted overseas military VITA training virtually for the 2021 filing season using two web-based platforms, ZoomGov and WebEx. Use of the videoconferencing technologies allowed 17 instructors to provide training to 16 military bases located in Europe and Asia. In comparison, five instructors traveled overseas to conduct training at 10 military bases for the 2020 filing season. Not only was the IRS able to deliver the training to more sites using the virtual platforms, we were able to save approximately \$45,000 in travel costs. Using these platforms allowed instructors to share presentations, and both instructors and students were able to share their screens to show inputs for mock scenarios within the simulated VITA/TCE learning environment in the TaxSlayer Practice Lab.</p> <p>The IRS also developed a new Publication 5450, <i>2021 VITA/TCE Site Operations</i> for partners and volunteers that provides guidance to face-to-face partners for alternative strategies for preparing tax returns virtually to support taxpayers in filing their returns on time.⁵ Publication 5450 also provides guidance for partners to highlight the availability of videoconferencing in their Virtual VITA/TCE Plan (Form 15273) and Virtual VITA/TCE Taxpayer Consent Form (Form 14446).</p> |
| TAS Response | <p>It is encouraging that the IRS has agreed to implement our recommendation. We stand ready to work with the IRS in expanding accessibility for taxpayers and raising awareness about availability at VITA and TCE partner sites.</p> |

3 See IRS Economic Impact Payment Information Center, <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>.

4 See IRS Online Account, View Your Account Information, <https://www.irs.gov/payments/view-your-tax-account>.

5 See, Publication 5450, 2021 VITA/TCE Site Operations, <http://core.publish.no.irs.gov/pubs/pdf/p5450--2020-12-00.pdf>.

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [2-5] Ensure meaningful performance measures for existing and/or newly emerging telephone, online, and in-person assistance methods to objectively measure customer service. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | <p>The IRS uses a suite of performance, quality, and feedback measures that are presented in a multi-channel performance dashboard that includes historical performance, current year performance, and planned performance. These measures include elements such as wait times, level of service, and accuracy for toll-free and face-to-face services.</p> <p>The IRS is implementing the Taxpayer First Act (TFA), which calls for transformational changes in the way the IRS serves its stakeholders and performs its operations. While the IRS continues to modernize its websites and services, it does so in the service of these larger strategic initiatives. The IRS also collaborates with other agencies, such as the Social Security Administration and Department of Education, and with industry, including tax preparers, our Security Summit partners, and financial institutions, where customer experience journeys overlap. The approach for most new TFA measures is to develop and test the measure in FY 2021, create a baseline standard to serve as a comparison or control in FY 2022, and set the target for FY 2023. The customer experience measures developed for the taxpayer experience strategy will report on a suite of cross-functional experience measures.</p> |
| TAS Response | It is encouraging to see agreement in ensuring meaningful performance measures in this area. Meaningful, objective measurements will ensure that the IRS is improving the taxpayer experience. |
| TAS Recommendation | [2-6] Provide dedicated multiyear funding to increase the “Level of Service” on both the IRS’s Accounts Management and Compliance telephone lines to 80 percent, with average hold times not to exceed five minutes. The IRS needs congressional support to continue and maintain upgrades allowing the IRS to make new investments in staffing, training, and improved telecommunications technology. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Serious Problem #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****PROBLEM**

To provide top quality service, as measured through the eyes of the taxpayers, the IRS must improve its online access to taxpayer records. Due to limited technology systems, the IRS operates under a largely paper-based system, requiring taxpayers to keep copies of paper correspondence, call the IRS and deal with the toll-free line challenges, or use a patchwork of electronic online applications to gather necessary information to meet their tax obligations. This system leads to inefficiencies and causes unnecessary burdens as taxpayers cannot access essential information, resulting in delays and dissatisfaction.

ANALYSIS

Taxpayers have no consolidated place to view all their information online. The current Online Account only contains limited information and does not incorporate all the other IRS online applications. As the IRS continues to steer taxpayers towards the internet, taxpayers face limitations in what they can accomplish online. For example, only taxpayers with debts below a certain threshold can use the Online Payment Agreement, and taxpayers seeking an installment agreement outside of the IRS's streamline criteria must mail or fax in their forms. Currently only six notices are available in the Online Account, with another five planned for 2021. Of the notices chosen, most are purely informational notices about adjustments or other past actions. Several Online Account features are currently not planned, and we would recommend the IRS consider robustly building up the tool, such as including the ability to view images of past tax returns or to file documents and request actions such as an Appeals conference, or the other features listed below. The COVID-19 pandemic highlighted the urgent need for a robust Online Account. This spring when the IRS shut down its printing sites, it accumulated a backlog of approximately 31.2 million notices that were digitally created but unable to be mailed for an extended period of time. Additionally, in November, the IRS amassed a second backlog of about 11 million notices that could not be timely mailed, which is not discussed in the Most Serious Problem because this backlog arose subsequent to the writing of this report. An Online Account would have allowed the IRS to electronically post the notices and alert taxpayers to provide timely information and help mitigate confusion from the late notices.

TAS RECOMMENDATIONS

- [3-1] Provide business taxpayers access to an online account similar to the IRS's Online Account that is available to individual taxpayers.
- [3-2] Prioritize posting to the Online Account notices that provide the taxpayer with key statutory or administrative rights, a deadline for action, or notice of a potential intrusive enforcement action, such as levy.

- [3-3] Develop a timeline for when all remaining notices used by the IRS, outside the 11 notices already scheduled, will be available to be viewed within taxpayers' Online Accounts.
- [3-4] Provide access to all self-assistance online applications through the Online Account.
- [3-5] Update and consolidate Online Account information to reflect information from all other IRS online applications.
- [3-6] Integrate secure messaging so that taxpayers can initiate and view messages and upload and download documents to and from the IRS within their Online Accounts.
- [3-7] Place taxpayer-specific alert banners on the main dashboard of taxpayers' Online Accounts to provide information regarding their status of their cases and highlight important deadlines, such as the due date for providing documentation in an examination, the assignment of a balance due case to a Revenue Officer, or the deadline to request a CDP hearing.
- [3-8] Allow taxpayers to add, change, or remove authorized representatives through the Online Account.
- [3-9] Allow taxpayers to give authorized representatives access to Online Account records for the authorized tax years.
- [3-10] Allow taxpayers to update their address and other contact information through the Online Account.
- [3-11] Allow taxpayers to make certain requests and file certain forms through the Online Account, such as a CDP request, a penalty abatement request, or a tentative carryback application for refund where e-file is not otherwise available.
- [3-12] Continue to fund the technological upgrades the IRS requires to provide an enhanced level of service that the country deserves to improve its overall operations.
- [3-13] Provide sufficient funding for the Business Systems Modernization account to enable the IRS to replace its 1960s technology systems, create an integrated case management system, and offer robust online accounts for taxpayers and practitioners.

IRS NARRATIVE RESPONSE

We agree with the National Taxpayer Advocate on the need for robust online services as one part of our omni-channel approach to customer service consisting of internet capabilities, correspondence, telephone, and face-to-face interactions. We have focused for several years now on prioritizing, building and delivering the services that are most needed, while also considering feasibility given significant resource and technology constraints. The IRS systematically reviews taxpayer and stakeholder feedback, market research, and strategic priorities to inform our product prioritization and development.

Since launching Online Account for individual taxpayers in 2016, the IRS has added many new features using an agile development process with releases approximately every nine weeks. The IRS has a long list of ideas and must continuously prioritize which features to work on with the available capacity, taking into consideration the taxpayer and business benefit and the level of effort. The team has prioritized features that don't otherwise exist online, or where there were opportunities for significant user experience improvements. Current features available to individual taxpayers via their Online Account include personalized messaging on the home page with reminders to file, lien or levy status, payment plan details and status, and any pending

payments. Additionally, in November we added a Message Center where taxpayers can view and download digital copies of six high priority notices. These notices cover 23% of the notice volume sent by the IRS, totaling more than 26 million notices, and taxpayers can view through Online Account any of these notices issued since November 15, 2020. In January we plan to display a taxpayer's Economic Impact Payment amount in Online Account, providing a digital way to look this up when filing 2020 tax returns for taxpayers who have misplaced or have not received the related notices and need to claim additional amounts.

In accordance with the Taxpayer First Act (TFA), the IRS recently developed a 10-year strategy for improving the taxpayer experience. This strategy will help drive prioritization and decision making going forward. The TFA Taxpayer Experience Strategy includes plans to further expand on existing Online Account features and add new ones. However, any future expansion or acceleration would be dependent on receipt of funding.

In Fiscal Year (FY) 2021, the IRS plans to add additional notices, show the taxpayer's address on file, enable taxpayers to sign tax professional authorizations, and offer the option to create a short-term payment plan in Online Account. In partnership with the Bureau of the Fiscal Service, the IRS plans to enable taxpayers in FY 2022 to make payments through Online Account, allowing taxpayers to view their balance and pay it in a single session online without having to reenter information, better enabling voluntary compliance and improving the user experience. In FYs 2022-2024, the IRS plans to add the option to update contact information, allow opt-in and -out of paper notices, allow access to secure messaging in Online Account, and add additional features for tax professionals.

We appreciate the National Taxpayer Advocate's support for additional and consistent funding for digital modernization and the National Taxpayer Advocate's recognition of the positive steps the IRS has taken to expand online services for taxpayers. The IRS is committed to high-quality, seamless experience — through expanded digital service options as well as through improved traditional channels — in order to help resolve diverse taxpayer needs and promote voluntary tax compliance.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS appreciates that the IRS is forward-thinking in regard to providing taxpayers comprehensive access to their online records through the Online Account and other applications. As discussed in the Most Serious Problem and the IRS response, there are many future features the IRS is planning that will greatly benefit taxpayers. Providing business taxpayers with the same access to online records as individual taxpayers will be critical to ensuring all taxpayers can easily access the information they need to comply with their tax obligations.

Throughout the Most Serious Problem, we illustrate problems with relying on a piecemeal system of online applications, where taxpayers must use one application to find some information and then another application to find additional information or take an action. The IRS has made some progress in integrating applications. The IRS's future plans to allow taxpayers to view a balance and pay it in a single session will encourage taxpayer compliance and reduce taxpayer frustration. Another step forward is the plan to make information regarding Economic Impact Payments available in the Online Account starting in early 2021. However, the IRS has not committed to integrating all its taxpayer-facing online applications into the Online Account. This step is key to making access to online records simpler for taxpayers. Although the IRS states that it is

prioritizing features that do not otherwise exist online, it should also make adjustments to existing features so they are easier to use and integrated in one place.

The Most Serious Problem discusses the downfalls of relying primarily on transcripts to inform taxpayers about their accounts. As explained, the transcript can be confusing to taxpayers, who cannot easily ascertain from the transcript when a return was filed or when a refund was issued. Additionally, the transcript lacks key information shown on a taxpayer's return, such as the dependents claimed for certain tax benefits. The IRS has not committed to posting actual copies of returns within the Online Account, and we hope this is something it will reconsider in the near future.

TAS is pleased to learn the IRS has already begun posting notices in the Online Account, starting with the six notices that were part of a November 2020 update. The IRS indicates that the notices chosen represent a significant portion of all notices the IRS sends. While it is positive that the IRS is focusing on posting high-volume taxpayer notices in the Online Account, TAS believes the IRS should not only consider volume but also the impact on taxpayer rights when it chooses which notices to include next. Many of the notices included or planned are primarily informational notices. Missing from the list of notices currently available or planned for FY 2021 are some key taxpayer notices such as the statutory notice of deficiency, which provides a taxpayer's only opportunity to challenge a liability in court prior to paying it; the CDP notice, which offers the taxpayer a deadline to request a hearing before the IRS Independent Office of Appeals; and the refund disallowance notice, which sets a two-year deadline to challenge a refund disallowance. TAS encourages the IRS to develop a prioritization plan for posting notices that considers the impact on taxpayer rights as well as volume.

The IRS must accelerate its timeframe for posting additional notices in the Online Account. The 31.2 million notices created during mid-2020 that could not be mailed on time due to the COVID-19 pandemic demonstrate how it is crucial for taxpayers to have access to their notices online. As taxpayers are grappling to understand the impact of the late-mailed or purged notices and what it means for their account balances and due dates, the IRS can leverage the Online Account to provide information. For example, even if a taxpayer lost a copy of his or her refund disallowance notice, and this notice is not yet included in the Online Account, the IRS could use personalized messaging to provide an alert to the taxpayer regarding when his or her deadlines expire for administratively appealing the disallowance or challenging it in court. The Most Serious Problem gives examples of other personalized status updates.

Overall, the IRS has made great strides toward providing more taxpayer information online. TAS understands that funding will continue to dictate when and what improvements the IRS can make to online services. Notwithstanding this restriction, TAS believes the following recommendations will help the IRS prioritize changes that will make it simpler for taxpayers to access their tax information online and will promote taxpayer rights.

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| TAS Recommendation | [3-1] Provide business taxpayers access to an online account similar to the IRS's Online Account that is available to individual taxpayers. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The Taxpayer Experience Strategy as laid out in the recent Taxpayer First Act Report to Congress outlines the IRS's commitment to expanding digital services to businesses as one of its six key areas of focus. The IRS is committed to expanding the secure online accounts currently available for individual taxpayers and making similar online accounts available for businesses and tax professionals. Subject to funding limitations and other resource constraints, the IRS anticipates beginning to conduct taxpayer research in FY 2021, with authorization work and design to begin in subsequent years, again, subject to funding. |
| TAS Response | TAS is pleased the IRS is moving forward with the actions necessary to provide Online Account services to business taxpayers. Because these taxpayers have similar needs to individual taxpayers when it comes to accessing information and conducting their business with the IRS online, the IRS should prioritize and expedite these efforts. |

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| TAS Recommendation | [3-2] Prioritize posting to the Online Account notices that provide the taxpayer with key statutory or administrative rights, a deadline for action, or notice of a potential intrusive enforcement action, such as levy. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The Taxpayer Experience Strategy as laid out in the recent Taxpayer First Act Report to Congress outlines the IRS's commitment to expanding digital services, including the delivery of notices. Subject to funding constraints, the IRS will seek to prioritize conversion of notices and will incorporate the criteria recommended by TAS into the prioritization as possible given other resource demands. |
| TAS Response | Although there are both funding and technological barriers to placing certain notices in the Online Account, TAS is looking forward to working with the IRS to identify some of the most fundamental notices in terms of taxpayer rights and prioritize these for posting. Even if there are some statutory notices and other notices with deadlines that cannot be posted at this time, TAS expects to target notices that will help taxpayers exercise their rights and meet important deadlines. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [3-3] Develop a timeline for when all remaining notices used by the IRS, outside the 11 notices already scheduled, will be available to be viewed within taxpayers' Online Accounts. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS intends to convert as many of the remaining notices to a digital format as possible given funding levels and other resource demands. Consistent with the 21st Century Integrated Digital Experience Act (IDEA) legislation, the IRS plans to conduct research to gain insights into taxpayer needs that will inform a more robust prioritization plan for digital notice delivery. Given uncertain resources, legislative demands, and potential changes to the inventory of notices utilized for tax administration, the IRS cannot commit to a timeline for all remaining notices at this time. |
| TAS Response | The IRS should work toward prioritizing its goal of placing all taxpayer notices in the Online Account, similar to the California Franchise Tax Board. Including only some notices online may confuse taxpayers, causing them to miss paper notices in the mail that are not in the Online Account. Although funding may dictate the timeline, the IRS should be making plans to place all notices online. |

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| TAS Recommendation | [3-4] Provide access to all self-assistance online applications through the Online Account. |
| IRS Response | IRS does not agree to implement TAS recommendation. Not all existing self-assistance online applications require the same level of registration or authentication that is necessary to gain access to the individual Online Account. Preserving access to the greatest number of taxpayers is a key IRS consideration in determining which tools should be incorporated into a robust account experience. It would be unnecessarily burdensome for taxpayers to satisfy a higher level of authentication to access all our applications. The integration of existing features within a consolidated account must also be balanced against our ability to develop new features that will improve the taxpayer experience. |
| IRS Action | N/A |
| TAS Response | TAS's recommendation is not to remove all freestanding IRS online applications and make them only available in the Online Account. Instead, the recommendation asks the IRS to make them <i>also</i> available within the Online Account, so taxpayers can have a one-stop shop for all their IRS needs. Certainly, we agree with the IRS that requiring additional authentication where it is not needed would burden taxpayers. |

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| TAS Recommendation | [3-5] Update and consolidate Online Account information to reflect information from all other IRS online applications. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS has a growing list of taxpayer needs to prioritize based on funding. The IRS agrees with the need for a migration plan for qualified existing self-service applications to a consolidated account experience where incorporating them will improve the taxpayer experience. However, funding limitations necessitate such a migration plan to be prioritized against the need to build new services that do not otherwise exist online. If funded, IRS agrees that consolidation of features would improve the taxpayer experience. However, the IRS does not agree that <i>all</i> self-assistance online applications should be accessed through Online Account. For example, today the Tax Withholding Estimator is accessible to anyone and does not require registration. Imposing registration requirements will limit the number of taxpayers able to access this self-assistance tool. Conversely, if the same functionality can be used without such protections, rebuilding the service behind such protections could be duplicative and reduce the pace at which other services can be brought online. |
| TAS Response | The recommendation is not asking for the applications themselves to be available within the Online Account (although the previous recommendation does ask for this), but instead for valuable taxpayer-specific data to be incorporated. For example, the information about when a refund is sent to the specific taxpayer should be incorporated into the Online Account so the taxpayer does not have to view a transcript that may not yet reflect this information. The IRS already made progress in this area earlier this year by placing Economic Impact Payment information within the Online Account, which was previously only available through the freestanding application. |

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| TAS Recommendation | [3-6] Integrate secure messaging so that taxpayers can initiate and view messages and upload and download documents to and from the IRS within their Online Accounts. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS plans to integrate access to secure messaging in Online Account in FY 2023; however, this is not currently funded. |
| TAS Response | While TAS acknowledges the funding restrictions, placing secure messaging within the Online Account should be prioritized. Allowing taxpayers to view a notice, ask questions, send documents, and make requests, all within a single visit to the Online Account, should encourage taxpayer participation in the tax system and expedite the exam and collection processes. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [3-7] Place taxpayer-specific alert banners on the main dashboard of taxpayers' Online Accounts to provide information regarding their status of their cases and highlight important deadlines, such as the due date for providing documentation in an examination, the assignment of a balance due case to a Revenue Officer, or the deadline to request a CDP hearing. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS would like to evolve the use of alert banners for a more personalized experience; however, this feature is not currently funded. |
| TAS Response | Although there is not funding at this time, personalization should be revisited when the IRS receives additional funding for the Online Account. This feature may help taxpayers meet deadlines and take advantage of rights that might otherwise lapse if taxpayers are not reminded of them. |

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| TAS Recommendation | [3-8] Allow taxpayers to add, change, or remove authorized representatives through the Online Account. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | The IRS will add these features to Online Account this summer along with the launch of Tax Professional Accounts. |
| TAS Response | Allowing taxpayers to change their authorized representatives within the Online Account supports taxpayers' <i>right to retain representation</i> . The feature will reduce burden and mitigate delays caused by unopened or unprocessed mail. |

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| TAS Recommendation | [3-9] Allow taxpayers to give authorized representatives access to Online Account records for the authorized tax years. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |

Appendix 1: IRS Responses to Administrative Recommendations

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| IRS Action | In future years, IRS plans to add features to the tax professional online account, including a link to the transcript delivery system where tax professionals could both establish authorization and then access records for a particular taxpayer, tax type, and tax year. Currently, tax professionals may use eServices to access transcripts; however, they must first complete the authorization via fax or mail. |
| TAS Response | For taxpayers who are represented and choose to interact with the IRS exclusively through an authorized representative, the Online Account does not provide much benefit. It is essential that representatives have a way to access the taxpayer's information in the Online Account, limited to only the information the taxpayer has authorized them to access. |

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| TAS Recommendation | [3-10] Allow taxpayers to update their address and other contact information through the Online Account. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS is currently planning for these features to be implemented in FY 2022 in accordance with the IT Modernization Plan, depending on funding and other resource constraints. |
| TAS Response | Allowing taxpayers to change their address or contact information online is a service that taxpayers already expect with respect to other institutions such as banks. This change will bring the IRS closer to the world-class service it is striving to provide. This new capability should reduce undelivered mail, saving the IRS time and resources and increasing the chances that taxpayers receive their notices and correspondence. |

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| TAS Recommendation | [3-11] Allow taxpayers to make certain requests and file certain forms through the Online Account, such as a CDP request, a penalty abatement request, or a tentative carryback application for refund where e-file is not otherwise available. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | This capability could utilize planned integration of, and access to, secure messaging in Online Account, which is planned for FY 2023. However, this is not currently funded. |
| TAS Response | Allowing taxpayers to make certain requests and file certain documents online will increase participation in the tax system and mitigate problems caused by unopened and unprocessed mail. TAS looks forward to the IRS making this capability available, even if it is limited to only several types of requests and documents initially. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [3-12] Continue to fund the technological upgrades the IRS requires to provide an enhanced level of service that the country deserves to improve its overall operations. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

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| TAS Recommendation | [3-13] Provide sufficient funding for the Business Systems Modernization account to enable the IRS to replace its 1960s technology systems, create an integrated case management system, and offer robust online accounts for taxpayers and practitioners. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Serious Problem #4**DIGITAL COMMUNICATIONS: Limited Digital Communications With the IRS Make Problem Resolution Unnecessarily Difficult for Taxpayers****PROBLEM**

The COVID-19 related closures and resulting challenges exposed critical shortcomings in IRS service and communication channels. Going forward, the IRS must increase the availability and use of digital communications. To improve taxpayer service and avoid widescale service shutdowns during a future national or local emergency, the IRS should address:

- The crucial need to maintain an omnichannel service environment;
- Taxpayers' need for an expanded and permanent way to digitally transmit and sign documents;
- Authentication barriers for many digital applications;
- Taxpayers' difficulty signing up for Taxpayer Digital Communications Secure Messaging;
- Limited digital communication options for taxpayers (individuals and businesses);
- The need for all digital applications to be mobile-ready; and
- Limited virtual face-to-face service options.

ANALYSIS

The IRS addressed many COVID-19 related service shortcomings by developing temporary workaround procedures. It issued guidance, effective through 2020, authorizing employees to accept and transmit documents related to the determination or collection of a tax liability by email. It also expanded the list of forms on which it will temporarily accept electronic signatures. To provide excellent taxpayer service and plan for any future emergencies, the IRS must build upon such temporary initiatives and make permanent improvements in the IRS's digital service offerings. Taxpayers need the option to correspond with the IRS digitally, including attaching and transmitting documents in a secure manner.

The IRS should also expand other digital service options. The success of the Taxpayer Digital Communications (TDC) eGain Text Chat pilot illustrates the need to further expand this program. Increasing the availability of videoconferencing software would benefit taxpayers, especially those taxpayers who live in remote geographic locations or simply prefer this means of communication. However, for taxpayers to benefit from expanded digital service options, the IRS must continually assess the feasibility of increasing e-authentication verification rates while also maintaining strict compliance with National Institute of Standards and Technology (NIST) guidelines. Finally, the provision of high-quality digital services necessitates a shift in IRS culture, in which IRS employees embrace a new way of communicating with taxpayers.

TAS RECOMMENDATIONS

- [4-1] Maintain a robust omnichannel service environment at the same time that it enhances its digital offerings.
- [4-2] Accept electronic signatures on all documents that require a signature, once the IRS assesses, identifies, and eliminates any data security vulnerabilities, if applicable.
- [4-3] Make permanent the use of a secured messaging system with taxpayers and their representatives.
- [4-4] Make permanent and expand the list of documents the IRS will accept and transmit by email using an established secured messaging system, once the IRS assesses, identifies, and eliminates any data security vulnerabilities and file size limitation issues, if applicable.
- [4-5] Assess how the new SADI platform will impact different demographics and determine the feasibility of potentially increasing accessibility to digital applications as they are integrated with SADI, while also maintaining compliance with NIST guidelines.
- [4-6] Expand the availability of TDC eGain Text Chat beyond ACS.
- [4-7] Continue to develop digital service tools that are mobile-ready.
- [4-8] Expand the use of virtual face-to-face technology to taxpayer-facing functions as permitted, while ensuring proper authentication and authorization controls are in place.
- [4-9] Provide sufficient funding for the IRS to quickly and safely expand digital services including those proposed by the Taxpayer Experience Strategy of the Taxpayer First Act Report to Congress.

