

National Taxpayer Advocate's Introductory Remarks

As we look forward and plan our fiscal year (FY) 2022 objectives, this past filing season is still painfully visible in the rearview mirror. It was perhaps the most challenging filing season taxpayers, tax professionals, and the IRS have ever experienced. This past year and the 2021 filing season conjure up every possible cliché for taxpayers, tax professionals, the IRS, and its employees — it was a perfect storm; it was the best of times and the worst of times; patience is a virtue; with experience comes wisdom and with wisdom comes experience; out of the ashes we rise; and we experienced historical highs and lows.

Unlike any prior year, individuals and businesses across this great nation were forced to confront ongoing medical and financial challenges while juggling health and family issues. As a society, we adapted to the COVID-19 challenges by working remotely, attending schools virtually, and generally changing the way we did business and lived our lives. We witnessed the passing of over 600,000 loved ones, friends, and members of our communities; the closure of businesses; and the loss of millions of jobs. We also witnessed many examples of the good in our society: We saw new business ventures develop out of the ashes, and we observed firsthand the generosity and caring of our friends, neighbors, and complete strangers.

During the past year, more than 170 million individuals and millions of businesses received financial relief through three rounds of stimulus payments, Paycheck Protection Program loans, and Employee Retention Credits. The IRS and its employees were instrumental in providing this much-needed relief. I want to recognize and thank the IRS leadership and its employees, and particularly Taxpayer Advocate Service employees, for making sacrifices this past year, helping taxpayers during this difficult time, and staying true to our mission.

THE BEST OF TIMES

Despite all its challenges, the IRS processed 136 million individual income tax returns and issued 96 million refunds totaling \$270 billion during the 2021 filing season. That matches up closely to the results of the last typical filing season in 2019.¹ In addition to its traditional work, the IRS was entrusted by Congress to issue three rounds of stimulus payments — a total of about 475 million payments worth \$807 billion as of this writing — and to deliver other financial relief programs to mitigate the impact of the pandemic on U.S. families and businesses.² The IRS and its employees deserve tremendous credit for what they have accomplished under very difficult circumstances, but there is always room for improvement.

1 See IRS, 2021 Filing Season Statistics (week ending May 