IRS NARRATIVE RESPONSE

The IRS has aimed to increase digital communications and services over the past decade, but funding constraints and operational challenges impeded progress. The COVID-19 pandemic highlighted the critical need to expand digital options to not only promote efficiency but also preserve health and safety. Digital options for taxpayers, tax professionals, and IRS employees are fundamental to effective tax administration.

In response to COVID-19 concerns, the IRS took steps to protect employees, taxpayers, and their representatives by minimizing the need for in-person contact. Taxpayer representatives expressed concerns with securing handwritten signatures for forms required to be filed or maintained on paper. To alleviate these concerns and promote timely filing, the IRS implemented temporary deviations that allow taxpayers and representatives to electronically sign and submit specific forms. We are reassessing this policy to see how the temporary accommodations may be expanded and, in some cases, made permanent.

As detailed in the Taxpayer First Act, Taxpayer Experience Strategy, the IRS is committed to providing increased options for communicating digitally and an improved online experience for all taxpayers while expanding this service to tax professionals. Because digital services will not meet every need, the IRS must continue to provide taxpayers assistance through a variety of channels — including mail, web, telephone, and in person. We will integrate those channels with expanded digital options to seamlessly guide taxpayers to the resources that will best resolve their issue. As the report mentions, Taxpayer Digital Communications Secure Messaging provides taxpayers with an option to digitally communicate with IRS employees in a secure manner and submit electronic documentation quickly and securely at their own convenience. Text chat for

taxpayers with collection questions has expanded to 11 of the 19 Automated Collection System call sites (including bilingual sites), and now allows taxpayers to attach documents such as installment agreement forms and delinquent returns.

Securing our systems and taxpayer data is a top priority for the IRS. In 2017, the National Institute of Standards and Technology (NIST) released Special Publication (SP) 800-63-3 that provided updated digital identity guidelines and created a new framework for federal agencies to improve the security of their identity-proofing and authentication standards. The guidelines redefined how federal agencies implement digital identity services and included substantially more rigorous authentication requirements. By utilizing Credential Service Providers (CSPs) and conducting emerging technology Innovation Studies and usability surveys, the IRS is working to expand identity proofing and authentication options to meet taxpayers' digital service needs and mobile service expectations while adhering to NIST requirements.

Taxpayers deserve personalized digital services that meet their needs and expectations. The IRS is committed to meeting these expectations and creating a positive digital services experience that increases trust in government and promotes voluntary tax compliance.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The IRS's commitment to increase digital communication options for taxpayers and representatives, as reflected in its Taxpayer Experience Strategy of the Taxpayer First Act Report to Congress, will ensure that taxpayers' right to quality service is realized to a greater extent. It is encouraging that the IRS plans to reassess, with a possibility of expanding or making permanent, temporary procedures permitting electronic signatures and digital submission of documents. These temporary procedures were implemented to accommodate taxpayers and representatives as they interacted with the IRS during service limitations associated with the COVID-19 pandemic, but these expanded options to digitally communicate with the IRS will also prove useful to both taxpayers and IRS employees under normal operating conditions.

While the IRS is making great strides to provide digital services to taxpayers and representatives, it also acknowledges the need to maintain an omnichannel approach to taxpayer service which is consistent with TAS's longstanding recommendations. Allowing taxpayers and representatives to choose the service channel that best suits their needs at any given point in their interactions with the agency is crucial to improve their experience. Pursuant to the Taxpayer Experience Strategy, the IRS not only plans to maintain the different service channels, but it also plans to integrate the various channels to seamlessly guide taxpayers to the resources that will best resolve their issue.

For those taxpayers and representatives who choose to use a digital service channel, they can only gain access to many of the digital applications if they pass the rigorous authentication requirements required by NIST. As the IRS complies with the more rigorous NIST requirements and utilizes CSPs to identity proof taxpayers and representatives, we reiterate the need to continually evaluate how such procedures impact accessibility of the suite of digital applications. Specifically, the IRS should monitor how such authentication requirements impact different demographics and determine the feasibility of potentially increasing accessibility while also strictly adhering to the NIST requirements.

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [4-1] Maintain a robust omnichannel service environment at the same time that it enhances its digital offerings. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | The Taxpayer First Act Report to Congress includes a vision for a seamless experience that helps taxpayers solve problems and comply with their tax obligations. Under this strategy, we will integrate digital tools with other service channels (e.g., toll-free telephone assistance and walk-in assistance) to resolve issues efficiently and further improve the taxpayer experience. Taxpayers expect and routinely encounter similar “omni-channel” approaches with services like online banking and shopping. Using our omni-channel model, taxpayers will have the flexibility to communicate with the IRS via their preferred method and transition seamlessly to another resource or channel most suited to resolving their issue. We will deploy an omni-channel model to facilitate a 360 degree view of taxpayer records (e.g., real time tax filings, interaction history, appointment schedule, etc.) as well as launch a virtual face-to-face video chat option with IRS employees to simulate an in-person appointment for those that require a human touch point but are unable to or prefer not to meet in person. In addition, the Taxpayer First Act Report to Congress outlines opportunities to enhance digital services as a result of the proposed Organizational Redesign Strategy for the IRS. |
| TAS Response | The IRS’s vision for a seamless taxpayer experience as set forth in the Taxpayer First Act Report to Congress is a promising development. Taxpayers have a <i>right to quality service</i> , and being able to communicate with the IRS via their preferred service channel, with the ability to transition seamlessly to another service channel, will ensure that this taxpayer right is realized to a greater extent. In addition, the IRS deployment of a 360-degree view of taxpayer records in the omnichannel model will likely significantly reduce burden as taxpayers navigate the IRS to resolve their tax issues. We eagerly await its development. |
| TAS Recommendation | [4-2] Accept electronic signatures on all documents that require a signature, once the IRS assesses, identifies, and eliminates any data security vulnerabilities, if applicable. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | Providing an electronic signature option for all documents is a long-term goal for the IRS. To reach this goal, the IRS developed a framework to assess IRS forms and prioritize them for e-Signature digitization and integration based on risk, policy considerations, federal mandates, and legal requirements. The IRS will use this analysis to identify opportunities to expedite form digitization and enable digital signatures to further enhance the taxpayer experience. |
| TAS Response | The IRS’s development of a framework to assess and prioritize forms for e-signature is the necessary first step in the process to digitalize forms. Both taxpayers and the IRS will benefit as the IRS makes progress on its long-term goal of enabling electronic signatures on all documents. |

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| TAS Recommendation | [4-3] Make permanent the use of a secured messaging system with taxpayers and their representatives. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS is committed to making secured messaging available for taxpayers and their representatives. As part of the Taxpayer First Act Taxpayer Experience Strategy, the IRS outlined plans for a digital portal for taxpayers to securely access their tax information, make changes to their personal information, and communicate with the IRS online. These plans include providing secure two-way messaging that will give taxpayers the ability to communicate with IRS employees through their online accounts. This feature comes with related increased costs for licenses and technology support and must be prioritized in the context of other initiatives within the agency's taxpayer experience strategy and information technology modernization efforts. |
| TAS Response | The IRS's commitment to making secured messaging available to both taxpayers and representatives in the Taxpayer Experience Strategy is encouraging. We acknowledge that such plans are costly and, to address this issue, the National Taxpayer Advocate has made a legislative recommendation to provide sufficient funding to implement the digital services proposed in the Taxpayer First Act Report to Congress. |

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| TAS Recommendation | [4-4] Make permanent and expand the list of documents the IRS will accept and transmit by email using an established secured messaging system, once the IRS assesses, identifies, and eliminates any data security vulnerabilities and file size limitation issues, if applicable. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | In January 2021, the IRS established a cross-functional team to evaluate the long-term viability, benefits, and risks of these flexibilities and develop recommendations as to whether these temporary policies should be extended, and the specific forms listed expanded. While these deviations may not be permanent, secured messaging will continue to be utilized as the IRS moves toward a fully digitalized state. |
| TAS Response | In its response, the IRS committed to continue secured messaging as it moves toward a fully digitized state. The cross-functional team's evaluation of the long-term viability of the current temporary policies is necessary to ensure all data security vulnerabilities are adequately addressed. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [4-5] Assess how the new SADI platform will impact different demographics and determine the feasibility of potentially increasing accessibility to digital applications as they are integrated with SADI, while also maintaining compliance with NIST guidelines. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | We recognize that underserved taxpayers face unique challenges with regard to authentication and identity assurance. Deploying the focused strategies for reaching underserved communities envisioned under the Taxpayer First Act Taxpayer Experience Strategy should address these unique challenges. |
| TAS Response | The Taxpayer Experience Strategy specifically references online account authentication for international taxpayers in its focused strategies to reach underserved communities. While this is certainly an important effort, we encourage the IRS to commit to expand efforts to increase the e-authentication verification rate for underserved communities. |

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| TAS Recommendation | [4-6] Expand the availability of TDC eGain Text Chat beyond ACS. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |
| IRS Action | The IRS supports expanding the availability of the TDC Platform capabilities, including text chat, authenticated chat, chat deflection, and virtual assistant, to assistors Servicewide, subject to resource constraints and prioritization. The IRS considers utilization of all TDC capabilities regularly and executes a periodic prioritization process to expand TDC usage within resource constraints. Our next prioritization effort is planned for FY 2022, and we will seek for this recommendation to be prioritized and funded, in which case we will expand chat capabilities accordingly. |
| TAS Response | We acknowledge that current funding limitations restrict the IRS's ability to expand TDC Platform capabilities, and we are encouraged that the IRS commits to consider such expansion during its FY 2022 prioritization effort. In addition, the National Taxpayer Advocate has made a legislative recommendation that Congress adequately fund the IRS's Taxpayer Experience Strategy, which includes widespread integration of chat capabilities. |

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| TAS Recommendation | [4-7] Continue to develop digital service tools that are mobile-ready. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | Consistent with the 21st Century Integrated Digital Experience Act legislation, the IRS is already obligated to develop new tools and services into mobile-ready experiences subject to legislative timelines and funding or other resource constraints. While we are actively working toward this goal, this activity will be ongoing with no final implementation date. |
| TAS Response | The IRS's response acknowledges funding and other resource constraints as it actively works toward meeting its legislative obligations to make tools and services mobile-ready. The National Taxpayer Advocate has made a legislative recommendation that Congress adequately fund the IRS's Taxpayer Experience Strategy, which includes widespread integration of mobile services. |

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| TAS Recommendation | [4-8] Expand the use of virtual face-to-face technology to taxpayer-facing functions as permitted, while ensuring proper authentication and authorization controls are in place. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The IRS is deploying several virtual face-to-face technology processes within available resources and funding in order to increase virtual services long-term. As part of the assessment process, the IRS is updating policies to ensure proper authentication, authorization, monitoring, and data protection controls are in place. Because of the urgent need for virtual interactions, the IRS is expediting the roll-out by investigating and deploying multiple virtual technologies at the same time. Making these technologies widely available to front-line assistors, tax examiners, revenue officers, and revenue agents will require significant new investment in software, network infrastructure, and cybersecurity controls and must be prioritized in the context of other initiatives within the agency's taxpayer experience strategy and information technology modernization efforts. |
| TAS Response | The IRS's response recognizes the urgent need to expand virtual services and mentions that the agency has already taken steps to expedite the deployment of several virtual technologies. In addition, the IRS is taking the critical initial steps to update policies for authentication, authorization, monitoring, and data protection controls to ensure successful deployment of such services. The IRS did not commit to roll out the technologies to all taxpayer-facing functions due to a need to prioritize initiatives given the agency's limited resources. Accordingly, the National Taxpayer Advocate will continue to recommend that Congress adequately fund the IRS's Taxpayer Experience Strategy, which includes plans to expand virtual services. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [4-9] Provide sufficient funding for the IRS to quickly and safely expand digital services including those proposed by the Taxpayer Experience Strategy of the Taxpayer First Act Report to Congress. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Serious Problem #5**E-FILING AND DIGITALIZATION TECHNOLOGY: Failure to Expand Digitalization Technology Leaves Millions of Taxpayers Without Access to Electronic Filing and Wastes IRS Resources****PROBLEM**

The IRS's antiquated information technology systems and infrastructure present significant obstacles to expanding electronic filing (e-filing) and digitizing paper returns. Automated processing of an e-filed form eliminates the need for the costly manual transcription of millions of lines of data, and the increased accuracy of the data imported reduces the need to resolve transcription errors. While most taxpayers prefer e-filing when it is available, some prefer to file paper returns or must file on paper because they do not have access to a computer or broadband internet. Therefore, even as the IRS expands its e-filing options, it must maintain options that allow taxpayers to choose their preferred method of filing. It must also improve the processing of paper returns by expanding existing technology and implementing new technology to reduce processing delays. These actions reduce burden to taxpayers and the IRS and produce long-term cost savings.

ANALYSIS

Under the IRS's Modernized e-File (MeF) System, taxpayers can e-file some returns and forms; however, more than 40 active forms still require paper filing. Some taxpayers who e-file experience processing delays because the IRS cannot digitally accept certain documents attached to an e-filed return, requiring the taxpayer to file them separately on paper. Over 920,000 taxpayers used tax preparation software but were unsuccessful in e-filing their 2018 tax return before needing to mail a paper return to the IRS. Taxpayers filing by mail who were unable to e-file their return because of the IRS's technological shortcomings experienced longer wait times to receive their refund.

When processing paper returns, such as Form 1040, a submission processing employee manually enters the information from each line into IRS systems. Manual data entry inevitably leads to transcription errors, which then must be identified and corrected. Expanded use of technology such as Optical Character Recognition (OCR) and 2-D barcoding will allow the IRS to automate processing and reduce the need for costly manual transcription, which would allow it to accept more forms and attachments electronically.

The coronavirus pandemic reinforced the importance of the IRS embracing digitalization technology to allow taxpayers to transmit documents to the IRS electronically. The IRS temporarily permitted the use of electronic signatures for more than a dozen forms, allowing taxpayers and their representatives to fulfill their filing responsibilities without being in the same physical location or relying on the mail to transfer documents and allowed the IRS to conduct its business untethered to a physical location. We recommend that the IRS continue to expand the use of all possible electronic filings and communication.

TAS RECOMMENDATIONS

- [5-1] Make and publish an e-file plan for the forms that taxpayers cannot e-file.
- [5-2] Reevaluate the MeF System to allow for e-filing of all forms, schedules, and attachments.
- [5-3] Expand the use of optical character recognition and 2-D barcoding to improve processing of paper filings and reduce processing transcription errors.
- [5-4] Make permanent all temporary changes to electronic or digital signature requirements the IRS implemented in response to the COVID-19 pandemic.

IRS NARRATIVE RESPONSE

We continuously strive to improve how we process returns, whether filed electronically or on paper. Electronic return filing continues to trend upward, and overall through September 30, 2020, individual electronically filed returns were up 9.1% and electronically filed business returns were up 5.7% from last year. For FY 2020, the IRS processed over 150 million individual and almost 30.7 million business electronically filed returns.

Free File also continues to outpace last year. As of November 21, 2020, total returns filed through the Free File program are up over 300%, due in part to returns filed through the Non-Filer application or via the many partners that offered a streamlined entry for non-filers to claim their Economic Impact Payment (EIP). All of the IRS partners in the Free File Initiative (FFI) stepped up to provide a variety of Non-Filer utilities, including products in Spanish and an online Non-Filers tool to enable taxpayers to file for the EIP. As of November 21, 2020, over 8 million citizens received their EIP thanks to the FFI's efforts.

When removing EIP from consideration, Free File still marked a 50% increase this year as more than 4.2 million taxpayers used one of the free online partner products. To continue expanding the program, the IRS also introduced a host of new web changes for the Free File pages on IRS.gov. These changes, which were released in September, were based on the findings and recommendations from last summer's independent review of the program along with findings from focus group research conducted in December 2018. The IRS is currently assessing other recommendations from external stakeholders and oversight agencies, including the Treasury Inspector General for Tax Administration, National Taxpayer Advocate, Internal Revenue Service Advisory Council (IRSAC), and Government Accountability Office, among others, to inform future improvements.

The IRS has also expanded electronic filing options to include an electronic version of amended Form 1040 returns. The ability to electronically file the Form 1040X, Amended U.S. Individual Income Tax Return, has been an important goal of the IRS, the tax software, and tax professional industry for many years. It is also an ongoing recommendation from the IRSAC and the Electronic Tax Administration Advisory Committee. The availability of an electronically filed Form 1040X is a great success for IRS modernization efforts, given the numerous challenges to adding this form to the e-file family due to the details needed on the form. As of November 21, 2020, over 144,000 electronically filed amended returns have been accepted from 18 industry partners. Electronically filing Form 1040X provides taxpayers with a quicker, easier way to submit amended returns, streamlines work for the IRS and the entire tax community, and minimizes errors normally associated with manually completing the form.

Given the many benefits of e-filing, digitalization and technologies such as 2-D barcoding and Optical Character Recognition, the IRS continues to support their implementation. However, the speed with which we can execute these improvements is sometimes limited by available resources.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

As the IRS rightly points out, the number of taxpayers using electronic filing is growing. When the IRS offers new e-filing options, such as introducing the ability to electronically file Form 1040X, a large number of taxpayers are ready and waiting to use the new service. There is clearly a substantial demand for the service from taxpayers. The IRS also deserves praise for announcing the 2021 launch of online submission of Form 2848, Power of Attorney and Declaration of Representative, and Form 8821, Tax Information Authorization. Combined, the IRS received nearly 3.2 million of those two forms in 2019. Offering electronic filing of these forms provides better service to taxpayers and will reduce the IRS's paper processing workload.

The IRS cannot further expand e-filing options without the necessary resources from Congress, but nothing stands in the way of the IRS making an e-file plan for the forms that taxpayers cannot e-file and publishing it. Without a published schedule for upgrades, the IRS's plan for improving the e-file system seems to be "the squeaky wheel gets the grease," but that is not an effective long-term strategy. Instead of addressing forms one at a time, the IRS needs to establish a plan for all forms to be part of the MeF System and allow itself to be held accountable for meeting established goals.

The IRS supports more widespread implementation of e-filing, digitalization, and technologies such as 2-D barcoding and Optical Character Recognition, but points to lack of resources. Resource limitations are an ongoing issue for the IRS but should not stand in the way of having a plan ready for future upgrades as resources become available.

As the IRS extended the temporary deviation from the wet signature requirement on at least 20 forms⁶ and allows electronic signatures for an additional six months, it should consider allowing electronic signatures on a permanent basis.

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| TAS Recommendation | [5-1] Make and publish an e-file plan for the forms that taxpayers cannot e-file. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |

⁶ See IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>.

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| IRS Action | The W&I e-File Services organization will continue to support the Digitalization Office and Information Technology as the lead stakeholders in the agency to determine the best way to move forward to expand IRS digitalization technology as outlined in the IRS Integrated Modernization Plan and required by the Taxpayer First Act. This includes developing an e-file plan for evaluating and prioritizing forms that taxpayers cannot currently e-file that is flexible to meet IRS priorities while continuing to respond to new legislative and other critical operational needs. |
| TAS Response | Developing and publishing an e-file plan that includes all forms that taxpayers cannot currently e-file will demonstrate the IRS's commitment to reducing e-filing barriers for all taxpayers. Expanding e-filing options will provide better service to taxpayers and will reduce the IRS's paper processing workload. |

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| TAS Recommendation | [5-2] Reevaluate the MeF System to allow for e-filing of all forms, schedules, and attachments. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | The IRS will perform a study to determine the feasibility of allowing all forms, schedules, and attachments to be electronically filed using the current MeF infrastructure based upon agency priorities and available resources (e.g., allocated funding, project schedule, programming resources). |
| TAS Response | It is encouraging that the IRS will study the feasibility of allowing all forms, schedules, and attachments to be electronically filed. Expanding e-filing options will provide better service to taxpayers and will reduce the IRS's paper processing workload. |

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| TAS Recommendation | [5-3] Expand the use of optical character recognition and 2-D barcoding to improve processing of paper filings and reduce processing transcription errors. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The IRS is piloting the conversion of paper returns to a digital format in the Lockbox environment. The pilot is currently working through the technical and legal questions involved. The IRS is also exploring the expanded use of optical character recognition (OCR) for paper tax returns in a separate pilot project. As part of the IRS's digitalization strategy, the IRS may consider these and other options for some forms, correspondence, and other paper submissions. Both barcoding and OCR technology have limitations and costs. For example, barcoding does not encode all information on complex returns, and OCR may misinterpret some information, requiring quality review and manual re-entry (as does the current manual transcription process). |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Response | <p>It is encouraging that the IRS is exploring the expanded use of OCR for paper tax returns through a pilot project and is willing to consider expanded use of barcoding on paper returns. All technologies have associated limitations and costs, but OCR and barcoding can be valuable tools for improving the IRS's paper processing systems.</p> |
| TAS Recommendation | <p>[5-4] Make permanent all temporary changes to electronic or digital signature requirements the IRS implemented in response to the COVID-19 pandemic.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in part.</p> |
| IRS Action | <p>Not all temporary changes may be made permanent due to National Institute for Standards & Technology (NIST) requirements. However, the IRS continues its work towards identifying permanent signature solutions that allow for electronic submission of forms and digital transactions in a secure manner that meets NIST requirements. As we work toward permanent solutions, we are committed to maintaining as much flexibility as possible for electronic and digital signature requirements. We are taking specific actions in hopes of speeding up our e-Signature Program due to the increased need for virtual interactions during the pandemic.</p> |
| TAS Response | <p>TAS understands the agreement in part and that the IRS is bound by NIST requirements. It is encouraging that the IRS is committed to maintaining as much flexibility as possible for electronic and digital signature requirements.</p> |

Most Serious Problem #6**INFORMATION TECHNOLOGY MODERNIZATION: Antiquated Technology Jeopardizes Current and Future Tax Administration, Impairing Both Taxpayer Service and Enforcement Efforts****PROBLEM**

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, some of which were originally developed in the 1960s, and transformation of how the IRS interacts with taxpayers, the IRS cannot provide first-rate taxpayer service or efficiently carry out its enforcement and collection efforts. As the nation's tax collector, the IRS can ill-afford to have its systems crash. The IRS will require significant, sustained multi-year funding from Congress to modernize its IT systems. Disruptions in IRS operations can erode taxpayer confidence in the tax administration system and ultimately lead to reduced levels of tax compliance.

ANALYSIS

The IRS is overwhelmingly reliant on “legacy” IT systems — which the IRS's IT function has defined as systems that are at least 25 years old, use obsolete programming languages (*e.g.*, Common Business-Oriented Language), or lack vendor support, training, or resources to maintain. The Treasury Inspector General for Tax Administration issued a report in August 2020 that found the IRS had not developed a coordinated plan to address updating, replacing, or retiring its legacy systems. In a recent congressional hearing, the Government Accountability Office noted that the IRS was still reliant on the Individual Master File, a system initially developed over 50 years ago, to update taxpayer account data, assess taxes, and generate refunds.

In April 2019, the IRS released a six-year Integrated Modernization Business Plan (“modernization plan”) to improve IT infrastructure, make tax administration more efficient, and enable the IRS to provide better taxpayer service. However, the IRS cannot implement its modernization plan until Congress provides adequate funding — which is outside of the IRS's control. Not only must Congress provide the IRS with sufficient appropriations, but such funding must be consistent and reliable from year to year. In addition, the IRS must internally allocate enough of its budget to IT modernization in a manner that will not allow interruption of the modernization efforts.

TAS RECOMMENDATIONS

- [6-1] Compile data on the operations and maintenance costs of all legacy systems to assist in prioritizing decommissioning decisions.
- [6-2] Expedite the development of a Servicewide centralized system to store digital tax records to allow the IRS to go completely paperless.

- [6-3] Create CIO liaisons for each IRS division knowledgeable about both the business needs and the technical aspects to bridge the disconnect between the needs of the IRS divisions and what IT can deliver.
- [6-4] Compile a list of IT lessons learned during COVID-19, documenting the problems taxpayers experienced due to IT-related challenges during the pandemic so it can be better prepared for the future.
- [6-5] Expand modernization efforts to include BMF to provide a comparable level of service (*e.g.*, online accounts, digital services, shorter processing cycles (CADE 2), etc.) to business taxpayers it will provide to individual taxpayers.
- [6-6] Ensure the amount requested for its IT budget is sufficient and sustainable to fully fund its multiyear modernization plan.
- [6-7] Consider seeking financial assistance from the Technology Modernization Fund.
- [6-8] Provide the IRS with sufficient, sustained funding to improve taxpayer service and modernize its IT systems over a predictable multiyear period, allowing the IRS to properly implement its modernization plan as a whole and not in pieces.
- [6-9] Ensure that any increase in funding for enforcement (including program integrity cap adjustments) is coupled with a commensurate increase in funding for service and operations support so taxpayers seeking to respond to the IRS can do so easily. This way, the IRS need not prioritize IT over enforcement.

IRS NARRATIVE RESPONSE

The IRS appreciates the National Taxpayer Advocate's support for significant, sustained multi-year funding to modernize the IT systems that enable 21st century taxpayer service and fairness in our tax system. The IRS interacts with more Americans than any other public or private organization. As the National Taxpayer Advocate recognized, IT systems are critical to all aspects of tax administration, including collection of almost \$3.6 trillion in revenue each year (representing almost 96 percent of the gross revenue of the United States, each year), administering various subsidies such as the Earned Income Tax Credit, distributing hundreds of billions of dollars in tax refunds, delivering hundreds of billions of dollars in any potential future stimulus payments, providing customer service to tens of millions of taxpayers, and, as we saw in 2020, providing rapid financial relief to individuals and businesses when necessary.

The IRS also appreciates the National Taxpayer Advocate's recognition of the unprecedented challenges posed by the COVID-19 pandemic and the outstanding performance of our employees in delivering more than 160 million Economic Impact Payments totaling more than \$270 billion and implementing other CARES Act provisions, provisioning more than 15,000 IRS customer service representatives and other employees with laptops, and growing network capacity five-fold to support over 59,000 employees working remotely at one time — all during the middle of the longest filing season in history.

As the National Taxpayer Advocate noted, IRS is making considerable progress delivering upon the initiatives within the IRS Integrated Modernization Business Plan, despite appropriated funding at just over half the requested level. In the first two years of the plan, the IRS deployed secure online account features

for individuals, the first iteration of a cloud-based case management system to improve taxpayer service, customer callback on several toll-free phone lines, and over 35 other capabilities to improve our technology infrastructure, systems, and cybersecurity defenses.

Although some of the IRS’s core tax administration applications use aged programming languages, they operate on current, state-of-the-art hardware. In fact, at the end of FY 2020, the IRS’s aged hardware percentage was 16 percent, below the industry standard of 20 to 25 percent. As the National Taxpayer Advocate describes, the primary risk in maintaining these systems is that there is a small and shrinking pool of engineers and developers who can make the changes required to prepare for each filing season and promptly respond to new legislation. We are mitigating these risks with robust training and a focus on transferring knowledge to our next generation of technical experts.

The IRS remains committed to transparent reporting on modernization progress, challenges, successes, costs, and risks to Congress and other stakeholders. We share the National Taxpayer Advocate’s vision for improved taxpayer service, more effective revenue collection, and more efficient operations, in part through the modernization of the IRS’s information technology.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

The National Taxpayer Advocate shares many of the sentiments expressed in the IRS response to this Most Serious Problem. Without question, the IRS is increasingly being asked to do more with less. The fallout of the COVID-19 pandemic exacerbated the challenges, but the IRS has performed admirably during this crisis to continue delivering quality service to taxpayers.

As the nation’s primary revenue collector, the IRS is tasked with a role that is too important for Congress to short circuit its necessary investment in technology. It is vital that the IRS succeed in these efforts.

We are aligned with the IRS regarding the need for Congress to fully fund the IRS’s efforts to modernize its systems. The IRS has devoted a substantial amount of thought and resources into developing its modernization plan; Congress should help, not hinder, the IRS’s efforts to implement that plan.

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| TAS Recommendation | [6-1] Compile data on the operations and maintenance costs of all legacy systems to assist in prioritizing decommissioning decisions. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |

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| IRS Action | As required by the Office of Management and Budget (OMB), the IRS will continue to regularly report upon our major and minor information technology investments through ITdashboard.gov and other forums. The IRS will also continue to improve cost tracking and reporting according to new government-wide standards such as the Technology Business Management (TBM) framework, as resources and funding allow. While the IRS does consider cost as one factor, decommissioning decisions almost always rely upon other factors such as taxpayer or employee experience, security and risk of aging hardware and software, architectural direction, and other operational considerations. |
| TAS Response | Compiling this data is in direct support of the IRS Modernization Plan. TAS looks forward to working with the IRS to make this priority successful. |

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| TAS Recommendation | [6-2] Expedite the development of a Servicewide centralized system to store digital tax records to allow the IRS to go completely paperless. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The IRS is committed to strengthening data intake capabilities to enable enhanced validation, storage, protection, and sharing of data. The IRS established the new Enterprise Digitalization and Case Management Office (EDCMO) in FY 2020 to strategically address these needs and enhance the taxpayer and employee experience by spearheading the IRS's efforts to modernize and consolidate systems, simplify business processes, and empower taxpayers and employees to rapidly resolve issues in a simplified digital environment. Specifically, EDCMO is developing and leading efforts to transform the IRS into a more digitally driven agency through innovative initiatives designed to reduce paper volume, increase access to digital data, and prepare the IRS to effectively manage and leverage digital data. As part of this, the IRS is committed to working as quickly as possible to increase the amount of paper-based forms and tax records that can be stored digitally and other efforts that push the IRS towards becoming more paperless wherever possible. |
| TAS Response | TAS looks forward to the IRS's plan to comply with the National Archives and Records Administration (NARA) criteria for all records. TAS is encouraged by the possibilities brought about by tools such as the documentation upload tool (DUT) (<i>i.e.</i> , the pilot for digital mailroom). |

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| TAS Recommendation | [6-3] Create CIO liaisons for each IRS division knowledgeable about both the business needs and the technical aspects to bridge the disconnect between the needs of the IRS divisions and what IT can deliver. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |

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| IRS Action | <p>All operating divisions have a dedicated Business System Planning (BSP) individual or function that serves a role similar to what the National Taxpayer Advocate describes. Additionally, Information Technology (IT) leadership regularly meets with operating division leadership to discuss strategic and tactical priorities and acts upon requests as necessary. In the near future, as part of the Taxpayer First Act reorganization strategy, the IRS will strengthen the bridge between the operating divisions and IT at the most senior level, as the CIO will directly report to the IRS Commissioner to work closely with peers in taxpayer service, compliance, strategy, and operations to deliver upon Service-wide priorities. With additional hiring authority and budgetary resources, IT will expand the current business relationship management program whereby specific liaisons within IT act as concierges to help business unit customers navigate complex IT processes and ensure service needs are met.</p> |
| TAS Response | <p>TAS is encouraged by the IRS meeting with IT leadership on a regular basis. TAS looks forward to working with the IRS to advance these goals to create a seamless experience for taxpayers and employees.</p> |

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| TAS Recommendation | <p>[6-4] Compile a list of IT lessons learned during COVID-19, documenting the problems taxpayers experienced due to IT-related challenges during the pandemic so it can be better prepared for the future.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in part.</p> |
| IRS Action | <p>The IRS has documented lessons learned from various actions related to COVID-19 and the CARES Act, including Economic Impact Payment processing. Further, the IRS has actually implemented these lessons in our programming, processes, and operations for subsequent relief efforts, such as the second Economic Impact Payment. Because the pandemic is still ongoing, and IT resources are focused on implementing additional legislative, filing season, and modernization functionality, the IRS will share existing documentation with the National Taxpayer Advocate, but will only document additional information as resources allow.</p> |
| TAS Response | <p>TAS looks forward to reviewing the lessons learned and working with the IRS to implement actions to mitigate future issues.</p> |

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| TAS Recommendation | <p>[6-5] Expand modernization efforts to include BMF to provide a comparable level of service (e.g., online accounts, digital services, shorter processing cycles (CADE 2), etc.) to business taxpayers it will provide to individual taxpayers.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. The IRS agrees with the importance of the Business Master File (BMF) and continued modernization of the business taxpayer experience in parallel with improvements to the individual taxpayer experience. However, these efforts are likely to require funding and prioritization within the Operations Support portfolio, rather than trying to fit within the very limited Business Systems Modernization (BSM) appropriation and Modernization Plan. The IRS continues to make improvements for business taxpayers in FY 2020 and FY 2021, including customer callback on several business phone applications, integration of BMF data with ECM, and digital communication opportunities with several types of individual, business, and tax exempt customers and their representatives.</p> |

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| IRS Action | N/A |
| TAS Response | TAS believes that BMF taxpayers have the same rights as Individual Master File (IMF) taxpayers to have an end-to-end modernized, real-time platform (<i>i.e.</i> , information submission, document processing, taxpayer experience, etc.). TAS is encouraged that the IRS acknowledges the importance of BMF modernization. |

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| TAS Recommendation | [6-6] Ensure the amount requested for its IT budget is sufficient and sustainable to fully fund its multiyear modernization plan. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | The IRS agrees to request the funding required to operate and maintain existing systems, to fund modernization efforts, and to deliver legislation such as the CARES Act. However, the IRS collaborates with the Department of the Treasury, Office of Management and Budget, and Congress through the passback and President's Budget process. Congress ultimately determines appropriation levels, including the business systems modernization appropriation. |
| TAS Response | TAS appreciates the complexity of the budget process and will work with IRS to raise awareness for the needed additional funding and provide the necessary justification for budget requests. |

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| TAS Recommendation | [6-7] Consider seeking financial assistance from the Technology Modernization Fund. |
| IRS Response | IRS does not agree to implement TAS recommendation. While the IRS appreciates government-wide efforts to fund technology modernization and cybersecurity work, the Technology Modernization Fund (TMF) has specific requirements that make other options better suited to our funding challenges. In particular, projects funded by the TMF are expected to pay back loans over five years from regular appropriations, projects are funded on an incremental basis based upon milestone completion, and the use of rapid and iterative development practices is expected. When the IRS implements new technology, even in situations where we replace legacy systems, operations and maintenance costs are often higher for the new system and require ongoing funding (<i>i.e.</i> , direct appropriations). Further, one of the key requirements for the IRS Modernization Plan is stable and predictable funding, a requirement that the TMF cannot guarantee. |
| IRS Action | N/A |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Response | TAS appreciates that the IRS took the time to consider the use of the TMF funds, similar to other larger government agencies. The use of TMF funds could supplement funds allocated by Congress and should be viewed as complementary to that funding. TMF is an alternative source for short-term modernization funding that may assist in completing some of the pilots outlined in TFA for the one- to three-year timeframe. |
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| TAS Recommendation | [6-8] Provide the IRS with sufficient, sustained funding to improve taxpayer service and modernize its IT systems over a predictable multiyear period, allowing the IRS to properly implement its modernization plan as a whole and not in pieces. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

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| TAS Recommendation | [6-9] Ensure that any increase in funding for enforcement (including program integrity cap adjustments) is coupled with a commensurate increase in funding for service and operations support so taxpayers seeking to respond to the IRS can do so easily. This way, the IRS need not prioritize IT over enforcement. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Serious Problem #7**CORRESPONDENCE EXAMS: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits****PROBLEM**

In response to taxpayer complaints about the inability to contact IRS staff directly, section 3705(a) of the Restructuring and Reform Act of 1998 (RRA 98), 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. 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 when seeking answers to questions about their audit or the information they submitted. The IRS correspondence audit program, as designed, leaves taxpayers solely dependent on toll-free phone services that operate with limited availability or receiving IRS notifications issued with uncertain timeframes. The inability to reach a single point of contact diminishes the customer experience, creates IRS inefficiency, hinders opportunities to engage and educate our nation’s taxpayers and decreases potential for developing and building trust with the IRS.

ANALYSIS

More than 70 percent of the audits conducted by the IRS are correspondence audits. Although the number of taxpayers selected for examination has declined in recent years, the percentage of IRS audits conducted by correspondence has increased from fiscal years (FYs) 2016 to 2018 with a slight decrease in 2019. Because correspondence audits represent one of the most significant tools the IRS employs to achieve voluntary compliance, the taxpayer’s ability to interact and communicate with the IRS is vitally important to the success of the correspondence audit process, the quality of service provided, and the fair and just treatment of taxpayers.

Unlike other IRS audits, correspondence audits are not assigned to a single examiner who will work the case in its entirety and serve as the taxpayer’s single point of contact for questions. Taxpayers undergoing a correspondence audit are referred to a toll-free number where they may discuss their case with an IRS phone assistor who generally holds no responsibility for the actions or determinations made with their audit. The high volume of correspondence audits combined with limited communication alternatives, insufficient levels of service, and the inability to contact a knowledgeable and accountable IRS employee often cause unnecessary taxpayer burden and hinder several taxpayer rights, including the *right to quality service*.

TAS RECOMMENDATIONS

- [7-1] Provide taxpayers responding to correspondence audit notices the name, telephone number, and unique identifying number of an IRS employee who can serve as their direct contact throughout the correspondence audit process, along with the employee’s secure email address or the TDC Secure

messaging access needed to send and receive documents and communicate electronically with the assigned examiner.

- [7-2] Ensure that the volume and timing of audits conducted are commensurate with the IRS's ability to provide correspondence audit toll-free phone services, timely correspondence responses, and timely audit completion.
- [7-3] Expand TDC Secure Messaging capabilities to all correspondence audit programs.

IRS NARRATIVE RESPONSE

Correspondence Exam is a critical part of the IRS's overall compliance approach to fair and balanced tax administration. The IRS designed Correspondence Exam to work single issue (non-complex) and single year cases that can easily be resolved via mail, allowing for broader geographic coverage. The program supports the IRS strategic goal to protect the integrity of the tax system by encouraging compliance through administering and enforcing the tax code.

As previously noted in the IRS responses to the 2014 and 2018 National Taxpayer Advocate Annual Report to Congress, it is not practical to assign one employee to handle all aspects of a taxpayer's correspondence examination from beginning to end. When we receive a written response from a taxpayer, it is assigned to one tax examiner to review,⁷ and when the tax examiner sends a letter in response, the letter identifies the tax examiner by name and includes Exam's toll free telephone number since tax examiners do not have direct telephone lines. When taxpayers call the Correspondence Exam toll-free line, their call is routed to the next available assistor. Phone assistors are trained and experienced tax examiners, have access to the taxpayer's case history, and work with the taxpayer toward case resolution. However, if a taxpayer responds to an examination letter with correspondence and later calls the toll-free line and is not satisfied at the end of the call, they can request that the assigned tax examiner return their call.

Since 2017, Correspondence Exam has improved communications by digitizing a population of case files. Although transparent to taxpayers, some taxpayer correspondence is digitized and uploaded to the case file. Digitized cases improve customer service by increasing the visibility of case information. Telephone assistors can electronically view correspondence previously sent in by the taxpayer, regardless of which IRS site received the correspondence. This assists in resolving taxpayer inquiries more expeditiously.

We continued to improve communications with taxpayers with the expansion of secure messaging within Taxpayer Digital Communications (TDC) to all five SB/SE campuses. With TDC, taxpayers who sign up can submit documents online and easily ask questions. They do this without waiting in a queue, at their convenience, and on their own schedule. In general, like with paper correspondence, these messages are directed back to the examiner who last worked their case. The current customer satisfaction rating is 83.2 percent, and it is our expectation that as more taxpayers take advantage of this communication vehicle, we'll continue to see this high level of customer satisfaction.

⁷ IRM 4.19.10.1.5.1(6), Correspondence Examination Letters (Dec. 8, 2017). Letters mailed on cases in the corporate inventory will include the appropriate Business Operating Division (BOD) corporate toll-free number, "Tax Examiner" as person to contact, and the site-specific identification number. If the letter sent is in reply to taxpayer correspondence, the letter, case history, and all letter attachments must identify the originating tax examiner to provide information for any subsequent contact, if needed.

Regarding the Earned Income Tax Credit (EITC), the IRS currently staffs a year-round toll-free telephone line in order to answer questions on EITC correspondence audits, many of which contain an audit issue for the Child Tax Credit/Additional Child Tax Credit. Our employees who answer these toll-free calls are trained and experienced, and best equipped to answer taxpayer telephone calls related to these potential audit issues. To enhance the taxpayer experience on the phone, a new Fast Track option will be implemented in 2021 for taxpayers inquiring about whether we received their documentation. This option will reroute incoming customer calls to an assistant to provide taxpayers with information on the receipt and status of their correspondence. We will continue to leverage available technology, as budget permits, to enhance taxpayers' experience when interacting with the IRS.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

While the IRS advises that it is not practical to assign one employee to handle all aspects of a taxpayer's correspondence examination, the described procedures suggest that correspondence audits are primarily assigned and worked by one employee. The simple lack of a direct telephone line, however, prevents the taxpayer from contacting the assigned employee directly, enabling the assigned examiner to serve as the taxpayer's single point of contact for assistance. Correspondence examiners hold responsibility for both staffing the correspondence audit toll-free phone lines and for auditing the tax returns selected for correspondence audit. It is unclear why these employees can audit returns and answer calls, yet it is impractical for correspondence examiners to answer calls from the taxpayers they are assigned to audit.

Recently implemented telephone and TDC technology, could serve to enhance the IRS's ability to provide taxpayers a single point of contact for correspondence audit assistance, and demonstrates that IRS has the capability to provide correspondence audit examiners with phone lines equipped to receive direct incoming calls. As stated, the inability to reach a single point of contact diminishes the customer experience, creates IRS inefficiency, and hinders opportunities to engage and educate our nation's taxpayers. Providing taxpayers who have responded to their correspondence audit notifications with the contact information of the assigned examiner will improve the customer experience, improve efficiency and is necessary for tax administration. Because correspondence exam is recognized as a critical part of the IRS's overall compliance approach to fair and balanced tax administration, the IRS must be willing to reconsider its current approach to the correspondence audit process — the process used to conduct the highest percentage of taxpayers audits throughout the IRS. In light of the fact that correspondence audits result in the highest rate of audit deficiencies assessed by default⁸ and produced a high volume of petitions to the U.S. Tax Court, this is an area ripe for improvement.

8 IRM 4.8.9.26, Defaulted Notices (July 9, 2013). The IRS may assess a proposed audit deficiency by default if the taxpayer does not petition the U.S. Tax Court within 105 days of the date a Statutory Notice is issued (165 days if the taxpayer resides outside of the U.S.). IRS CDW, AIMS Closed Case Database FY 2019 (Oct. 2020).

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| TAS Recommendation | <p>[7-1] Provide taxpayers responding to correspondence audit notices the name, telephone number, and unique identifying number of an IRS employee who can serve as their direct contact throughout the correspondence audit process, along with the employee's secure email address or the TDC Secure messaging access needed to send and receive documents and communicate electronically with the assigned examiner.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. As outlined in our response included in the National Taxpayer Advocate's report, and previously noted in IRS responses to the 2014 and 2018 National Taxpayer Advocate Annual Reports to Congress, it is impractical to assign one employee to handle all aspects of a taxpayer's correspondence examination from beginning to end. When we receive a written response from a taxpayer, it is assigned to one tax examiner to review. When the tax examiner sends a letter in response, the letter identifies the tax examiner by name and includes Examination's toll-free telephone number, since tax examiners do not have direct telephone lines. By calling the toll-free telephone number at their convenience, taxpayers reach the next available phone assistant. All phone assistants are trained and experienced tax examiners who have access to the taxpayer's case history and can work with the taxpayer toward case resolution. However, if a taxpayer responds to an examination letter with correspondence and later calls the toll-free line and is not satisfied at the end of the call, they can request that the assigned tax examiner return their call.⁹</p> <p>In 2020, the IRS expanded secure messaging within Taxpayer Digital Communications (TDC) to all five of the Small Business/Self-Employed Division's (SB/SE) campuses. In general, like with paper correspondence, these messages are directed back to the examiner who last worked their case.</p> <p>We believe our current procedures appropriately balance taxpayer service with sound tax administration within our current resource constraints.</p> |
| IRS Action | N/A |
| TAS Response | <p>While the IRS continues to advise that it is not practical to assign one employee to handle all aspects of the taxpayer's correspondence examination, the described procedures suggest that correspondence audits are primarily assigned and worked by one employee. Correspondence examiners hold responsibility for both staffing the correspondence audit toll-free phone lines and for auditing the tax returns selected for correspondence audit. It remains unclear why these employees can audit returns and answer calls, yet it is impractical for correspondence examiners to answer calls from the taxpayers they are assigned to audit.</p> |
| TAS Recommendation | <p>[7-2] Ensure that the volume and timing of audits conducted are commensurate with the IRS's ability to provide correspondence audit toll-free phone services, timely correspondence responses, and timely audit completion.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in full.</p> |

⁹ IRM 4.19.10.1.7.1(6), Correspondence Examination Letters. Letters mailed on cases in the corporate inventory will include the appropriate BOD corporate toll-free number, "Tax Examiner" as person to contact, and the site-specific identification number. If the letter sent is in reply to taxpayer correspondence, the letter, case history, and all letter attachments must identify the originating tax examiner to provide information for any subsequent contact, if needed.

Appendix 1: IRS Responses to Administrative Recommendations

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| <p>IRS Action</p> | <p>Since 2014, SB/SE Correspondence Examination has used the Enterprise Planning Scenario Tool (EPST) to develop the Correspondence Examination Starts Plan, which utilizes comparative scenarios to optimize the mix of inventory and available resources. EPST provides a weekly plan by Campus for opening additional examinations, with projected weekly mail receipts, to maintain a balanced and manageable mail inventory based on available staffing throughout the fiscal year.</p> <p>The plan is adjusted throughout the year to account for actual mail receipts, adding test inventory, changes in resources, program pauses/stoppage (e.g., COVID response), and system downtime and testing.</p> |
| <p>TAS Response</p> | <p>TAS appreciates the IRS's agreement to ensure that the volume and timing of audits conducted are commensurate with the IRS's ability to provide correspondence audit toll-free telephone service, timely correspondence responses, and timely audit completion with the use of its EPST tool.</p> <p>Acknowledging that this tool has been in use since 2014, TAS notes that the W&I and SB/SE correspondence audit toll-free telephone levels of service have consistently remained in the 40 and 60 percent ranges respectively, while significant overage correspondence responses continued throughout fiscal years 2016 through 2019. TAS looks forward to any recalibrations of the IRS's EPST that will serve to increase the levels of service on the correspondence audit toll-free telephones and improve the timeliness of correspondence responses and audit completion.</p> |
| <p>TAS Recommendation</p> | <p>[7-3] Expand TDC Secure Messaging capabilities to all correspondence audit programs.</p> |
| <p>IRS Response</p> | <p>IRS does not agree to implement TAS recommendation. In August 2020, SB/SE expanded TDC in Correspondence Examination to all five of its campuses. We plan to invite taxpayers from all TDC eligible audit types beginning in April 2021. Certain audit issues are not conducive to TDC (e.g. Non-filers, Criminal Investigation); therefore, those taxpayers will not be invited to participate. Due to budget constraints and continued challenges with taxpayers' ability to authenticate, the IRS is not expanding TDC to all 10 campuses at this time.</p> |
| <p>IRS Action</p> | <p>N/A</p> |
| <p>TAS Response</p> | <p>TAS realizes that budget constraints and continued authentication challenges could hinder the IRS's ability to immediately expand TDC at this time. The current initiatives to invite taxpayers from all eligible TDC audit types in April 2021 is a step in the right direction. TAS looks forward to TDC expanding to all eligible audit types when feasible.</p> |

Most Serious Problem #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****PROBLEM**

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. Because the penalties are immediately assessed, taxpayers' only recourse is to rely on IRS discretion and request a reasonable cause abatement of the penalties or pay them and seek a refund in federal court. This approach is particularly unsuited to these penalties, as demonstrated by abatement rates in excess of 55 percent when measured by number of penalties and 71 percent when measured by dollar value. Thus, both taxpayers and the IRS are expending significant time, energy, and money addressing penalties that ideally should not be assessed in the first instance.

ANALYSIS

IRC §§ 6038 and 6038A impose harsh penalties for failure to file required international information returns. Thus, the IRS's treatment of the penalties as summarily assessable is burdensome for taxpayers. The IRS adopts the circular argument that because it lacks statutory authority to assert the penalties using deficiency procedures, this, by definition, must confer authority to undertake summary assessments. The National Taxpayer Advocate and several commentators, however, find nothing in the IRC or the case law to support this reading. Given the existing hazards of litigation, the IRS should refer assessment and collection of these penalties to the Department of Justice, while seeking legislation providing authority to use the deficiency procedures. Administratively, the IRS could send soft notices to taxpayers upon discovery of late-filed international information returns to enhance compliance and minimizing the number of penalties being asserted. Further, the IRS should establish a first-time abatement for all Chapter 61 penalties, including the IRC §§ 6038 and 6038A penalties, to educate taxpayers and streamline tax administration.

TAS RECOMMENDATIONS

- [8-1] Stop erroneously assessing Chapter 61 penalties, including the IRC §§ 6038 and 6038A penalties, and refer assessment and collection efforts to the Department of Justice when appropriate.
- [8-2] Send soft notices to taxpayers upon discovery of late-filed international information returns as a means of enhancing compliance and minimizing the number of penalties being asserted.
- [8-3] Extend eligibility for the first-time abatement to all Chapter 61 penalties, including the IRC §§ 6038 and 6038A penalties, regardless of whether the underlying return was filed late.
- [8-4] Expand deficiency procedures to cover Chapter 61, including the IRC §§ 6038 and 6038A penalties.

IRS NARRATIVE RESPONSE

While the U.S. income tax system is based on self-disclosure and self-assessment by taxpayers, there are inherent challenges with obtaining and verifying taxpayer information in the international context. Accordingly, Congress enacted statutory penalties in Internal Revenue Code (IRC) Chapter 61 for failure to timely file information returns relating to cross-border business activities. These information returns relate to both foreign taxpayers' activities and investments in the U.S. and U.S. taxpayers' activities and investments abroad. The IRS also utilizes the information in these annual returns to monitor and enforce tax compliance for other tax years and for other taxpayers (such as other shareholders or partners). The Treasury Inspector General for Tax Administration (TIGTA) recommended that the IRS consider systemic assessment of these penalties in 2006. After studying the issue further, the IRS began systemic assessment of some international information return penalties in 2009, and TIGTA evaluated IRS progress with implementing systemic assessment in 2013.

We disagree with the fundamental premise of the MSP that the IRS lacks legal authority to assess Chapter 61 penalties. The IRC provides two methods to assess penalties, either (1) pursuant to deficiency procedures or (2) as assessable penalties, that is, those penalties not subject to deficiency procedures. Penalties under Chapter 61, including IRC § 6038 and § 6038A, are meant to enforce reporting requirements and are not based on the tax shown on a return or the existence of a deficiency. As such, there is no legal basis for us to apply deficiency procedures to these penalties and the IRS has consistently treated Chapter 61 penalties as assessable.

IRC § 6201(a) provides the IRS authority to assess assessable penalties, that is, those penalties not subject to deficiency procedures. Neither that section nor the IRC in general limits assessable penalties to those described under IRC Subchapter 68B. To read the "Assessable Penalties" heading of that subchapter as the exclusive location of assessable penalties would be contrary to IRC § 7806, which expressly prohibits giving any legal effect to descriptive matter relating to the content of the IRC. Accordingly, there is authority to treat these penalties as immediately assessable, and the IRS is not required to first request that the Department of Justice file a suit to obtain a judgement for the penalties before collecting them.

The assessment of these penalties at filing, much like with other assessable penalties, provides the most equitable treatment of enforcement as it doesn't require the IRS to apply case selection criteria for examination. Meaning, all corporations and partnerships are held to the same standards of the law. The IRS recognizes the abatement rates for these systemically assessed penalties on corporations and partnerships are relatively high. We look forward to partnering with TAS to explore whether there are more efficient methods of administrating these penalties while maintaining the equitable treatment afforded through systemic assessments.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS agrees with the IRS regarding the importance of international information returns for tax administration and voluntary compliance. We understand that systemic assessment is sometimes the best and most equitable way to impose certain penalties for the IRS — but such is not always the case for taxpayers. When the majority of assessed penalties is ultimately abated, however, this indicates that other, more effective and efficient ways of seeking taxpayer compliance should be explored.

TAS looks forward to collaborating with the IRS to develop and implement programs and policies that drive compliance through communication and education. Such programs could include the issuance of soft letters prior to the assessment of penalties so that taxpayers have the opportunity to avoid penalties when they come into compliance. Also, if the IRS implemented a systemic first-time abatement for these penalties, this would represent a more streamlined and comprehensive version of what is already occurring as a practical matter for many systemically assessed IRC §§ 6038 and 6038A penalties. Both the soft letters and the systemic first-time abatement we recommend would present a means of generating compliance in a manner that preserves resources and reduces burdens for taxpayers and the IRS.

From a broader perspective, the National Taxpayer Advocate is unpersuaded by the IRS's legal argument that it has the right to assess these penalties. TAS concurs with the IRS that the IRC does not provide authority for the use of deficiency procedures with respect to Chapter 61 penalties. Nevertheless, the IRS has not provided any unambiguous statutory language or on-point judicial rulings based on which these penalties can be assessed.

IRC § 6201 simply states that assessable penalties can be assessed and the cases cited by the IRS only decide that penalties not subject to deficiency procedures do not require deficiency procedures.¹⁰ These circumstances, either individually or in combination, cannot provide a basis for determining that Chapter 61 penalties are assessable in the first instance. The IRS primarily relies on the circular logic that just because the IRS cannot apply deficiency procedures, it therefore, by definition, must be able to resort to summary assessments. These are not either/or propositions, and the authority to assess is in no way conferred by the unavailability of deficiency procedures. Based on the National Taxpayer Advocate's reading of the law, and that of some commentators, the IRS simply has no ability to assess Chapter 61 penalties under the IRC as currently codified. This unfortunate and likely unintended situation is why assessment and collection of Chapter 61 penalties should be referred to the Department of Justice.

Although under current law, deficiency procedures do not apply to Chapter 61 penalties, we strongly recommend that Congress provide taxpayers with a statutory notice of deficiency giving them the opportunity to petition the U.S. Tax Court for reconsideration of the penalty. All taxpayers should have the chance to obtain judicial review of adverse IRS determinations. The IRS's position is that Chapter 61 penalties are assessable and not subject to judicial review unless a taxpayer is wealthy enough to first fully pay the penalties assessed and proceed to U.S. District Court or the U.S. Court of Federal Claims.

Long-term reliance on the Department of Justice for such enforcement is not an efficient and taxpayer-favorable long-term outcome. TAS welcomes the prospect of working with the IRS and Congress to seek legislation making Chapter 61 penalties subject to deficiency procedures. In the meantime, we look forward to collaborating with the IRS in pursuing our administrative recommendations that would yield a fair and just tax system for both taxpayers and the IRS.

¹⁰ See *Wheaton v. U.S.*, 888 F. Supp. 622, 626 (D.N.J. 1995); *Heydemann v. United States*, 2008 WL 2502188 (D. Md. Apr. 23, 2008).

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| TAS Recommendation | <p>[8-1] Stop erroneously assessing Chapter 61 penalties, including the IRC §§ 6038 and 6038A penalties, and refer assessment and collection efforts to the Department of Justice when appropriate.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. We disagree the IRS lacks legal authority to assess Chapter 61 penalties. As previously stated, the Internal Revenue Code provides two methods to assess penalties, either (1) pursuant to deficiency procedures or (2) as assessable penalties, that is, those penalties not subject to deficiency procedures. Penalties under Chapter 61, including sections 6038 and 6038A, are meant to enforce reporting requirements, are not based on the tax shown on a return or the existence of a deficiency, and may be imposed even when the taxpayer has an overpayment. No court has ever ruled that the IRS lacks authority to assess these penalties without following deficiency procedures, and the IRS has consistently treated Chapter 61 penalties as assessable as far back as records are available.</p> <p>Further, the authority in section 6201(a) to assess “all taxes” is an expansive provision broad enough to include Chapter 61 penalties without regard to whether assessable penalties refers exclusively to penalties in Chapter 68B of the Code or had a broader meaning of penalties not subject to deficiency procedures.</p> |
| IRS Action | N/A |
| TAS Response | <p>The IRS’s argument that it has the legal authority to assess Chapter 61 penalties is unpersuasive. TAS concurs that the IRC does not provide authority for the use of deficiency procedures with respect to these penalties. Beyond this negative proposition, the IRS does not provide any unambiguous statutory language or on-point judicial rulings regarding how Chapter 61 penalties can be properly assessed.</p> <p>IRC § 6201 simply states that assessable penalties can be assessed and the caselaw only stands for the proposition that penalties not subject to deficiency procedures do not require deficiency procedures. These circumstances, however, do not establish that Chapter 61 penalties are assessable in the first instance. The IRS primarily relies on the circular logic that just because the IRS cannot apply deficiency procedures, it therefore, by definition, must be able to treat these penalties as assessable. Nevertheless, the IRS fails to explain how the authority to assess is affirmatively conferred by its inability to proceed using deficiency procedures. The IRS seeks to create a false dichotomy, under which the lack of one right automatically gives rise to another. The National Taxpayer Advocate and some legal commentators, however, see nothing in the law giving the IRS the actual or implied authority to assess Chapter 61 penalties. This is why, in the absence of Congressional action, assessment and collection of Chapter 61 penalties must be referred to the Department of Justice.</p> |
| TAS Recommendation | <p>[8-2] Send soft notices to taxpayers upon discovery of late-filed international information returns as a means of enhancing compliance and minimizing the number of penalties being asserted.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| IRS Response | <p>IRS does not agree to implement TAS recommendation. Generally, soft notices are used by the IRS to alert taxpayers to potentially non-compliant behavior, enabling them to take action to become compliant if applicable. Because section 6038 and 6038A filing requirements are event based, the IRS can't determine who has a requirement prior to the taxpayer filing the form, except in cases of direct taxpayer communication such as a field audit. As such, the IRS would be unable to identify missing forms in advance and send soft letters as an encouragement for compliance before assessing a penalty. These penalties are only systemically assessed after the taxpayer has resolved their non-filing issue by filing late. Sending a soft letter to the taxpayer, where there are no actions for them to take to rectify their non-compliance, would be confusing to taxpayers, may increase taxpayer burden, and would be a poor use of IRS resources. It would also be a disservice to taxpayers who make a concerted effort to understand their tax obligations and timely comply. Assessment of these penalties at filing, much like with other assessable penalties, provides the most equitable treatment of enforcement.</p> |
| IRS Action | N/A |
| TAS Response | <p>Pre-assessment correspondence could benefit both taxpayers and the IRS. We agree that the classic soft letter allowing for initial compliance as a means of avoiding a penalty would be inoperable in the instant case. The high rates of IRC §§ 6038 and 6038A penalty abatements, however, indicate that many of these penalties are being unnecessarily, and unjustifiably, assessed. One means of addressing this circumstance is to send correspondence, be it designated as a soft letter or something else, giving potentially impacted taxpayers the opportunity to explain why no penalty should be assessed in the first instance. This approach would contribute to the education of taxpayers and minimize the inefficient and burdensome practice of first assessing and then abating these penalties. Further, it would contribute to tax equity by placing the IRS in a better position to distinguish between good-faith mistakes and intentional tax noncompliance.</p> |

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| TAS Recommendation | <p>[8-3] Extend eligibility for the first-time abatement to all Chapter 61 penalties, including the IRC §§ 6038 and 6038A penalties, regardless of whether the underlying return was filed late.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. The IRS's policy of First Time Abatement (FTA) has only ever been applicable to the three common civil penalties: failure to file¹¹, failure to pay, and failure to deposit. Information returns, both domestic and international, are not eligible.</p> |
| IRS Action | N/A |

¹¹ This includes delinquency penalties under sections 6651(a)(1), 6698, and 6699.

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Response | <p>A first-time abatement of Chapter 61 penalties is both possible and desirable. The IRS already allows an abatement of the IRC §§ 6038 and 6038A penalties whenever a related IRC § 6651 penalty receives a first-time abatement. In information provided to TAS by the IRS, it estimates that 40 percent of the abatements in this area are attributable to this practice. Because the first-time abatement is a matter of policy, the IRS is free to provide a broad first-time abatement for all Chapter 61 penalties and we continue to recommend the IRS abate these penalties through the first-time abatement procedures.</p> <p>This expansion would help to educate taxpayers and streamline tax administration. It would foster a better understanding of the law by taxpayers, facilitate information gathering by the IRS, and substantially decrease the number of penalties asserted. Good faith taxpayers would have their rights protected, while the IRS would still receive necessary information.</p> |
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| TAS Recommendation | [8-4] Expand deficiency procedures to cover Chapter 61, including the IRC §§ 6038 and 6038A penalties. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Serious Problem #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

PROBLEM

In fiscal year (FY) 2019, the IRS's failure to set clear expectations and 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. The IRS's published expected processing time for amended returns is 16 weeks. However, the IRS fails to advise taxpayers that if their amended returns are audited, processing will take significantly longer. One of the steps in the process, assigning an amended return that has been selected for audit to an examiner (who contacts the taxpayer) and opening the audit, alone took an estimated median of three to nine weeks for individual amended returns, and 14 to 16 weeks for corporate amended returns. Moreover, when taxpayers file an amended return to request a reduction in an assessed tax that remains unpaid, *i.e.*, a request for abatement, the IRS sometimes refuses to consider the claim and issues a form letter rejecting the claim without an adequate explanation to the taxpayer. Although the IRS has the authority to consider these claims, the form letter simply states the law does not allow a claim to reduce tax owed and instructs the taxpayer to pay the tax followed by another amended return.

ANALYSIS

An analysis of information on IRS databases shows that the estimated overall median processing time for individual amended returns that resulted in a refund was never more than four weeks overall when the return was not audited. However, when these amended returns were audited, the estimated median processing time stretched to 35 weeks in FY 2017, *i.e.*, these taxpayers waited over eight months to receive their refunds. Estimated median processing time for these amended returns decreased to 20 weeks in FY 2019, a significant improvement compared to FY 2017, but still 25 percent longer than taxpayers were told to expect.

For individual and corporate amended returns that were audited and resulted in no change, estimated median processing time in FY 2017 was 32 weeks for individuals and 47 weeks for corporations. By FY 2019, these estimated median processing times were 29 weeks for individuals and 37 weeks for corporations.

An analysis of TAS cases in which taxpayers filed an amended return to request a tax abatement shows that the IRS often — over 40 percent of the time — refused to consider the claim, giving as the only reason for not considering the claim that the law does not allow claims for abatements.

TAS RECOMMENDATIONS

- [9-1] Revise the IRM to provide that if a request for tax abatement is incomplete, the employee should solicit the necessary documentation from the taxpayer, and if the documentation is not forthcoming

or is insufficient, the employee should deny the request, explain the reason for the denial, and explain the different procedures that apply to requests for tax abatement and requests for refund.

- [9-2] If the IRS determines the taxpayer is not entitled to an abatement, issue a 30-day letter providing taxpayers the right to file a protest with the Independent Office of Appeals¹² for abatement of tax and updating and clarifying the IRM's No Immediate Tax Consequence provisions by referencing abatement cases.
- [9-3] Remove any selectable paragraph in Letter 916C that states the law does not allow taxpayers to file a claim to reduce the tax they owe or appears to advise taxpayers that they cannot seek an abatement of tax without first paying the amount of tax already assessed (Paragraph N in the current version of Letter 916C).
- [9-4] Revise the IRM to instruct employees not to use a fill-in paragraph in Letter 916C to state the law does not allow taxpayers to file a claim to reduce the tax they owe or to inform taxpayers they cannot seek an abatement of tax without first paying the amount of tax already assessed.
- [9-5] Identify and address the cause of lengthy examination times for amended returns.
- [9-6] Identify and address the cause of the increase in processing time for corporations' unaudited amended returns.
- [9-7] Add additional status updates to the "Where's My Amended Return" tool to allow taxpayers to see when the IRS selects their amended return for audit, when it assigns the audit to an examiner, and what an estimated completed processing time is based on the return's current status.
- [9-8] Revise the IRM and Form 1120X instructions to more accurately reflect the expected processing time for amended returns.

IRS NARRATIVE RESPONSE

The IRS is committed to processing amended returns accurately and efficiently. On August 17, 2020, the IRS began receiving electronic Forms 1040X, Amended U.S. Individual Income Tax Return, which has been an important goal for the IRS and our industry partners for many years. Electronically filing a Form 1040X will reduce errors and decrease processing time. As of November 21, 2020, over 144,000 electronically filed amended returns have been accepted from 18 industry partners. Future upgrades will allow taxpayers to file an electronic amended return for the current and two prior years. And, although the IRS has been converting more complex paper amended returns into electronic Correspondence Imaging System (CIS) cases for years, we initiated a pilot process in October 2020 to convert less complex paper amended returns to CIS cases. If the pilot is successful streamlining our ability to work and resolve these cases, we plan to implement the process Servicewide.

We are making progress in reducing the Business Masterfile (BMF) amended return inventory that has increased due to the lapse in appropriations in 2019 and office closures due to COVID-19 in 2020. As of November 2020, the current BMF inventory is about 670,000 cases, down 20 percent from a peak

¹² See IRM 8.1.1.3.2, No Immediate Tax Consequence Cases (Oct. 1, 2016).

of 840,000 cases one year prior. We anticipate BMF amended return processing will increase once new employees are trained and are focused on this inventory.

Our efforts to ensure compliance with the tax laws extend to amended returns. Before determining whether to survey or examine an assigned claim for refund, examiners thoroughly review the return to identify large, unusual, or questionable items per IRM 4.10.2.3, In-Depth Pre-Contact Analysis, and evaluate the audit potential of the entire return, and possibly, for related returns for the same or other tax years. The examination is not limited to the issues raised in the claim for refund if there are other issues that warrant further consideration (IRM 4.10.11.2.4 and 4.10.11.3.3). Therefore, the effort and time required to examine an amended return can rise to the same level as in other examinations, although current data shows the cycle time for examinations on amended returns is lower than other examinations both in Field and Campus operations (269 days in fiscal year 2020 compared to 319 days for all examinations). The length of any audit is based on the unique facts and circumstances of each case, the timeliness of taxpayer responses to IRS letters, and may be affected by the need to balance competing priorities or extenuating circumstances such as disasters. To help expedite examinations, campuses began forwarding claims and assigning cases to the field electronically in July 2020.

We are always seeking to improve how we communicate with taxpayers and will consider how the “Where’s My Amended Return” tool could be improved in this regard, taking into account cost and competing IT priorities. We will also review and consider other recommendations provided by the National Taxpayer Advocate.

Some amended returns include requests for abatement of tax owed, before the tax is paid. Currently, we consider these requests where sufficient documentation is provided. We do so as a courtesy to taxpayers, to allow the Service to consider a claim even though the taxpayer has not paid the assessed tax that is due. We are working with the IRS Office of Chief Counsel to determine how best to address the concerns raised by the Advocate with our procedures in addressing requests for abatement that are incomplete.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

TAS understands that there are good reasons why amended returns may take almost as much time to audit as other returns. TAS looks forward to the improved processing times expected to result from electronic filing, electronic assignment of some cases that are assigned for exam, and scanning some paper returns so they are accessible in the CIS database. In any event, taxpayers should be given more realistic estimates of what the expected processing time will be; the IRM should be adjusted if the current 16 week expected processing time is no longer accurate, and the Where’s My Amended Return tool should be improved accordingly. The Form 1120X instructions should likewise be adjusted if the referenced processing time of three to four weeks is not accurate.

However, the IRS’s explanation for lengthy processing times for amended returns filed by businesses is not supported by the data in this report, which is based on operations for FYs 2017–2019. There was indeed a government shutdown due to a lapse of appropriations in FY 2019, as the IRS notes, but amended return processing times improved in FY 2019 compared to FYs 2017 and 2018. The COVID-19 pandemic affected IRS operations, but not until FY 2020.

The National Taxpayer Advocate appreciates the IRS’s willingness to work with the IRS Office of Chief Counsel to better address requests for abatement. As with any other taxpayer request, the IRS should advise taxpayers when they need to submit additional information in order for their request to be considered. The blanket statement currently in use (that the law doesn’t allow taxpayers to file a claim to reduce the tax owed) without further explanation is not appropriate and often confusing for taxpayers. Providing the taxpayer an administrative review or initiating a specific request for documentation prior to rejection should be standard procedures. The IRS should also consider permitting these taxpayers to appeal their cases to the Independent Office of Appeals rather than having to pay the tax the taxpayer believes is not due, then file another claim of refund, or bring a refund suit in order for the IRS to review their documentation. Taxpayers have the *right to pay no more than the correct amount of tax*, and the IRS should assist them with that determination.

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| TAS Recommendation | [9-1] Revise the IRM to provide that if a request for tax abatement is incomplete, the employee should solicit the necessary documentation from the taxpayer, and if the documentation is not forthcoming or is insufficient, the employee should deny the request, explain the reason for the denial, and explain the different procedures that apply to requests for tax abatement and requests for refund. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | We are currently working on Internal Revenue Manual (IRM) updates to remove the “no consider” process for tax abatements. We will emphasize the need to contact the taxpayer for any missing information and to fully consider the claim when the missing information is received. Complete claims will still be subject to all review processes. |
| TAS Response | The National Taxpayer Advocate is pleased that the IRS is revising the IRM to correct the procedures for handling requests for tax abatements. We look forward to reviewing the modified IRM. |

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| TAS Recommendation | [9-2] If the IRS determines the taxpayer is not entitled to an abatement, issue a 30-day letter providing taxpayers the right to file a protest with the Independent Office of Appeals for abatement of tax and updating and clarifying the IRM’s No Immediate Tax Consequence provisions by referencing abatement cases. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | Based on our actions to remove the “no consider” process for tax abatements in response to Recommendation MSP 9-1, a 30-day letter process will no longer be needed as we will be providing the taxpayer an opportunity to provide the missing information without first paying the tax. |
| TAS Response | Even if the IRS improves the process for considering requests for tax abatements by removing the “no consider” process, taxpayers should still have the opportunity to seek review by the Independent Office of Appeals. The IRS response is misleading as the IRS does not agree to implement the TAS recommendation. |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [9-3] Remove any selectable paragraph in Letter 916C that states the law does not allow taxpayers to file a claim to reduce the tax they owe or appears to advise taxpayers that they cannot seek an abatement of tax without first paying the amount of tax already assessed (Paragraph N in the current version of Letter 916C). |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | We are currently working with other internal functions to update the referenced letter after considering input relative to removing this paragraph. We will take appropriate actions based upon this effort. |
| TAS Response | We look forward to reviewing an updated version of Letter 916C. |
| TAS Recommendation | [9-4] Revise the IRM to instruct employees not to use a fill-in paragraph in Letter 916C to state the law does not allow taxpayers to file a claim to reduce the tax they owe or to inform taxpayers they cannot seek an abatement of tax without first paying the amount of tax already assessed. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |
| IRS Action | We will revise the IRM in conjunction with the revisions referenced in our response to Recommendation MSP 9-1. |
| TAS Response | We look forward to reviewing the revised IRM. |
| TAS Recommendation | [9-5] Identify and address the cause of lengthy examination times for amended returns. |
| IRS Response | IRS agrees to implement TAS recommendation in full. |

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| <p>IRS Action</p> | <p>The Small Business/Self-Employed Division (SB/SE) reviewed the cycle time for examinations of amended returns as well as other returns selected for audits. The cycle time to conduct an examination on amended returns is lower than other examinations both in Field and Campus operations. When an amended return is examined, the scope is not necessarily limited to just the claim issue; therefore, the expectation of the amount of audit work needed to examine the return should be similar to a regular examination.</p> <p>The Large Business & International Division (LB&I) also reviewed cycle times for examinations of claims. For mid-sized corporations, there was an increase of a few months in cycle times for claims (other than claims that are statutorily subject to review by Congress' Joint Committee on Taxation), but that increase in cycle time is diminished as we move to cycle time for large corporations. Claims reviewed by the Joint Committee added around 8 months to the cycle time, which is expected due to the Joint Committee process.</p> <p>The timing of when a claim or amended return is received within the LB&I examination cycle may impact how long it takes to resolve. The initial examination could be the result of the claim or an amended tax return being filed; the claim may be incorporated into an ongoing examination; or the claim may be received at the conclusion of the initial examination of a tax return. Examination teams fully apprise taxpayer corporations that an examination of issues raised by filing an amended return prior to or during the course of an audit will increase the length of time needed to conduct the examination.</p> <p>In summary, the length of any audit is based on the facts and circumstances of each case and may be impacted by the necessity to balance competing priorities as well as other extenuating circumstances such as disasters.</p> |
| <p>TAS Response</p> | <p>The IRS's response shows that it reviewed cycle times and has some ideas about what drives cycle time but does not agree to implement the TAS recommendation.</p> |
| <p>TAS Recommendation</p> | <p>[9-6] Identify and address the cause of the increase in processing time for corporations' unaudited amended returns.</p> |
| <p>IRS Response</p> | <p>IRS agrees to implement TAS recommendation in full.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| <p>IRS Action</p> | <p>We continually review and monitor all inventories, including the unaudited corporate amended returns. Multiple factors influence processing times each year, such as government shutdowns, legislation, available resources, and even nationwide pandemics. Each year, we tailor our efforts to address processing timeframes to the specific circumstances that have contributed to them. The circumstances surrounding our current situation include the following:</p> <ul style="list-style-type: none"> • Historical data shows the 1120X receipts have not increased as compared to prior years, but closures were down considerably compared to the prior year. Both campuses assigned business (BMF) returns have validated that the CP80 inventory (for BMF taxpayers who make a payment but fail to file a return within six months after the return due date) did not contribute to the backlog of amended returns. • The BMF campuses were heavily impacted by the pandemic due to building closures, across the board staffing shortages, various systemic issues, and limited paper time because of phone demand. The two BMF campuses have about 720 Customer Service Representatives trained and working these cases and many other types of work, so they are spread between the various paper programs and phone lines. • We are expecting staffing increases from employees returning from Weather and Safety leave and about 200 new hires in the upcoming weeks. As a result, we should see improvements in the amount of staffing we can apply to this inventory. • The corporate amended inventory is portable and processed via Account Management Services/ Correspondence Imaging Services, so we are exploring options for in-office and telework employees to do this work. However, delays in working these cases are compounded by document requests not yet fulfilled due to Federal Records Center closures/staffing shortages. Increasing staffing will not help if we can't get the returns needed to work these cases. |
| <p>TAS Response</p> | <p>The TAS analysis was based on the IRS's performance in FYs 2017-2019, before the onset of the pandemic, yet the IRS response primarily references problems created by the pandemic. The pandemic may have worsened the problem, but the problem was already evident. The IRS detailed response does not agree to implement the TAS recommendation.</p> |
| <p>TAS Recommendation</p> | <p>[9-7] Add additional status updates to the "Where's My Amended Return" tool to allow taxpayers to see when the IRS selects their amended return for audit, when it assigns the audit to an examiner, and what an estimated completed processing time is based on the return's current status.</p> |
| <p>IRS Response</p> | <p>IRS does not agree to implement TAS recommendation. Expanding "Where's My Amended Return" beyond its original use may provide inaccurate and/or confusing information to taxpayers, as all amended returns selected (or referred) for examination may not be audited. If an audit will be conducted on the amended return, taxpayers are notified in writing.</p> |
| <p>IRS Action</p> | <p>N/A</p> |
| <p>TAS Response</p> | <p>It is unclear why taxpayers would be confused if they were informed that their amended return was selected for examination and may or may not be audited. Moreover, once an amended return is selected for examination, it is assigned to an examiner, who may decide to survey, rather than audit, the return. The IRS could inform taxpayers, for example, how long this step alone is currently taking.</p> |

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| TAS Recommendation | [9-8] Revise the IRM and Form 1120X instructions to more accurately reflect the expected processing time for amended returns. |
| IRS Response | IRS does not agree to implement TAS recommendation. The current instructions for Form 1120X state, "It often takes 3 to 4 months to process Form 1120X." Wage and Investment confirmed that the timeframe for processing Form 1120X as stated is still accurate. Therefore, the instructions will not be updated. Processing time does not include the time expended if an amended return is selected for examination. Once a definitive decision is made to examine the assigned amended return, the taxpayer will be notified in writing. |
| IRS Action | N/A |
| TAS Response | Perhaps the IRS could simply adjust the current instructions to inform taxpayers that processing time does not include time expended if an amended return is selected for examination. |

Most Serious Problem #10**REFUND DELAYS: Taxpayers Whose Legitimate Returns Are Flagged by IRS Fraud Filters Experience Excessive Delays and Frustration in Receiving Their Refunds****PROBLEM**

The IRS issues most refunds promptly, but its pre-refund fraud filters delay millions of legitimate refund claims. In 2020, these filters flagged about 1.9 million returns for identity verification and 3.3 million to verify income and withholding. But the IRS ultimately issued most refunds requested on returns it flagged in calendar year 2019. Taxpayers whose refunds were delayed had trouble getting specific and timely information about the status their refunds.

ANALYSIS

For about 25 percent of the returns flagged by fraud filters, the IRS took longer than 56 days in 2020 to issue refunds, and for about 18 percent of those flagged for identity verification, refunds took longer than 120 days. In some cases, returns got stuck between functions (*e.g.*, between the Return Integrity Verification Operation and Exam). As of September 24, 2020, 20 percent of the returns processed in 2019 had still not reached the function — they were still sitting in transit between functions, which has caused an unacceptable delay.

When taxpayers called the IRS about their refunds or used the Where's My Refund tool on the IRS website or the IRS2go app, they could not get specific information about the cause of the delay, what the IRS needed, and when they could expect the refund. When they tried to verify their identities by uploading documents to the IRS's electronic system (called ID Verify), they were frustrated because they could not reach ID Verify without first going through the IRS's authentication protocol (called Secure Access). Most people who tried could not get through Secure Access in 2020. The inability to obtain specific information about their refunds 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. And these delays are the number one reason that taxpayers asked TAS for help over the last three years.

TAS RECOMMENDATIONS

- [10-1] 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.
- [10-2] Make permanent the temporary procedures that allow taxpayers to submit identity verification documents by eFax, at least when other modes of communication are unavailable.

- [10-3] 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.
- [10-4] Fund technology upgrades to expedite legitimate refund requests while continuing to modernize and replace obsolete IRS systems.
- [10-5] 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.
- [10-6] 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.

IRS NARRATIVE RESPONSE

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.

TAS COMMENTS ON IRS NARRATIVE RESPONSE

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.

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| TAS Recommendation | <p>[10-1] Offer taxpayers with refunds flagged during the fraud screening processes an electronic option that provides them with:</p> <ul style="list-style-type: none"> 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. |
| IRS Response | <p>IRS agrees with TAS recommendations but cannot implement them currently due to funding limitations.</p> |
| IRS Action | <ul style="list-style-type: none"> a) We have submitted Unified Work Requests (UWRs) to request programming to update the Where's My Refund tool to provide taxpayers more specific responses based on the reason their return was flagged for review. However, the UWRs are subject to funding limitations and competing priorities. b) During the initial hold we place on returns during the fraud screening process, we do not ask the taxpayer to provide any information because we are awaiting third party data to be provided by the employer. We will submit a UWR to request programming to provide taxpayers a message in Where's My Refund that the return is being reviewed and they will be sent a letter if specific documentation is needed. If the return is moved to a treatment stream, we send the taxpayer a letter asking for the specific information needed to resolve their account. |

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| IRS Action (continued) | <p>c) The IRS agrees that keeping taxpayers informed of their case status is important; however, with our systemic Questionable Return Program process, we are unable to identify specific contact information regarding the site or employee at that time.</p> <p>UWRs have been submitted to update Where's My Refund to provide more specific responses based on the reason a return is flagged and direct the taxpayer to the proper telephone line. (e.g., if there is a delay due to Taxpayer Protection Program (TPP) filters, the taxpayer is referred to the TPP line, or if there is a delay due to a Return Integrity/Verification hold, the taxpayer is referred to the toll-free line.) The UWRs have been denied due to funding limitations. Our letters to taxpayers do provide a contact number to call for additional assistance. In addition, the Wage and Withholding and Automated Questionable Credit letters also provide an eFax number the taxpayer can use to submit their supporting documentation electronically.</p> <p>d) We continually explore ways to improve the overall taxpayer experience and the authentication process. For example, we are aggressively looking at ways for taxpayers to digitally transmit documents to the IRS. Specifically, we are exploring a capability that may allow taxpayers to send unsecured information that could be uploaded via irs.gov. This capability is still in the research phase, but we are excited about the potential of this feature and how it will improve the taxpayer experience.</p> |
| TAS Response | <p>a) TAS is pleased that the IRS agrees to update its Where's My Refund tool to provide more accurate estimates of when taxpayers can expect a refund. TAS understands there are funding constraints and competing priorities that affect when such updates may be available but continues to advocate for prioritizing this project, allowing for the implementation of such upgrades.</p> <p>b) TAS is encouraged that the IRS has agreed to submit a request to modify the Where's My Refund tool to inform taxpayers that their return is being reviewed and they will receive a letter if more information is needed. This change will better observe the taxpayer's <i>right to be informed</i>. Additionally, these changes may have the added benefit of reducing taxpayer phone calls inquiring as to when they can expect their refunds.</p> <p>c) TAS appreciates that a request was submitted to update the Where's My Refund tool to provide more specific responses based on the reason a return is flagged and direct telephone numbers to the proper IRS telephone lines that taxpayers should call for more specific information. We are disappointed to hear that this request has been denied and ask the IRS to reconsider our proposal. We understand that the IRS provides contact numbers on its notices but including this information on the Where's My Refund tool would be yet another way taxpayers would know whom to contact regarding the status of their refunds.</p> <p>d) TAS is encouraged by the IRS's continued interest in providing modern options by which taxpayers can submit documents to the IRS. The IRS's continued efforts to leverage modern technology will ultimately improve the taxpayer experience when interacting with the IRS and will likely promote voluntary compliance. TAS looks forward to continuing to work with the IRS to develop systems that offer more technologically advanced capabilities.</p> |
| TAS Recommendation | <p>[10-2] Make permanent the temporary procedures that allow taxpayers to submit identity verification documents by eFax, at least when other modes of communication are unavailable.</p> |
| IRS Response | <p>IRS agrees to implement TAS recommendation in part.</p> |
| IRS Action | <p>We will continue to assess the availability and status of in-person and telephone communication channels and continue to provide the eFax option as appropriate.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Response | TAS is encouraged that the IRS appears to be open to further extending the eFax option for taxpayers to submit documentation. Continuing to offer this option for taxpayers to upload documents while the IRS continues to explore and develop technology that will allow taxpayers to upload documents electronically is yet another way by which the IRS can improve the taxpayer experience. |
| TAS Recommendation | [10-3] 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. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | <p>We are transitioning to an Enterprise Case Management (ECM) system, the benefits of which include allowing authorized IRS employees to gain the ability to see an individual taxpayer's entire range of issues, relevant case data, and communications to effectively resolve cases. As a result, IRS representatives will be able to resolve more inquiries in a single contact and identify when a taxpayer is already working with another employee to facilitate handoffs, thus improving the overall taxpayer experience.</p> <p>The ECM multiyear enterprise solution aims to support the goals of the IRS Integrated Modernization Business Plan by consolidating more than 60 systems into a single platform. This will enable authorized IRS employees a real-time, 360-degree view of a taxpayer's history, relevant case data, and prior communications to more quickly resolve cases. IRS Information Technology (IT) is transforming delivery of ECM by using a commercial off-the-shelf (COTS) platform and cloud computing strategy. This facilitation of case resolution and improved customer service is also crucial in the IRS's objective of putting taxpayers first. ECM Release 1 went into production at the end of calendar year 2020, providing IT and business foundational capabilities as well as case management capabilities for the Tax Exempt & Government Entities (TE/GE) Exempt Organizations Customer Service group. Subsequent releases will deliver case management capabilities to a widening circle of business units across the IRS. The ECM Program has developed a sequencing strategy and release plan structure to support the delivery of future ECM releases for FY 2021 and beyond.</p> |
| TAS Response | The IRS's move toward a more modern system, which brings a number of IRS systems under one large umbrella, will allow more access to taxpayer information to each IRS function, thereby providing the IRS enhanced capabilities in helping taxpayers resolve their outstanding tax issues. Although this is a significant undertaking, and full implementation is still years in the future, it is encouraging that the IRS is closer to making this improved system a reality to improve tax administration and taxpayer service. |
| TAS Recommendation | [10-4] Fund technology upgrades to expedite legitimate refund requests while continuing to modernize and replace obsolete IRS systems. |
| IRS Response | IRS agrees with TAS recommendation but cannot implement it currently due to funding limitations. |

Appendix 1: IRS Responses to Administrative Recommendations

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| <p>IRS Action</p> | <p>We continue to invest significant sums in the technology used for screening, verifying, and processing both ID theft and non-ID-theft (e.g., wage verification) pre-refund cases. This includes advanced analytics to improve our filters and selections, case process automation, data matching improvements, and tools for taxpayers to provide additional information and transparently view the status of their refund. As resources are available, the IRS will take additional steps to expedite legitimate refund requests and modernize the systems involved in this process. In the future state, the IRS's Enterprise Case Management system will meet many of the requirements that the National Taxpayer Advocate highlights — including accepting scanned or electronic information from taxpayers and employers, systemic referrals between functions, automated workflows to release refunds and communicate with other systems, and integrations between information return systems, fraud systems, and correspondence systems to reduce manual entry and procedures.</p> |
| <p>TAS Response</p> | <p>Although the process to update IRS systems is long and arduous, the National Taxpayer Advocate is encouraged that the IRS continues to take steps toward implementation of this modernization plan and believes that advances such as allowing taxpayers to upload documents electronically will improve taxpayer interactions with the IRS, ultimately resulting in taxpayers getting their refunds faster and having their issues resolved quicker.</p> |
| <p>TAS Recommendation</p> | <p>[10-5] 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.</p> |
| <p>IRS Response</p> | <p>IRS agrees to implement TAS recommendation in part.</p> |
| <p>IRS Action</p> | <p>The Systemic Verification process will automatically release the refund once the return information is verified. Systemic Verification relies on Information Return Processing data, which can change daily. It is dependent on the timeliness of the third-party employers submitting their Form W-2, Wage and Income Statement, documentation. Since the COVID-19 pandemic, we have updated several sections of the Internal Revenue Manual with instructions for the CSR to provide the taxpayer with an eFax number to send their documentation, which could assist in releasing the refund quicker.</p> |
| <p>TAS Response</p> | <p>TAS is in full agreement that systemic processes are an efficient way to administer the refund fraud program, ultimately resulting in a faster release of refunds. Despite systemic processing improvements, taxpayers are all too often unable to obtain information from CSRs regarding the status of their refund and what they need to do to expedite the refund. TAS once again encourages the IRS to reconsider its current procedures and provide CSRs with as much information as possible regarding the status of taxpayer refunds and what taxpayers need to do to assist in its release. In addition, RIVO should establish procedures for its employees to respond directly to taxpayers upon receipt of a referral from another IRS function, outside of the current process to issue an interim letter requesting additional time for review.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | <p>[10-6] 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.</p> |
| IRS Response | <p>IRS does not agree to implement TAS recommendation. 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.</p> <p>We understand the concern of how refund delays can impact taxpayers and strive to balance this concern against the risk of issuing improper refunds. To this end, the IRS continually evaluates changes in the tax system and makes improvements to our refund fraud detection methods, including refining our filters. We continue to improve the filters using a variety of methodologies, algorithms, data sets, and techniques to help stay ahead of fraudsters. We evaluate and monitor the performance of each filter on a weekly basis and adjust filters that are not performing as expected. We apply lessons learned from confirmed cases and consider emerging trends. We will continue to rebuild and refresh our filters and models each year to better detect emerging schemes, taking into account historical patterns.</p> |
| IRS Action | <p>N/A</p> |
| TAS Response | <p>TAS understands the IRS's concerns regarding the issuance of improper refunds. However, if information on the return cannot be verified, it is important for the IRS to monitor how long these refunds are being held until the IRS makes a decision on how to proceed (<i>i.e.</i>, release the refund or transfer the return to one of the IRS's treatment streams for assignment). While it is not appropriate to issue refunds where the information on the return cannot be validated, it is equally unacceptable to hold refunds in perpetuity. The IRS, while holding a case in suspense and awaiting the next compliance action, needs to keep the taxpayer informed and track the amount of time the case is being held.</p> |

Most Litigated Issue #1**Appeals From Collection Due Process Hearings Under IRC §§ 6320 and 6330****PROBLEM**

A Collection Due Process (CDP) hearing is an opportunity for a taxpayer to have an independent and meaningful review by the IRS Independent Office of Appeals (Appeals) prior to the IRS's first levy or immediately after its first Notice of Federal Tax Lien (NFTL) filing to enforce a tax liability. At the hearing, the taxpayer has the right to raise any relevant issues related to the unpaid tax, the lien, or the proposed levy, including the appropriateness of the collection action, collection alternatives, spousal defenses, and, under certain circumstances, the underlying tax liability.

Once Appeals issues a determination, a taxpayer has the right to judicial review of that determination if the taxpayer timely requests a CDP hearing and timely petitions the U.S. Tax Court. Generally, the IRS suspends levy actions during a levy hearing and any subsequent judicial review of the Appeals determination that follows the hearing.

CDP has been one of the federal tax issues most frequently litigated in the federal courts since 2001; however, only a small fraction of eligible taxpayers exercises their right to an administrative hearing, and far fewer taxpayers petition the Tax Court to review their case.

Our review of litigated issues found 74 opinions on CDP cases during the review period of June 1, 2019, through May 31, 2020. Taxpayers prevailed in full in five of these cases (seven percent) and, in part, in five others (about seven percent). Forty-five taxpayers (61 percent) appeared *pro se* (unrepresented). Cognizant of the distinct disadvantage that *pro se* litigants face, federal courts routinely read their submissions liberally and interpret them to raise the strongest arguments that they suggest. The IRS prevailed fully in 64 cases (about 86 percent) of the opinions.

TAS RECOMMENDATIONS

- [MLI 1-1] Use internal data pertaining to a taxpayer's income and assets compared to his or her Allowable Living Expenses to determine if a taxpayer is in economic hardship or qualifies for a collection alternative, such as an offer in compromise, prior to issuing an intent to levy notice or NFTL.¹³ Working with taxpayers ahead of time could negate the need for further collection action.
- [MLI 1-2] Revise CDP notices so that the CDP hearing aspect is a separate notice from the collection portion of the notice. Provide the taxpayer an understanding of what a CDP hearing is and why a taxpayer would want to request a CDP hearing.

¹³ See National Taxpayer Advocate 2018 Annual Report to Congress 228-239 (Most Serious Problem: *Economic Hardship: The IRS Does Not Proactively Use Internal Data to Identify Taxpayers at Risk of Economic Hardship Throughout the Collection Process*); National Taxpayer Advocate 2019 Annual Report to Congress 89-96 (Most Serious Problem: *Offer in Compromise: The IRS's Administration of the Offer in Compromise Program Falls Short of Congress's Expectations*).

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| TAS Recommendation | <p>[MLI 1-1] Use internal data pertaining to a taxpayer's income and assets compared to his or her Allowable Living Expenses to determine if a taxpayer is in economic hardship or qualifies for a collection alternative, such as an offer in compromise, prior to issuing an intent to levy notice or NFTL. Working with taxpayers ahead of time could negate the need for further collection action.</p> |
| IRS Response | <p>Consistent with sections 6320 and 6330 of the Internal Revenue Code, the IRS provides taxpayers with notice of, and an opportunity for, a Collection Due Process (CDP) hearing after a Notice of Federal Tax Lien (NFTL) is filed and before a notice of levy is issued. Letter 3172 is the CDP notice of the NFTL filing, and Letter 1058 or Letter LT11 is the CDP notice of the intent to levy.</p> <p>CDP notices are not automated notices, but rather are issued after we have mailed several automated notices and the account has remained unresolved. We then analyze the case (using data such as the taxpayer's income) to decide if it is a high priority and should be assigned to a Collection function. The assigned Collection function then attempts to contact the taxpayer and makes the determination that issuing the CDP notice is the appropriate next action because the taxpayer has not responded, or they have been unable to resolve the case. At the point that we issue the <i>Notice of Intent to Levy and Your Right to a Hearing</i> or initiate the filing of the NFTL, therefore, we have already provided the taxpayer an opportunity to work with us on collection alternatives. Accordingly, we do not agree to implement TAS Recommendation MLI #1-1.</p> |
| IRS Action | <p>N/A</p> |
| TAS Response | <p>TAS appreciates the work that goes into determining if the IRS should issue an intent to levy notice or an NFTL. However, the current analysis focuses on if the case should be pursued, if the taxpayer has responded, etc. We recommend that the IRS use internal data not to categorize the case for collection potential but to flag cases that would make good candidates for hardship identification or collection alternative, regardless of involvement with the taxpayer up to that point. For instance, flagged cases for hardship could avoid receipt of an intent to levy notice or an NFTL. Predetermining the appropriate collection alternative would put data to use that may already be available, thereby saving resources and ensuring the <i>right to quality service</i>.</p> |
| TAS Recommendation | <p>[MLI 1-2] Revise CDP notices so that the CDP hearing aspect is a separate notice from the collection portion of the notice. Provide the taxpayer an understanding of what a CDP hearing is and why a taxpayer would want to request a CDP hearing.</p> |
| IRS Response | <p>The CDP notices have been revised several times throughout their 21-year history, with the concurrence of TAS, to enhance their clarity and incorporate modifications to the law.</p> <p>In response to a prior year TAS recommendation, the IRS partnered with TAS to redesign a number of collection notices, including Letters 1058 and LT11. We created a new heading in the Letter 1058 to explain CDP hearing rights (“How to Request an Appeals Hearing”), and we bolded key concepts and due dates for submission of these requests. The re-designed LT11 similarly features a separate section titled “How to Request an Appeals Hearing,” with key due dates highlighted. We tested several prototypes of the LT11 and will place the revised version into production this year.</p> <p>One of the goals of this notice redesign initiative was to better enable taxpayers to make an informed choice as to their options. Our tests of the redesigned LT11 showed that more taxpayers paid their liabilities and a higher percentage of taxpayers requested CDP Hearings. The goal of informed choice is being met by our current practices and the structure of our notices. Therefore, we decline to further redesign or restructure our CDP notices.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| IRS Action | N/A |
| TAS Response | <p>TAS values the opportunity to work with the IRS to revise CDP notices. The IRS has adopted several of TAS's recommendations, which will help taxpayers. However, we believe combining CDP rights with a collection notice complicates an already confusing process for taxpayers, and highlighting new subheadings does not remedy this. The revisions, which TAS acknowledges as improvements from the prior versions, remain within the context of a demand for payment, which seems to overshadow the importance of the notice that grants the taxpayers' one-time right to request a CDP appeal. The separate CDP notice should explain what a CDP appeal is and why a taxpayer would want to request one. In lieu of a separate CDP notice, we agree that the IRS's recent changes will mitigate some taxpayer confusion.</p> |

Most Litigated Issue #3**Accuracy-Related Penalty Under IRC § 6662(b)(1) and (b)(2)****PROBLEM**

The accuracy-related penalty may be imposed if the taxpayer's negligence or disregard of rules or regulations causes an underpayment of tax required to be shown on the taxpayer's return, or if an underpayment exceeds a computational threshold called a substantial understatement. The accuracy-related penalty does not apply to any portion of an underpayment where the taxpayer acted with reasonable cause and in good faith. Additionally, the supervisor of the employee making the penalty determination generally must provide written approval of the accuracy-related penalty before the "initial determination of such assessment."

Much of the accuracy-related penalty litigation this year and in previous years has focused on either whether the taxpayer met the reasonable cause exception or whether the IRS failed to secure timely supervisory approval. Still, the overall number of accuracy-related penalty cases has been declining. We identified only 64 opinions issued between June 1, 2019, and May 31, 2020, where taxpayers litigated the negligence or substantial understatement components of the accuracy-related penalty.

TAS RECOMMENDATIONS

- [MLI 3-1] Issue regulatory guidance to clarify that the supervisory approval under IRC § 6751(b) must occur prior to the first time the IRS sends a written communication to the taxpayer proposing the penalty as an adjustment.
- [MLI 3-2] Update its IRM to clarify that where the IRS uses a computer program to determine the accuracy-related penalty based on negligence, an IRS employee must first contact the taxpayer and review the facts and circumstances prior to determining the applicability of the negligence penalty and the IRS must obtain supervisory approval to ensure the penalty is appropriate prior to assertion of the penalty, consistent with the Memorandum from Director, Examination Field and Campus Policy, to Area Directors, Field Examination, SBSE-04-0920-0054 (Sept. 24, 2020).
- [MLI 3-3] Amend IRC § 6751(b)(1) to clarify that no penalty under Title 26 shall be assessed or entered in a final judicial decision unless the penalty is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate *prior to the first time the IRS sends a written communication to the taxpayer proposing the penalty as an adjustment.*
- [MLI 3-4] Amend IRC § 6751(b)(2)(B) to clarify that the exception for "other penalties automatically calculated through electronic means" does not apply to the negligence penalty under IRC § 6662(b)(1).

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| TAS Recommendation | [MLI 3-1] Issue regulatory guidance to clarify that the supervisory approval under IRC § 6751(b) must occur prior to the first time the IRS sends a written communication to the taxpayer proposing the penalty as an adjustment. |
| IRS Response | The IRS agrees to implement TAS recommendation in part. |
| IRS Action | <p>Over the last few years, the IRS has focused on ensuring our processes and procedures accurately reflect when supervisory approval is necessary for all examination programs. We appreciate that the National Taxpayer Advocate (NTA) recognized our efforts, noting in her report the significant decrease from last year in court opinions where taxpayers prevailed due to an IRS failure to comply with supervisory approval requirements.</p> <p>The IRS sends a written communication to the taxpayer proposing the penalty as an adjustment, the IRS agrees to implement the recommendation in part. The Department of the Treasury 2020-2021 Priority Guidance Plan issued November 17, 2020, lists proposed regulations regarding supervisory approval of proposed penalties as among the guidance projects that will be the focus of efforts of the Department of the Treasury, the IRS, and the IRS Office of Chief Counsel during the 12-month period from July 1, 2020, through June 30, 2021. The ultimate rules imposed by final regulations are not predetermined. The views of many stakeholders will be considered, including public comments received on any proposed regulations.</p> |
| TAS Response | TAS appreciates that the IRS is prioritizing guidance on the supervisory approval requirement during the current fiscal year. We hope this guidance will be included on the following fiscal year's plan if the proposed guidance is not published for public comment this fiscal year. |

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| TAS Recommendation | [MLI 3-2] Update its IRM to clarify that where the IRS uses a computer program to determine the accuracy-related penalty based on negligence, an IRS employee must first contact the taxpayer and review the facts and circumstances prior to determining the applicability of the negligence penalty and the IRS must obtain supervisory approval to ensure the penalty is appropriate prior to assertion of the penalty, consistent with the Memorandum from Director, Examination Field and Campus Policy, to Area Directors, Field Examination, SBSE-04-0920-0054 (Sept. 24, 2020). |
| IRS Response | The IRS disagrees with TAS's recommendation to require, where the IRS uses a computer program to determine the accuracy-related penalty based on negligence, that employees contact the taxpayer and review the facts and circumstances prior to determining the applicability of the negligence penalty and obtain supervisory approval prior to asserting it. The IRS's procedures for penalties assessed using a computer program are in accordance with current law and regulations and with sound tax administration. Internal Revenue Code (IRC) section 6751(b)(2) provides that managers need not approve any penalties automatically calculated (assessed without an employee independently determining the appropriateness of the penalty) through electronic means. The NTA's report also acknowledges the 2020 decision in which the Tax Court found the IRS did not have to obtain supervisory approval because the penalty was automatically calculated through electronic means. |

Appendix 1: IRS Responses to Administrative Recommendations

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| <p>IRS Response (continued)</p> | <p>The IRS uses a computer program to determine the accuracy-related penalty based on negligence for the Automated Underreporter (AUR) program. AUR matches taxpayer income and deductions submitted by third parties such as banks, brokerage firms and other payers on information returns (e.g. Form 1099, Form W-2) against amounts reported on individual income tax returns. The IRS Office of Chief Counsel has advised, citing Treas. Reg. 1.6662-3(b)(1)(i), that negligence is strongly indicated where a taxpayer fails to include on an income tax return an amount of income shown on an information return. Based on this opinion, we believe the AUR program would not need to discuss any additional facts and circumstances with the taxpayer prior to determining the applicability of the negligence penalty.</p> <p>Nonetheless, Internal Revenue Manual (IRM) 20.1.5.2.3, Supervisory Approval of Penalties — IRC 6751 Procedural Requirements, provides that if a taxpayer submits a response, written or otherwise, that challenges the penalty or the amount of tax to which the penalty is attributable, written supervisory approval is required before the issuance of any Statutory Notice of Deficiency that includes the penalty. This IRM section further provides: “[t]he exception for penalties automatically calculated through electronic means no longer applies once a Service employee makes an independent determination to pursue a penalty or to pursue adjustments to tax for which a penalty is attributable.”</p> |
| <p>IRS Action</p> | <p>N/A</p> |
| <p>TAS Response</p> | <p>TAS is disappointed the IRS will not reconsider its policy of imposing the negligence portion of the accuracy-related penalty based on a single indicia of negligence, without any analysis of the surrounding facts and circumstances that would weigh against the negligence determination. The IRS’s use of electronic means to determine negligence deprives taxpayers of the protection provided by IRC § 6751(b). The related legislative recommendation included in the 2020 Annual Report to Congress explains situations where a taxpayer may not have acted negligently, notwithstanding unreported income from an information return for a second year. The IRS’s insistence on asserting the negligence penalty based solely on a computer program will continue to infringe taxpayers’ <i>rights to a fair and just tax system and to pay no more than the correct amount of tax.</i></p> |
| <p>TAS Recommendation</p> | <p>[MLI 3-3] Amend IRC § 6751(b)(1) to clarify that no penalty under Title 26 shall be assessed or entered in a final judicial decision unless the penalty is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate <i>prior to the first time the IRS sends a written communication to the taxpayer proposing the penalty as an adjustment.</i></p> |
| <p>IRS Response</p> | <p>N/A – Congressional Recommendation</p> |
| <p>IRS Action</p> | <p>N/A</p> |
| <p>TAS Response</p> | <p>N/A</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| TAS Recommendation | [MLI 3-4] Amend IRC § 6751(b)(2)(B) to clarify that the exception for "other penalties automatically calculated through electronic means" does not apply to the negligence penalty under IRC § 6662(b)(1). |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Litigated Issue #6**Summons Enforcement Under IRC §§ 7602, 7604, and 7609****PROBLEM**

TAS used commercial legal research databases to identify 40 federal opinions issued between June 1, 2019, and May 31, 2020, involving IRS summons enforcement and related issues. Of these 40 opinions reviewed, seven cases applied the standards for summons enforcement set forth in *United States v. Powell*, five cases involved the assertion of a privilege by the taxpayer, and two cases involved the issuance of a John Doe summons under IRC § 7609(f) (where the taxpayer(s) under investigation is not specifically identified or is unknown). Furthermore, six of the 40 cases were appeals decided by a United States Court of Appeals. Twenty-nine of the opinions involved individual taxpayers, while 11 involved business taxpayers. The government filed a petition to enforce the summons in 19 cases, while the taxpayer initiated by filing a petition to quash the summons in 21 cases. Overall, no taxpayers fully prevailed, but one case resulted in a partial taxpayer win with a split decision.

In fiscal year (FY) 2020, at least 433 summons cases were in the Office of Chief Counsel's inventory. A total of 34 cases were referred to DOJ in FY 2020. Subtracting those 34 from the total inventory means that 399 cases were handled by U.S. Attorneys' Offices. Many summons are complied with and do not require court enforcement (as demonstrated by the relatively small number of summons enforcement cases TAS identified for the period June 1, 2019, through May 31, 2020).

TAS RECOMMENDATIONS

- [MLI 6-1] Revise its third-party contact letters and internal guidance, including updated Letter 3164-A,¹⁴ to inform the taxpayer of what the IRS needs and to give the taxpayer a reasonable opportunity to provide the information before contacting third parties.
- [MLI 6-2] Amend IRC § 7602(c)(1) to require the IRS to tell the taxpayer in third-party contact notices what information it needs (if any) and give the taxpayer a reasonable opportunity to provide the information before contacting a third-party, unless an exception applies.¹⁵

**TAS
Recommendation**

[MLI 6-1] Revise its third-party contact letters and internal guidance, including updated Letter 3164-A, to inform the taxpayer of what the IRS needs and to give the taxpayer a reasonable opportunity to provide the information before contacting third parties.

14 The IRS will send IRS Letter 3164-A, Third Party Contact (Jan. 1999), to notify taxpayers that the IRS may contact third parties to obtain information during the audit process. An IRS employee who issues Letter 3164 must wait ten days before contacting a third party under the Internal Revenue Manual 25.27.1.3.1.7, TPC Notification Procedures (Oct. 19, 2017).

15 National Taxpayer Advocate 2021 Purple Book, Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 137-138 (*Require the IRS to Specify the Information Needed in Third-Party Contact Notices*).

Appendix 1: IRS Responses to Administrative Recommendations

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| IRS Response | <p>Our procedures for contacting third parties balance taxpayers' and third parties' expectations of privacy with what is needed for effective tax administration. The Taxpayer First Act of 2019 (TFA) changed the notification requirements in the Internal Revenue Code, and specified the timing and required content of the advance notice of third-party contacts. The IRS timely implemented this TFA provision to ensure our employees appropriately follow the revised requirements.</p> <p>IRS employees are directed to first attempt to obtain information voluntarily from taxpayers and witnesses prior to issuing a summons, and not to issue a summons if the desired documents are available from IRS records. They resort to serving a summons if the records are not provided, or if the records provided are incomplete. See generally IRM 25.27.1.</p> <p>More specifically, the IRS requests information from taxpayers through telephonic, face-to-face, or written communication prior to contacting third parties for the information. Functional areas are required to document their contact with taxpayers and outline the specific actions needed. Field Collection utilizes Form 9297, Summary of Taxpayer Contact, and Field Examination utilizes Form 4564, Information Document Request, to request the information from the taxpayer needed in connection with the determination or collection of a tax liability. If the taxpayer complies with the request, IRS contact with a third party may be unnecessary.</p> <p>When we must contact a third party, we adhere to the relevant provisions of the law and regulations. We provide advance notice of the intent to contact third parties 45 days prior to making contact with any third party; we record each contact (unless an exception applies); and we provide a list of contacts to the taxpayer upon request.</p> <p>The IRS is sensitive to the concerns of harm to individuals or damage to businesses' reputations. Our procedures already promote open communication with taxpayers to gain their cooperation, and provide taxpayers with ample opportunity to voluntarily provide the information. Accordingly, we do not agree to implement TAS's recommendation.</p> |
| IRS Action | N/A |
| TAS Response | Although we appreciate the IRS response, the IRS can do more in this arena to inform taxpayers of what it specifically needs, such as updating internal guidance and taxpayer correspondence letters, including Letter 3164-A, to allow time for taxpayers to respond to specific IRS requests and to reduce summons enforcement challenges. |

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| TAS Recommendation | [MLI 6-2] Amend IRC § 7602(c)(1) to require the IRS to tell the taxpayer in third-party contact notices what information it needs (if any) and give the taxpayer a reasonable opportunity to provide the information before contacting a third-party, unless an exception applies. |
| IRS Response | N/A – Congressional Recommendation |
| IRS Action | N/A |
| TAS Response | N/A |

Most Litigated Issue #7**Failure to File Penalty Under IRC § 6651(a)(1), Failure to Pay an Amount Shown as Tax on Return Under IRC § 6651(a)(2), and Failure to Pay Estimated Tax Penalty Under IRC § 6654****PROBLEM**

Under IRC §§ 6651(a)(1), (a)(2), and 6654, the IRS may impose penalties on taxpayers when they fail to timely file a tax return, fail to pay an amount shown as tax on a return, or underpay installments of estimated taxes, respectively. Of the 31 cases we reviewed, taxpayers appeared *pro se* in 20, and in these cases, the outcomes almost always favored the IRS. Taxpayers were represented in the only case in which the court ruled in their favor.

During our reporting period, between June 1, 2019, and May 31, 2020, there were a total of 24,064,628 taxpayers who had penalties imposed due to the failure to timely file a tax return, to pay an amount shown as tax on a return or underpay installments of estimated taxes. The largest total category of abatements was for individual taxpayers with 176,308 abatements for taxpayers who had failed to pay an amount on a tax return due to a reasonable cause. During this same period, taxpayers petitioned Tax Court in 127 cases where the failure to timely file a tax return penalty (delinquency penalty) and/or the estimated tax penalty was an issue during the examination.

TAS RECOMMENDATION

[MLI 7-1] Review and revise notices and publications where appropriate to provide more examples of circumstances that constitute reasonable cause to better educate taxpayers.

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| TAS Recommendation | [MLI 7-1] Review and revise notices and publications where appropriate to provide more examples of circumstances that constitute reasonable cause to better educate taxpayers. |
| IRS Response | <p>As the NTA points out, determining when the IRS may impose the IRC §§ 6651(a)(1), 6651(a)(2), and 6654 penalties for failures to timely file a tax return, failures to pay an amount shown as tax on a return, or underpayments of installments of estimated taxes, respectively, is relatively straightforward. The nearly unanimous rulings in favor of the IRS illustrate the case law is well established, and the statutory and regulatory guidance is exhaustive.</p> <p>Policy Statement 3-2 (Formerly P-2-7),¹⁶ established in December of 1970, states “any sound reason advanced by a taxpayer as the cause for delay in filing a return, making deposits under the Federal Tax Deposit System, or paying tax when due, will be carefully analyzed to determine whether the applicable penalty should be asserted.” Reasonable cause is based on the individual facts and circumstances of each taxpayer, not whether a request meets or follows specific examples. The IRS will consider any sound reason for failing to file, deposit, or pay. Because the reasonable cause determination is based on individual facts and circumstances and cannot be fairly captured within a specific list of examples, the IRS does not agree to implement the NTA’s recommendation in this Most Litigated Issue.</p> <p>The IRS takes seriously its goal to empower and enable all taxpayers by helping taxpayers understand their rights and responsibilities. IRS.gov clearly describes the types of penalty relief available, examples of situations and facts to consider when requesting reasonable cause, types of supporting documentation that may be needed, and even how to request an appeal if the IRS denied the request for penalty relief.¹⁷ The IRS is taking steps to increase awareness of penalties and educate taxpayers by making penalty information easier to find in IRS.gov searches; revising current penalties web pages on IRS.gov to expand and clarify information, including how to avoid the penalties through compliance; and adding additional web pages to IRS.gov for certain types of penalties, which will contain more helpful language from Policy Statement 3-2. Notices, publications, and form instructions have undergone continuous updates to address penalty relief and reasonable cause, as applicable,¹⁸ and contain sufficient information to inform taxpayers of the options available if they disagree with the penalty.</p> |
| IRS Action | N/A |
| TAS Response | <p>TAS agrees there is substantial guidance regarding when reasonable cause should be applied for failure to file, failure to pay an amount shown as tax on a return, and failure to pay estimated tax penalties, and acknowledges that the IRS has made significant efforts to ensure taxpayers can learn about when abatement may be appropriate and how to make such a request.</p> <p>Additionally, as the IRS points out in its response, TAS agrees that reasonable cause abatement is dependent upon the particular facts and circumstances of a taxpayer’s situation, and there is no fact sheet that can be provided to a taxpayer to determine if reasonable cause abatement is appropriate. However, TAS believes it is critical that taxpayers get as much information about reasonable cause abatement, including examples of when such an abatement may be appropriate, in a variety of formats including notices. This will best observe a taxpayer’s <i>right to be informed</i> and may help in assisting taxpayers in determining when requesting reasonable cause abatement may be most appropriate.</p> |

¹⁶ See IRM 1.2.1.4.2.

¹⁷ See <https://www.irs.gov/businesses/small-businesses-self-employed/penalty-relief>.

¹⁸ Reasonable cause penalty relief is not applicable to all penalties. Although reasonable cause is not applicable for relief of the estimated tax penalty, a waiver of the penalty may be requested. A CP 30 for failing to pay estimated taxes (or CP 30A, if applicable) is issued when the penalty is assessed. It explains the estimated tax penalty and also the appeal rights to the taxpayer.

Most Litigated Issue #8

Itemized Deductions Reported on Schedule A (Form 1040)

PROBLEM

Itemized deductions reported on Schedule A of IRS Form 1040 were among the ten Most Litigated Issues for the fourth time since the National Taxpayer Advocate’s 2000 Annual Report to Congress. During this reporting period between June 1, 2019, and May 31, 2020, we identified 21 decisions, in which itemized deductions were litigated in federal courts. All but four of these cases were litigated in the U.S. Tax Court. The courts affirmed the IRS position in 17 of these cases, or about 81 percent, while taxpayers fully prevailed in two cases, or about ten percent of the cases. The remaining two cases, or about ten percent, resulted in split decisions. Taxpayers were represented in nine of the 21 (or 43 percent) while 12 of 21 cases (or 57 percent) had *pro se* (without counsel) taxpayers. During this same period, taxpayers petitioned Tax Court in 1,120 cases where itemized deductions was an issue during the examination.

TAS RECOMMENDATION

[MLI 8-1] Evaluate the IRS’s existing communication strategy, including the IRS website, guidance, and publications, to taxpayers, preparers, and practitioners to determine how to increase awareness about itemized deductions, including recordkeeping requirements. Then based on the findings, conduct outreach within the next two fiscal years to better educate taxpayers.

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| TAS Recommendation | [MLI 8-1] Evaluate the IRS’s existing communication strategy, including the IRS website, guidance, and publications, to taxpayers, preparers, and practitioners to determine how to increase awareness about itemized deductions, including recordkeeping requirements. Then based on the findings, conduct outreach within the next two fiscal years to better educate taxpayers. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |
| IRS Action | <p>The IRS has included itemized deductions and recordkeeping requirements consistently in our outreach efforts and is constantly evaluating information, feedback, and other data to build campaigns to educate taxpayers. Therefore, we agree to implement Recommendation MLI 8-1 in part.</p> <p>The IRS, including through our tax organization partners, regularly provides educational opportunities to inform taxpayers and practitioners about itemized deductions, along with other audit issue topics, and connects with the tax preparer community through virtual presentations, meetings, and cascading media information. In addition, through our partnerships with other non-tax organizations and corporations, the IRS has shared information to help the people they serve, members and employees in meeting their filing obligations, including itemized deductions changes and recordkeeping.</p> |

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| <p>IRS Action (continued)</p> | <p>The IRS Nationwide Tax Forums have addressed the changes to itemized deductions included in the Tax Cuts and Jobs Act (TCJA) as well as recordkeeping. In 2020, the Tax Forums presented the following seminars on preparer audit issues: “IRS Key Enforcement Issues,” “Due Diligence in Practice before the IRS: Record-Keeping,” and “Representing the Taxpayer without Records, Reconstructing Income and Expenses.” Recordkeeping and documentation of itemized deductions are also addressed in the 2021 annual federal tax refresher course that is part of the Return Preparer Office’s Annual Filing Season Program (AFSP). Approximately 33,000 return preparers take the federal tax refresher course each year.</p> <p>The IRS posts general communications about recordkeeping and Schedule A itemized deductions on our website. In addition, the Interactive Tax Assistant’s Deduction section for taxpayers currently includes a wealth of information on the topic. Information is also included through tax forms and publications. Our news media and social media messages include information on itemized deductions and recordkeeping. For example, we posted several tweets during the Get Ready for Filing Season campaign that focused on deductions.</p> <p>The IRS also regularly conducts outreach on new tax legislation, most recently for the individual extenders and the Taxpayer Certainty and Disaster Relief Act of 2020 and how such legislation affects deductions for which taxpayers may be eligible. As the National Taxpayer Advocate’s report acknowledges, it is reasonable to predict that litigation in this area will diminish now that fewer taxpayers itemize deductions under the TCJA. Nonetheless, the IRS will continue to analyze data, update, and create specialized messages, presentations, and campaigns to address itemized deductions and other recordkeeping requirements, as appropriate.</p> |
| <p>TAS Response</p> | <p>It is encouraging that the IRS agrees to implement this recommendation in part, and we look forward to working with the IRS to better educate taxpayers, preparers, and practitioners to increase awareness about itemized deductions, including recordkeeping requirements.</p> |

Most Litigated Issue #9**Charitable Contribution Deductions Under IRC § 170****PROBLEM**

We identified 14 opinions issued between June 1, 2019, and May 31, 2020, on the issue of the deductibility of charitable contributions under IRC § 170, which is three fewer cases than in last year's report. Of the 14 cases, the most common issues were whether a donation constituted a qualified conservation easement (eight cases) and whether a claimed deduction was adequately substantiated (six cases). An additional case involved both issues. Taxpayers were usually represented, and the IRS usually prevailed. During this same period, taxpayers petitioned the Tax Court in 401 cases where charitable contributions were an issue during the examination.

IRS court victories in conservation easement cases do not appear to have deterred taxpayers from engaging in these transactions. Between 2017 and 2018, the number of individual participants in these transactions increased from 14,000 to 16,900, with many participating in multiple deals; the total amount of deductions claimed through these tax shelters increased from \$6.8 billion in 2017 to \$9.2 billion in 2018. In June 2020, the IRS offered to settle docketed Tax Court cases with this issue. Some taxpayers may accept the IRS's offer to settle their cases with this issue, but litigation in this area may very well continue for years.

TAS RECOMMENDATION

[MLI 9-1] Develop and publish additional guidance that contains sample easement provisions to assist taxpayers in drafting deeds that satisfy the statutory requirements for qualified conservation contributions, particularly the perpetuity requirement for those conservation easements that incentivize land preservation for future generations.

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| TAS Recommendation | [MLI 9-1] Develop and publish additional guidance that contains sample easement provisions to assist taxpayers in drafting deeds that satisfy the statutory requirements for qualified conservation contributions, particularly the perpetuity requirement for those conservation easements that incentivize land preservation for future generations. |
| IRS Response | IRS agrees to implement TAS recommendation in part. |

Appendix 1: IRS Responses to Administrative Recommendations

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| IRS Action | <p>We share the goal of preventing unnecessary litigation by making it easier for taxpayers to draft conservation easement deeds that are fully compliant with the requirements set forth in I.R.C. § 170(h) and the regulations, and agree to implement TAS' recommendation in part. To that end, we released Chief Counsel Advice, CCA 2020-02011 (Jan. 10, 2020), that provides sample language for a constructive denial clause within a conservation easement deed, as well as a General Legal Advice Memorandum, GLAM 2020-001 (Mar. 27, 2020), providing sample language to amend a conservation easement, both of which are consistent with the perpetuity requirements set forth in I.R.C. § 170(h). The Office of Chief Counsel (Counsel) will consider publishing formal guidance containing sample clauses, while continuing to balance guidance priorities as a whole. In the meantime, Counsel plans to continue drafting and releasing informal guidance including sample clauses that taxpayers may use when drafting conservation easement deeds.</p> |
| TAS Response | <p>The National Taxpayer Advocate is pleased the IRS recognizes that additional guidance may avert litigation. As noted in the report, the guidance the IRS provided in 2020 was welcome. We look forward to additional guidance that may help taxpayers navigate these complex issues and help prevent unnecessary litigation.</p> |

Research Study #1**The IRS Can Systemically Identify Taxpayers at Risk of Economic Hardship and Screen Them Before They Enter Into Installment Agreements They Cannot Afford****PROBLEM**

The majority of IRS installment agreements (IAs) with individual taxpayers are streamlined agreements, meaning that verification of a taxpayer's financial circumstances is not required when the liability does not exceed a certain amount and can be paid within a specified number of years. To reduce taxpayer burden and minimize IRS resources when agreeing to an IA, the IRS has eased the requirements for entering into a streamlined IA. While streamlined IAs do not require the taxpayer to provide verification of his or her financial circumstances, unfortunately, these agreements place many taxpayers in a position where they cannot afford basic living expenses while meeting the payment required by the IA.

The IRS established allowable living expenses (ALEs) to ensure that the satisfaction of their unpaid tax liabilities does not interfere with the ability to pay for those expenses necessary for basic living. ALEs include groceries and other incidentals such as apparel or cleaning supplies, housing and utilities, transportation, and out-of-pocket health care expenses. However, with streamlined IAs, the IRS never compares the amount of these necessary expenses to the taxpayer's income. The result can be an IA that the taxpayer cannot afford while also meeting necessary living expenses.

TAS believes the IRS should establish an indicator, which shows whether a taxpayer is likely facing economic hardship. Specifically, TAS has developed an algorithm using the IRS ALEs to indicate when a taxpayer has income not in excess of their likely ALEs. In these situations, TAS believes the IRS should perform a basic financial analysis to ensure the taxpayer can afford the IA. Doing so could eliminate IRS rework when the taxpayer defaults an unaffordable IA, while also allowing the IRS to pursue other collection alternatives such as an offer in compromise or temporarily suspending collection action until the taxpayer's financial situation becomes more favorable.

This research study explores the effectiveness of an algorithm developed by TAS and based on systemically available information about the taxpayer's income and likely ALEs. The study examines non-streamlined IAs for individuals initiated from fiscal year (FY) 2017 through most of FY 2020. While TAS's concern is with streamlined IAs, we tested the effectiveness of the algorithm with non-streamlined IAs. Since the IRS is required to conduct financial verification on non-streamlined IAs, the outcome of the algorithm is being compared to these IAs.

The study shows that the algorithm agrees with the IRS determination 82 percent of the time and rises to 86 percent if no vehicle ownership expenses are allowed. The agreement rate increases to 95 percent when the taxpayer's systemically detected income exceeds \$50,000. Other conclusions from this study include:

- Agreement between an algorithm allowing taxpayers their likely ALEs and the IRS determination has increased slightly from FY 2017 to FY 2020;

- An algorithm comparing internal IRS income data to the minimum amount of ALEs provided to taxpayers has a 96 percent agreement rate with the IRS determination that the taxpayer could afford an IA; and
- An algorithm using internal IRS data to compare taxpayer’s income to their likely ALEs are more likely to agree with the IRS determination when the taxpayers are elderly or when the taxpayers are married. However, the same algorithm is unlikely to agree with the IRS determination for taxpayers with systemically detected income of \$25,000 or less.

TAS believes the IRS should display an economic hardship indicator on taxpayer accounts when estimates of a taxpayer’s ALEs and income indicate the taxpayer is not likely to afford a streamlined IA. If the indicator shows the likelihood of economic hardship, the IRS should perform a basic financial analysis before entering into the IA to make sure the taxpayer can afford the arrangement.

TAS RECOMMENDATION

[RS 1-1] The IRS should implement an economic hardship indicator on taxpayer accounts when estimates of a taxpayer’s ALEs and income indicate the taxpayer is not likely to afford a streamlined IA. If the indicator shows the likelihood of economic hardship, procedures would direct the IRS to perform a basic financial analysis before entering into the IA to ensure the taxpayer can afford it without causing additional financial hardship and potentially triggering unnecessary defaults.

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| TAS Recommendation | <p>[RS 1-1] The IRS should implement an economic hardship indicator on taxpayer accounts when estimates of a taxpayer’s ALEs and income indicate the taxpayer is not likely to afford a streamlined IA. If the indicator shows the likelihood of economic hardship, procedures would direct the IRS to perform a basic financial analysis before entering into the IA to ensure the taxpayer can afford it without causing additional financial hardship and potentially triggering unnecessary defaults.</p> |
| IRS Response | <p>The IRS currently uses analytics (considering factors known through internal sources) when prioritizing and assigning collection work to the optimal work stream. We also offer a wide range of alternatives for taxpayers who may be facing difficult financial circumstances, including Partial Pay Installment Agreements, temporary suspensions of collection activity (for Currently Not Collectible accounts), and Offers in Compromise.</p> <p>TAS has proposed a computation using the IRS Allowable Living Expenses (ALEs) to attempt to indicate when a taxpayer has income not in excess of their likely basic living expenses. If a likelihood of economic hardship is indicated, TAS further recommends procedures directing the IRS to perform a basic financial analysis before entering into an installment agreement to ensure the taxpayer can afford it without causing additional financial hardship and potentially triggering unnecessary defaults. The concept of making such a computation a part of the installment agreement acceptance decision is an interesting one, and we have explored this concept in the past and have been engaged with TAS on this issue. We appreciate that our feedback has been heard and is reflected in the NTAs 2020 Annual Report.</p> <p>We do not believe income and presumed expenses alone would be sufficient to conclusively state that a taxpayer could not meet the proposed agreement, and the TAS recommendation seems to acknowledge that concern. The computation would not dictate the case outcome, but rather would be used to indicate a need for further inquiry into the taxpayer’s financial condition.</p> |

Appendix 1: IRS Responses to Administrative Recommendations

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| <p>IRS Response (continued)</p> | <p>One key concern is that such a practice would lead to more taxpayers being subjected to financial analysis interviews, an often lengthy process which could greatly reduce the number of taxpayers the IRS is able to serve. In light of this concern, further research is necessary in order to determine the utility of TAS's recommendation, including analysis of the results as they relate to the IRS decision on all types of installment agreements and Currently Not Collectible determinations, extending the analysis to determine the long-term performance of installment agreements and Currently Not Collectible determinations, analysis of the costs and savings associated with developing and implementing the change, and analysis of the performance of existing IRS analytics (like the CFO Recovery Model¹⁹) in place of creating a new computation.</p> <p>We will continue to partner with TAS on this issue, but believe further analysis of the concept and its wider impacts is warranted before we can determine whether such a change would benefit taxpayers and the IRS. Accordingly, we decline to implement the TAS recommendation.</p> |
| <p>IRS Action</p> | <p>N/A</p> |
| <p>TAS Response</p> | <p>The National Taxpayer Advocate appreciates the IRS's willingness to discuss the possibility of placing a marker on the accounts of taxpayers indicating a taxpayer's likely ability to afford to pay toward his or her delinquent federal tax liabilities. TAS agrees with the IRS that its proposed algorithm using internal IRS data will not always be sufficient to determine if economic hardship exists. As indicated in this TAS study, IRS systemic data will not always be able to determine if a taxpayer has the ability to pay a federal tax delinquency without incurring economic hardship. For instance, a taxpayer may receive a raise in income, move to a location where expenses are lower, or pay less than the average amount for a necessary living expense, such as housing or transportation. However, as indicated in its study report, the TAS algorithm produced results agreeing with the IRS determination, after conducting a financial analysis, in nearly 82 percent of the nonstreamlined installment agreements entered into by the IRS from October 2016 through July 2020.</p> <p>Over the past four years, the IRS has entered into nearly 10.5 million IAs, and about 70 percent of these agreements have been streamlined. The IRS agrees to streamlined IAs without conducting any analysis of a taxpayer's financial condition. TAS understands that requiring the IRS to conduct a basic analysis of a taxpayer's ability to pay on outstanding federal tax debts will require some additional resources, and the taxpayer may be slightly inconvenienced by providing financial information to the IRS. Nevertheless, the taxpayer has the <i>right to a fair and just tax system</i>. The Internal Revenue Manual states that allowable living expenses are designed to provide for a taxpayer and his or her family's health and welfare. The IRS's current procedures do not afford this ability to many taxpayers entering into streamlines IAs each year.</p> <p>TAS agrees that the IRS offers other collection alternatives to taxpayers who cannot afford to pay, such as temporary delays in collection activity or offers in compromise. Yet, these alternatives generally require the IRS to conduct a financial analysis. Furthermore, taxpayers may not be knowledgeable of these alternatives or may be afraid to inquire about them. Therefore, TAS believes that the IRS should identify taxpayers who do not have the apparent ability to make payments on their outstanding federal tax obligations and be required to verify their ability to pay on these delinquencies while also affording basic living expenses. TAS looks forward to continuing to partner with IRS to develop methods to ensure that taxpayers can afford streamlined IAs, without unduly burdening them or the IRS.</p> |

19 This Model is used by the IRS Collection function and the Office of the Chief Financial Officer (CFO) to predict the future collection potential of accounts.

Evolution of the Office of the Taxpayer Advocate

The Office of the Taxpayer Ombudsman was created by the IRS in 1979 to serve as the primary advocate, within the IRS, for taxpayers. This position was codified in the Taxpayer Bill of Rights (TBOR 1), included in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA).¹

In TBOR 1, Congress added IRC § 7811, granting the Ombudsman (now the National Taxpayer Advocate) the statutory authority to issue Taxpayer Assistance Orders (TAOs) if, in the determination of the Ombudsman, a taxpayer is suffering or is about to suffer significant hardship because of the way the Internal Revenue laws are being administered by the Secretary.² Further, TBOR 1 directed the Ombudsman and the Assistant Commissioner (Taxpayer Services) to jointly provide an Annual Report to Congress (ARC) about the quality of taxpayer services provided by the IRS. This report was delivered directly to the Senate Committee on Finance and the House Committee on Ways and Means.³

In 1996, the Taxpayer Bill of Rights 2 (TBOR 2) amended IRC § 7802 (the predecessor to IRC § 7803), replacing the Office of the Taxpayer Ombudsman with the Office of the Taxpayer Advocate.⁴ The Joint Committee on Taxation set forth the following reasons for change:

To date, the Taxpayer Ombudsman has been a career civil servant selected by and serving at the pleasure of the IRS Commissioner. Some may perceive that the Taxpayer Ombudsman is not an independent advocate for taxpayers. In order to ensure that the Taxpayer Ombudsman has the necessary stature within the IRS to represent fully the interests of taxpayers, Congress believed it appropriate to elevate the position to a position comparable to that of the Chief Counsel. In addition, in order to ensure that the Congress is systematically made aware of recurring and unresolved problems and difficulties taxpayers encounter in dealing with the IRS, the Taxpayer Ombudsman should have the authority and responsibility to make independent reports to the Congress in order to advise the tax-writing committees of those areas.⁵

In TBOR 2, Congress not only established the Office of the Taxpayer Advocate but also described its functions:

- To assist taxpayers in resolving problems with the IRS;
- To identify areas in which taxpayers have problems in dealings with the IRS;
- To the extent possible, propose changes in the administrative practices of the IRS to mitigate those identified problems; and
- To identify potential legislative changes that may be appropriate to mitigate such problems.⁶

1 Pub. L. No. 100-647, Title VI, § 6230, 102 Stat. 3342, 3733 (Nov. 10, 1988).

2 *Id.*

3 Pub. L. No. 100-647, Title VI, § 6230, 102 Stat. 3373 (Nov. 10, 1988).

4 Pub. L. No. 104-168, § 101, 110 Stat. 1452, 1453-56 (July 30, 1996).

5 J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 20 (Dec. 18, 1996).

6 Pub. L. No. 104-168, § 101(a), 110 Stat. 1452, 1453-1454 (July 30, 1996).

Congress did not provide the Taxpayer Advocate with direct line authority over the existing regional and local Problem Resolution Officers (PROs) who handled cases under the Problem Resolution Program, the predecessor to the Office of the Taxpayer Advocate. At the time of the enactment of TBOR 2, Congress believed it sufficient to require that “all PROs should take direction from the Taxpayer Advocate and that they should operate with sufficient independence to assure that taxpayer rights are not being subordinated to pressure from local revenue officers, district directors, etc.”⁷

TBOR 2 also replaced the joint Assistant Commissioner/Taxpayer Advocate Report to Congress with two annual reports issued directly and independently by the Taxpayer Advocate to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.⁸ The first report, the Objectives Report to Congress, is to contain the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year. This report is to provide full and substantive analysis in addition to statistical information and is due no later than June 30 of each calendar year.

The second report is on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during that calendar year. Section 7803(c)(2)(B)(ii) of the IRC, as amended by the Taxpayer First Act (TFA), requires the National Taxpayer Advocate to submit this report each year and to include in it, among other things, a description of the ten most serious problems encountered by taxpayers as well as administrative and legislative recommendations to mitigate those problems. The report must:

- Identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and IRS responsiveness;
- Contain recommendations received from individuals with the authority to issue a TAO;
- Contain a summary of the ten most serious problems⁹ encountered by taxpayers, including a description of the nature of such problems;
- Contain an inventory of initiatives and recommendations for which action has been taken and the result of such action;
- Contain an inventory of initiatives and recommendations for which action remains to be completed and the period of time these items have been in the inventory;
- Contain an inventory of initiatives and recommendations for which there has been no action, an explanation for the lack of action, and the responsible official;
- Identify any TAO or Taxpayer Advocate Directive (TAD)¹⁰ that was not honored by the IRS in a timely manner;
- Contain recommendations for legislative or administrative action that will resolve taxpayer problems;
- Identify areas of the tax law that impose significant compliance burdens on taxpayers or the IRS, including specific recommendations for remedy;

7 J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 21 (Dec. 18, 1996).

8 Pub. L. No. 104-168, § 101(a), 110 Stat. 1452, 1453-54 (July 30, 1996).

9 As originally enacted, TBOR 2 required a summary of at least 20 of the most serious problems. In July 2019, the TFA reduced the number of most serious problems to ten. See Pub. L. No. 116-25, § 1301(b)(1), 133 Stat. 981, 992 (July 1, 2019).

10 A TAD mandates that functional areas make certain administrative or procedural changes to improve a process or grant relief to groups of taxpayers (or all taxpayers). TADs are used to protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers. Internal Revenue Manual 13.2.1.6, Taxpayer Advocate Directives (Sept. 29, 2020).

- Identify the ten most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes;
- With respect to any statistical information included in such report, include a statement of whether such statistical information was reviewed or provided by the Secretary under IRC § 6108(d) and, if so, whether the Secretary determined such information to be statistically valid and based on sound statistical methodology; and
- Include other such information as the National Taxpayer Advocate may deem advisable.

The stated objective of these two reports is for Congress to receive an unfiltered and candid report of the problems taxpayers are experiencing and what can be done to address them. While both reports are to include statistical information, the TFA created a requirement whereby the National Taxpayer Advocate must coordinate research with the office of the Treasury Inspector General for Tax Administration (TIGTA). The National Taxpayer Advocate is now precluded from reporting statistical information that is included in a TIGTA report.¹¹ “The reports by the Taxpayer Advocate are not official legislative recommendations of the Administration; providing official legislative recommendations remains the responsibility of the Department of Treasury.”¹²

Finally, TBOR 2 amended IRC § 7811, extending the scope of a TAO, by providing the Taxpayer Advocate “with broader authority to affirmatively take any action as permitted by law with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws.”¹³ For the first time, the TAO could specify a time period within which the IRS must act on the order. The statute also provided that only the National Taxpayer Advocate, the IRS Commissioner, or the Deputy Commissioner could modify or rescind a TAO, and that any official who so modifies or rescinds a TAO must respond in writing to the National Taxpayer Advocate with his or her reasons for such action.¹⁴

In 1997, the National Commission on Restructuring the Internal Revenue Service called the Taxpayer Advocate the “voice of the taxpayer.” In its discussion of the Office of the Taxpayer Advocate, the Commission noted:

Taxpayer Advocates play an important role and are essential for the protection of taxpayer rights and to promote taxpayer confidence in the integrity and accountability of the IRS. To succeed, the Advocate must be viewed, both in perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the [N]ational Taxpayer Advocate is not viewed as independent by many in Congress. This view is based in part on the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position.¹⁵

In response to these concerns, in the IRS Restructuring and Reform Act of 1998 (RRA 98), Congress amended IRC § 7803(c), renaming the Taxpayer Advocate as the National Taxpayer Advocate and mandating that the National Taxpayer Advocate could not be an officer or an employee of the IRS for two years

¹¹ IRC § 7803(c)(2)(B)(iv).

¹² J. Comm. on Tax'n, *General Explanation of Tax Legislation Enacted in the 104th Congress*, JCS-12-96, 21 (Dec. 18, 1996).

¹³ *Id.*

¹⁴ Pub. L. No. 104-168, § 102(b), 110 Stat. 1452, 1456 (July 30, 1996).

¹⁵ Report of the National Commission on Restructuring the Internal Revenue Service, *A Vision for a New IRS*, 48 (June 25, 1997).

preceding or five years following his or her tenure as the National Taxpayer Advocate (service as an employee of the Office of the Taxpayer Advocate is not considered IRS employment under this provision).¹⁶

RRA 98 provided for Local Taxpayer Advocates (LTAs) to be located in each state and mandated a reporting structure for LTAs to report directly to the National Taxpayer Advocate.¹⁷ As required by IRC § 7803(c)(4)(A)(iii), the LTA must advise taxpayers at their first meeting of the fact that “the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate.”¹⁸

Congress also granted the LTAs discretion to not disclose to the IRS the fact that the taxpayer contacted the Office of the Taxpayer Advocate or any information provided by the taxpayer to that office.¹⁹ RRA 98 also expanded the definition of “significant hardship” in IRC § 7811 to include four specific circumstances:

1. An immediate threat of adverse action;
2. A delay of more than 30 days in resolving taxpayer account problems;
3. The incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or
4. Irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.²⁰

The Committee Reports make clear that this list is a non-exclusive list of what constitutes a significant hardship.²¹

Prior to 2011, Treasury Regulation § 301.7811-1 had not been updated since it was first published in 1992. Consequently, after Congress expanded the definition of “significant hardship” in the statute in 1998, the definition in the regulation was inconsistent. However, on April 1, 2011, the IRS published in the *Federal Register* final regulations under IRC § 7811 that contain a definition of significant hardship consistent with existing law and practice.²²

The National Taxpayer Advocate advocated for many years that the IRS establish a TBOR. In June 2014, the IRS finally adopted the Taxpayer Bill of Rights — a set of ten fundamental rights that taxpayers should be aware of when dealing with the IRS.²³ One of those ten rights is the *right to a fair and just tax system*, which gives taxpayers the right to receive assistance from the Office of the Taxpayer Advocate if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels. In December 2015, Congress enacted IRC § 7803(a)(3), which requires the Commissioner to ensure that employees of the IRS are familiar with and act in accord with taxpayer rights, including the *right to a fair and just tax system*.²⁴

16 Pub. L. No. 105-206, § 1102(a), 112 Stat. 685, 699 (July 22, 1998).

17 Pub. L. No. 105-206, § 1102(a), 112 Stat. 701 (July 22, 1998).

18 IRC § 7803(c)(4)(A)(iii).

19 IRC § 7803(c)(4)(A)(iv).

20 IRC § 7811(a)(2).

21 See, e.g., H.R. REP. No. 105-599, at 215 (1998) (Conf. Rep.).

22 Treas. Reg. § 301.7811-1(a)(4)(ii); 76 Fed. Reg. 18,059, 18,060-61 (Apr. 1, 2011).

23 See IR-2014-72 (June 10, 2014).

24 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401, 129 Stat. 2242, 3117 (Dec. 18, 2015).

The passing of the TFA in July 2019 also codified the timeframes surrounding issuance of TADs. Now, the IRS must respond to a TAD no later than 90 days after its issuance.²⁵ If the IRS decides to modify or rescind the TAD, the National Taxpayer Advocate may appeal that decision to the Commissioner of the IRS within 90 days. The Commissioner then has 90 days to either ensure compliance with the TAD or provide reasons to the National Taxpayer Advocate for the modification or rescission of the TAD. Additionally, the National Taxpayer Advocate must report on any TADs that were not honored in a timely manner in the activities report.²⁶

²⁵ IRC § 7803(c)(5)(A).

²⁶ IRC § 7803(c)(2)(B)(viii).



CASE ACCEPTANCE CRITERIA

As an independent organization within the IRS, TAS 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.¹ TAS case acceptance criteria fall into four main categories.²

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.³

- 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.⁴

- 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.⁵

- 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.⁶

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

¹ IRC § 7803(c)(2)(A)(i).

² TAS changed its case acceptance criteria to generally stop accepting certain issues. See Internal Revenue Manual (IRM) 13.1.7.3 (Feb. 4, 2015) temporarily amended by Interim Guidance Memorandum (IGM) TAS-13-0121-0003, Interim Guidance on Exceptions to TAS Case Acceptance Criteria Taxpayer Issues Solely Related to the Processing of Original and Amended Returns with No Indication of IRS Receipt of the Return (Jan. 19, 2021; expires Jan. 18, 2023), IGM TAS-13-0121-0001, Interim Guidance on Exclusion from TAS Case Acceptance Criteria Taxpayers Impacted by Pre-Refund Wage Verification Hold and Amended Returns (Jan. 15, 2021; expires Dec. 31, 2021), and IGM TAS-13-0521-006, Interim Guidance on Exceptions to TAS Case Acceptance Criteria For Taxpayer Issues Related to Unemployment Compensation Received in Taxable Year 2020 (May 4, 2021; expires May 3, 2023).

³ See IRM 13.1.7.2.1, TAS Case Criteria 1-4, Economic Burden (Feb. 4, 2015).

⁴ TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See IRM 13.1.7.2.2, TAS Case Criteria 5-7, Systemic Burden (Feb. 4, 2015) and IRM 13.1.7.3, Exceptions to Taxpayer Advocate Service Criteria (Feb. 4, 2015).

⁵ See IRM 13.1.7.2.3, TAS Case Criteria 8, Best Interest of the Taxpayer (Feb. 4, 2015).

⁶ See IGM TAS-13-0521-0005, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (May 6, 2021).

List of Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. LITCs can represent taxpayers in Tax Court as well as with the IRS. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. LITCs provide services for free or a small fee. LITCs receive IRS grants but work independently to assist and advocate for taxpayers.

Low-income taxpayers who need help in resolving tax disputes with the IRS and cannot afford representation may qualify for free or low-cost assistance from an LITC. Using poverty guidelines published annually by the Department of Health and Human Services, each LITC decides if an individual meets the income eligibility guidelines and other criteria before it agrees to representation. Eligible taxpayers must generally have income that does not exceed 250 percent of the poverty guidelines. Figure 1 shows the income ceilings for 2021.

FIGURE 1, LITC Income Guidelines (250 percent of Federal Poverty Guidelines)

| Size of Family Unit | 48 Contiguous States, D.C., and Puerto Rico | Alaska | Hawaii |
|--|---|-----------|-----------|
| 1 | \$32,200 | \$40,225 | \$37,050 |
| 2 | \$43,550 | \$54,425 | \$50,100 |
| 3 | \$54,900 | \$68,625 | \$63,150 |
| 4 | \$66,250 | \$82,825 | \$76,200 |
| 5 | \$77,600 | \$97,025 | \$89,250 |
| 6 | \$88,950 | \$111,225 | \$102,300 |
| 7 | \$100,300 | \$125,425 | \$115,350 |
| 8 | \$111,650 | \$139,625 | \$128,400 |
| For each additional person, add | \$11,350 | \$14,200 | \$13,050 |

Figure 2 shows LITCs receiving federal funding for the 2021 calendar year that operated by nonprofit organizations or academic institutions. Although LITCs receive partial funding from the IRS, LITCs, their employees, and their volunteers are completely independent of the IRS.

Low-income taxpayers may be able to receive assistance from a referral system operated by a state bar association, a state or local society of accountants or enrolled agents, or another nonprofit tax professional organization. Contact information for clinics may change, so please check for the most recent information at <https://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc/>.

FIGURE 2, 2021 LITCs and Contact Information

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|-----------------|--|------------------------------|---|
| AK | Anchorage | Alaska Business Development Center LITC | 800-478-3474 907-562-0335 | All languages through interpreter services |
| AL | Montgomery | Legal Services Alabama LITC | 866-456-4995 334-832-4570 | All languages through interpreter services |
| AR | Little Rock | UA Little Rock Bowen School of Law LITC | 501-916-5492 | Spanish |
| | Springdale | Legal Aid of Arkansas LITC | 479-442-0600 | Spanish and Marshallese |
| AZ | Phoenix | Community Legal Services LITC | 800-852-9075 602-258-3434 | Spanish and other languages through interpreter services |
| | Tucson | Southern Arizona Tax Clinic | 520-622-2801 | Spanish and other languages through interpreter services |
| CA | Los Angeles | Bet Tzedek Legal Services Tax Clinic | 323-939-0506 | Spanish, Russian, and other languages through interpreter services |
| | Los Angeles | KYCC Low Income Taxpayer Clinic | 213-232-2700 | Spanish and Korean |
| | Los Angeles | Pepperdine LITC | 213-673-4831 | Spanish |
| | Los Angeles | Bookstein Low Income Taxpayer Clinic | 818-677-3600 | Spanish |
| | Orange | Chapman University Tax Law Clinic | 714-628-2535 | Spanish and Vietnamese |
| | Riverside | Inland Counties Legal Services LITC | 888-245-4257 951-368-2555 | Spanish, Mandarin, and other languages through interpreter services |
| | San Diego | Legal Aid Society of San Diego LITC | 877-534-2524 | Spanish, Vietnamese, Tagalog, Arabic, Farsi |
| | San Diego | University of San Diego LITC | 619-260-7470 | Spanish and other languages through interpreter services |
| | San Francisco | Chinese Newcomers Service Center | 415-421-2111 | Chinese, Cantonese, Mandarin, Vietnamese, Taishanese |
| | San Francisco | Justice and Diversity Center of the Bar Association of San Francisco | 415-982-1600 | Spanish |
| | San Francisco | UC Hastings Low-Income Taxpayer Clinic | 415-703-8287 | Spanish |
| | San Luis Obispo | Cal Poly Low Income Taxpayer Clinic | 877-318-6772 805-756-2951 | Spanish |
| CO | Denver | Colorado Legal Services LITC | 844-440-4848 303-837-1313 | Spanish and other languages through interpreter services |
| | Denver | Denver Asset Building Coalition LITC | 303-388-7030 | All languages through interpreter services |
| | Denver | University of Denver LITC | 303-871-6331 | Spanish and Mandarin |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|-----------------|---|------------------------------|--|
| CT | Hamden | Quinnipiac University School of Law LITC | 203-582-3238 | Spanish and other languages through interpreter services |
| | Hartford | UConn Law School Tax Clinic | 860-570-5165 | Spanish and other languages through interpreter services |
| DC | Washington | The Catholic University of America LITC | 202-319-6788 | Spanish |
| | Washington | The Janet R. Spragens Federal Tax Clinic | 202-274-4144 | All languages through interpreter services |
| DE | Georgetown | Delaware Community Reinvestment Action Council LITC | 877-825-0750 302-690-5000 | Spanish, Hindi, Italian |
| FL | Ft. Myers | Florida Rural Legal Services Low Income Taxpayer Clinic | 888-582-3410 | Spanish and Creole |
| | Gainesville | Three Rivers Legal Services, Inc. | 866-256-8091 352-372-0519 | Spanish and other languages through interpreter services |
| | Miami | Legal Services of Greater Miami Community Tax Clinic | 305-576-0080 | Spanish, Haitian, Creole |
| | Plant City | Bay Area Legal Services Inc. LITC | 813-752-1335 | All languages through interpreter services |
| | Plantation | Legal Aid Services of Broward and Collier Counties | 954-736-2477 | Spanish and Creole |
| | St. Petersburg | Gulfcoast Legal Services LITC | 727-821-0726 | Spanish and other languages through interpreter services |
| | Tallahassee | Legal Services of North Florida | 850-385-9007 | Spanish |
| | West Palm Beach | Legal Aid Society of Palm Beach County LITC | 800-403-9353 561-655-8944 | Spanish |
| GA | Atlanta | The Philip C. Cook Low Income Taxpayer Clinic | 404-413-9230 | Spanish |
| | Hinesville | JCVision and Associates, Inc. | 866-396-4243 912-877-4243 | Spanish |
| | Lawrenceville | North Georgia Low Income Taxpayer Clinic | 678-646-5661 | Spanish |
| HI | Honolulu | Hawaii Low Income Taxpayer Clinic | 800-677-1159 | All languages through interpreter services |
| IA | Des Moines | Iowa Legal Aid LITC | 800-532-1275 515-243-2151 | Spanish and other languages through interpreter services |
| ID | Twin Falls | La Posada Tax Clinic | 208-735-1189 | Spanish |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|---------------|--|------------------------------|--|
| IL | Chicago | Ladder Up Tax Clinic | 312-630-0242 | Spanish |
| | Chicago | Legal Aid Chicago Tax Clinic | 312-341-1070 | Spanish, Polish, and other languages through interpreter services |
| | Chicago | Loyola Federal Income Tax Clinic | 312-915-7176 | All languages through interpreter services |
| | Elgin | Administer Justice | 847-844-1100 | Spanish and other languages through interpreter services |
| | Wheaton | Prairie State Legal Services LITC | 855-829-7757 | All languages through interpreter services |
| IN | Bloomington | Indiana Legal Services LITC | 844-243-8570 812-339-7668 | Spanish and other languages through interpreter services |
| | Indianapolis | Neighborhood Christian Legal Clinic | 317-429-4131 | Spanish, French, Arabic, Burmese, Hakha Chin, Kinyarwanda, Maya, Swahili, Chinese, Zophei, Falam, and other languages through interpreter services |
| | South Bend | Notre Dame Tax Clinic | 574-631-3272 | Spanish and other languages through interpreter services |
| KS | Kansas City | Kansas Legal Services, Inc. LITC | 800-723-6953 913-621-0200 | Spanish, French, German, Russian, and other languages through interpreter services |
| KY | Covington | The Center for Great Neighborhoods LITC | 859-547-5542 | Spanish |
| | Louisville | Legal Aid Society Low Income Taxpayer Clinic | 800-292-1862 502-584-1254 | All languages through interpreter services |
| | Richmond | AppalRed Low Income Taxpayer Clinic | 800-477-1394 859-624-1394 | Spanish and other languages through interpreter services |
| LA | New Orleans | Southeast Louisiana Legal Services LITC | 877-521-6242 504-529-1000 | Spanish, Vietnamese, and other languages through interpreter services |
| MA | Boston | Greater Boston Legal Services LITC | 800-323-3205 617-603-1569 | All languages through interpreter services |
| | Jamaica Plain | Legal Services Center of Harvard Law School LITC | 866-738-8081 617-522-3003 | All languages though interpreter services |
| | Lynn | Northeast legal Aid LITC | 978-458-1465 | Spanish, Khmer, Portuguese, Vietnamese, and other languages through interpreter services |
| | Springfield | Springfield Partners for Community Action LITC | 844-877-7422 413-263-6500 | Spanish, Vietnamese, Cantonese, Russian, Korean |
| MD | Baltimore | Maryland Volunteer Lawyers Service LITC | 800-510-0050 410-547-6537 | All languages through interpreter services |
| | Baltimore | University of Baltimore LITC | 410-837-5706 | All languages through interpreter services |
| | Baltimore | University of Maryland Carey School of Law LITC | 410-706-3295 | All languages through interpreter services |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|--------------|--|---|--|
| ME | Bangor | Pine Tree Legal Assistance Inc. LITC | 207-942-8241 | All languages through interpreter services |
| MI | Ann Arbor | University of Michigan LITC | 734-936-3535 | All languages through interpreter services |
| | Detroit | Accounting Aid Society | 866-673-0873 313-556-1920 | Spanish and Arabic |
| | East Lansing | Alvin L. Storrs Low Income Taxpayer Clinic | 517-432-6880 | All languages through interpreter services |
| | Grand Rapids | West Michigan Low Income Taxpayer Clinic (Legal Aid of Western Michigan) | 800-442-2777 616-774-0672 | Spanish and other languages through interpreter services |
| MN | Minneapolis | Mid-Minnesota Legal Aid Tax Law Project | 800-292-4150 612-332-1441 | Spanish, Somali, Hmong, Arabic, Oromo, Amharic, and other languages through interpreter services |
| | Minneapolis | University of Minnesota LITC | 612-625-5515 | Somali, Spanish, Hmong, Karen, and other languages through interpreter services |
| MO | Kansas City | Legal Aid of Western Missouri LITC | 800-990-2907 816-474-6750 | Spanish and other languages through interpreter services |
| | Kansas City | Kansas City Tax Clinic | 816-235-6201 | All languages through interpreter services |
| | St. Louis | Washington University School of Law LITC | 314-935-7238 | Spanish and French |
| MS | Oxford | Mississippi Taxpayer Assistance Project | 888-808-8049 | All languages through interpreter services |
| MT | Helena | Montana Legal Services Association LITC | 800-666-6899 406-442-9830 | Spanish and other languages through interpreter services |
| NC | Charlotte | North Carolina Low Income Taxpayer Clinic | 800-438-1254 800-247-1931 (SP) 704-376-1600 | Spanish and other languages through interpreter services |
| | Durham | NC Central University School of Law LITC | 919-530-7166 | Spanish |
| NE | Lincoln | Legal Aid of Nebraska LITC | 877-250-2016 402-348-1060 | All languages through interpreter services |
| NH | Concord | NH Pro Bono Low-Income Taxpayer Project | 603-228-6028 | All languages through interpreter services |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|----------|---|--|--|---|
| NJ | Camden | South Jersey Legal Services, Inc. LITC | 800-496-4570 856-964-2010 | All languages through interpreter services |
| | Edison | Legal Services of New Jersey Tax Legal Assistance Project | 888-576-5529 732-572-9100 | Spanish, Haitian-Creole, Portuguese, Hindi, Arabic |
| | Jersey City | Northeast New Jersey Legal Services LITC | 201-792-6363 | Spanish, Korean, Hindi, Urdu, Hebrew, Arabic, Portuguese, Tagalog, and other languages through interpreter services |
| | Newark | Rutgers Federal Tax Law Clinic | 973-353-1685 | Spanish |
| NM | Albuquerque | New Mexico Legal Aid Low Income Taxpayer Clinic | 866-416-1922 833-545-4357 | All languages through interpreter services |
| | Farmington | Four Corners Low Income Taxpayer Clinic | 505-566-3747 | Spanish and Navajo |
| NY | Albany | Legal Aid Society of Northeastern New York LITC | 800-462-2922 518-462-6765 | All languages through interpreter services |
| | Bronx | Bronx Legal Services | 917-661-4500 | Spanish and other languages through interpreter services |
| | Brooklyn | Brooklyn Legal Services Corporation A LITC | 718-487-2300 | Spanish and other languages through interpreter services |
| | Brooklyn | Brooklyn Low-Income Taxpayer Clinic | 917-661-4500 | Spanish, Russian, American Sign Language, and other languages through interpreter services |
| | Buffalo | Erie County Bar Association Volunteer Lawyers Project LITC | 800-229-6198 716-847-0662 | All languages through interpreter services |
| | Hempstead | Hofstra Law School Federal Tax Clinic | 516-463-5934 | Spanish and other languages through interpreter services |
| | Jamaica | Queens Legal Services LITC | 917-661-4500 | All languages through interpreter services |
| | New York | Fordham Law School | 212-633-7353 | Spanish, Korean, Mandarin, Russian, Ukrainian, and other languages through interpreter services |
| | New York | Mobilization for Justice | 212-417-3839 | Spanish, Mandarin, Korean, and other languages through interpreter services |
| | New York | The Legal Aid Society LITC | 212-426-3013 | Spanish, Chinese, and other languages through interpreter services |
| Syracuse | Syracuse University College of Law LITC | 888-797-5291 315-443-4582 | All languages through interpreter services | |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|--------------|---|------------------------------|---|
| OH | Akron | Community Legal Aid Services LITC | 800-998-9454 | Spanish and other languages through interpreter services |
| | Cincinnati | Legal Aid of Greater Cincinnati LITC | 800-582-2682 513-241-9400 | All languages through interpreter services |
| | Cleveland | The Legal Aid Society of Cleveland LITC | 888-817-3777 216-861-5500 | Spanish and other languages through interpreter services |
| | Columbus | The Legal Aid Society of Columbus LITC | 877-224-8374 614-224-8374 | Spanish and other languages through interpreter services |
| | Columbus | Southeastern Ohio Legal Services LITC | 800-837-2508 740-354-7563 | All languages through interpreter services |
| | Toledo | Toledo Tax Controversy Clinic LITC | 419-684-8822 | Arabic |
| OK | Tulsa | Legal Aid Services of Oklahoma LITC | 918-236-9572 | Spanish and other languages through interpreter services |
| OR | Portland | Legal Aid Services of Oregon LITC | 503-224-4086 | Spanish, Mandarin, Japanese, and other languages through interpreter services |
| | Portland | Lewis & Clark Low Income Taxpayer Clinic | 503-768-6500 | Spanish and other languages through interpreter services |
| PA | Philadelphia | Philadelphia Legal Assistance LITC | 215-981-3800 | All languages through interpreter services |
| | Philadelphia | Temple Law School LITC | 215-204-8948 | Spanish |
| | Pittsburgh | University of Pittsburgh School of Law LITC | 412-648-1300 | Spanish and French |
| | Villanova | Villanova Federal Tax Clinic | 888-829-2546 610-519-4123 | Spanish and other languages through interpreter services |
| | Washington | Southwestern Pennsylvania Legal Services LITC | 724-225-6170 | All languages through interpreter services |
| | York | MidPenn Legal Services Low Income Taxpayer Clinic | 844-675-7829 | Spanish and other languages through interpreter services |
| RI | Providence | Rhode Island Legal Services LITC | 401-274-2652 | Spanish and other languages through interpreter services |
| SC | Greenville | South Carolina Legal Services LITC | 888-346-5592 | Spanish and other languages through interpreter services |
| SD | Vermillion | University of South Dakota School of Law Federal Tax Clinic | 844-366-8866 605-658-3531 | All languages through interpreter services |
| TN | Memphis | Memphis Area Legal Services | 901-523-8822 | All languages through interpreter services |
| | Nashville | Tennessee Taxpayer Project | 866-481-3669 865-483-8454 | Spanish and other languages through interpreter services |

Appendix 4: List of Low Income Taxpayer Clinics

| State | City | Clinic Name | Public Phone Number | Languages Served in Addition to English |
|-------|-------------|---|------------------------------|--|
| TX | Fort Worth | Legal Aid of Northwest Texas LITC | 800-955-3959 817-336-3943 | Spanish and other languages through interpreter services |
| | Fort Worth | Texas A&M University School of Law, Tax Dispute Resolution Clinic | 817-212-4123 | Spanish and other languages through interpreter services |
| | Houston | Houston Volunteer Lawyers LITC | 713-228-0732 | Spanish, Chinese, and other languages through interpreter services |
| | Houston | Lone Star Legal Aid LITC | 800-733-8394 713-652-0077 | Spanish, Vietnamese, and other languages through interpreter services |
| | Houston | South Texas College of Law LITC | 800-646-1253 713-646-2922 | All languages through interpreter services |
| | Lubbock | Texas Tech School of Law LITC | 800-420-8037 806-742-4312 | Spanish |
| | San Antonio | Texas Taxpayer Assistance Project | 888-988-9996 210-212-3747 | Spanish |
| UT | Provo | Centro Hispano LITC | 801-655-0258 801-691-5259 | Spanish, Portuguese, and other languages through interpreter services |
| VA | Fairfax | Legal Services of Northern Virginia LITC | 866-534-5233 703-778-6800 | Spanish and other languages through interpreter services |
| | Lexington | Washington and Lee University School of Law Tax Clinic | 540-458-8918 | All languages through interpreter services |
| | Richmond | The Community Tax Law Project | 800-295-0110 804-358-5855 | Spanish and other languages through interpreter services |
| VT | Burlington | Vermont Low Income Taxpayer Clinic | 800-889-2047 | All languages through interpreter services |
| WA | Seattle | University of Washington Federal Tax Clinic | 866-866-0158 206-685-6805 | Spanish, Russian, Chinese, Swahili, Portuguese, French, Punjabi, Vietnamese, and Hindi |
| | Spokane | Gonzaga University Federal Tax Clinic | 800-793-1722 509-313-5791 | All languages through interpreter services |
| WI | Milwaukee | Legal Action of Wisconsin LITC | 855-502-2468 414-274-3400 | All languages through interpreter services |
| | Wausau | Northwoods Tax Project | 800-472-1638 715-842-1681 | Spanish and Hmong |
| WV | | For assistance, see The Community Tax Law Project in Virginia | | |

Glossary of Acronyms

| Acronym | Definition |
|---------|--|
| ACS | Automated Collection System |
| ACTC | Advanced Child Tax Credit |
| AFSP | Annual Filing Season Program |
| AGI | Adjusted Gross Income |
| ALE | Allowable Living Expenses |
| AM | Accounts Management |
| APTC | Advance Premium Tax Credit |
| ARC | Annual Report to Congress |
| ARPA | American Rescue Plan Act |
| AUR | Automated Underreporter |
| BAM | Business Account Manager |
| BFS | Bureau of the Fiscal Service |
| BMF | Business Master File |
| BOD | Business Operating Division |
| BSM | Business Systems Modernization |
| BSP | Business System Planning |
| CA | Case Advocate |
| CAA | Certified Acceptance Agent |
| CADE | Customer Account Data Engine |
| CAF | Centralized Authorization File |
| CAR | Collection Activity Report |
| CARE | Customer Assistance, Relationships and Education |
| CARES | Coronavirus Aid, Relief, and Economic Security Act |
| CAS | Customer Account Services |
| CDP | Collection Due Process |
| CDW | Compliance Data Warehouse |
| CFO | Chief Financial Officer or Chief Financial Office |
| CI | Criminal Investigation |
| CIO | Chief Information Officer |

| Acronym | Definition |
|----------|--|
| CIS | Correspondence Imaging System |
| CNC | Currently Not Collectible |
| COTS | Commercial Off-the-Shelf |
| COVID-19 | Coronavirus Disease of 2019 |
| CSED | Collection Statute Expiration Date |
| CSP | Credential Service Provider |
| CSR | Customer Service Representative |
| CTC | Child Tax Credit |
| CY | Calendar Year |
| DCSA | Defense Counterintelligence and Security Agency |
| DUT | Documentation Upload Tool |
| ECM | Enterprise Case Management |
| EDCMO | Enterprise Digitalization and Case Management Office |
| EIC | Earned Income Credit |
| EIP | Economic Impact Payment |
| EITC | Earned Income Tax Credit |
| EPST | Enterprise Planning Scenario Tool |
| ERS | Error Resolution System |
| EST | Eastern Standard Time |
| FAQ | Frequently Asked Question |
| FBAR | Report of Foreign Bank and Financial Accounts |
| FEMA | Federal Emergency Management Agency |
| FFI | Free File Initiative |
| FRC | Federal Records Center |
| FTA | First Time Abatement |
| FTE | Full-Time Equivalent |
| FY | Fiscal Year |
| GAO | Government Accountability Office |
| GLAM | General Legal Advice Memorandum |

Appendix 5: Glossary of Acronyms

| Acronym | Definition |
|---------|--|
| HCO | Human Capital Office |
| HR | Human Resources |
| IA | Installment Agreement |
| IDEA | Integrated Digital Experience Act |
| IDT | Identity Theft |
| IDTVA | Identity Theft Victim Assistance |
| IGM | Interim Guidance Memorandum |
| IIR | International Information Return |
| IMF | Individual Master File |
| IP PIN | Identity Protection Personal Identification Number |
| IR | Internal Revenue |
| IRC | Internal Revenue Code |
| IRM | Internal Revenue Manual |
| IRS | Internal Revenue Service |
| IRSAC | Internal Revenue Service Advisory Council |
| IT | Information Technology |
| ITA | Interactive Tax Assistant |
| ITIN | Individual Taxpayer Identification Number |
| IVO | Integrity and Verification Operation |
| JCS | Joint Chiefs of Staff |
| JOC | Joint Operations Center |
| LB&I | Large Business & International |
| LITC | Low Income Taxpayer Clinic |
| LOS | Level of Service |
| LSR | Leadership Succession Review |
| LTA | Local Taxpayer Advocate |
| MeF | Modernized e-File |
| MLI | Most Litigated Issue |
| MSP | Most Serious Problem |
| NARA | National Archives and Records Administration |
| NFC | National Finance Center |
| NFTL | Notice of Federal Tax Lien |

| Acronym | Definition |
|---------|--|
| NIST | National Institute of Standards and Technology |
| NOL | Net Operating Loss |
| NR | Nonresident |
| NTA | National Taxpayer Advocate |
| NTEU | National Treasury Employees Union |
| OCR | Optical Character Recognition |
| OIC | Offer in Compromise |
| OMB | Office of Management and Budget |
| PCA | Private Collection Agency |
| PIN | Personal Identification Number |
| PSD | Problem Solving Day |
| PTC | Premium Tax Credit |
| PY | Processing Year |
| PYEI | Prior Year Earned Income |
| RIVO | Return Integrity Verification Operations |
| RRA 98 | IRS Restructuring and Reform Act of 1998 |
| RRC | Recovery Rebate Credit |
| RRP | Return Review Program |
| SADI | Secure Access Digital Identity |
| SAMS | Systemic Advocacy Management System |
| SB/SE | Small Business/Self-Employed |
| SERP | Servicewide Electronic Research Program |
| SLA | Service Level Agreement |
| SP | Special Publication |
| SSA | Social Security Administration |
| STARS | Strategic Talent Analytics & Recruitment Solutions |
| TAC | Taxpayer Assistance Center |
| TAD | Taxpayer Advocate Directive |
| TAMRA | Technical and Miscellaneous Revenue Act |
| TAO | Taxpayer Assistance Order |
| TAS | Taxpayer Advocate Service |
| TBM | Technology Business Management |
| TBOR | Taxpayer Bill of Rights |

Appendix 5: Glossary of Acronyms

| Acronym | Definition |
|---------|---|
| TCE | Tax Counseling for the Elderly |
| TCJA | Tax Cuts and Jobs Act |
| TDC | Taxpayer Digital Communications |
| TE/GE | Tax Exempt & Government Entities |
| TFA | Taxpayer First Act |
| TIGTA | Treasury Inspector General for Tax Administration |
| TIN | Taxpayer Identification Number |
| TMF | Technology Modernization Fund |
| TPNC | Taxpayer Notice Code |
| TPP | Taxpayer Protection Program |
| TY | Tax Year |
| UWR | Unified Work Request |
| VDP | Voluntary Disclosure Practice |
| VITA | Volunteer Income Tax Assistance |
| VSD | Virtual Service Delivery |
| W&I | Wage & Investment |
| WMAR | Where's My Amended Return |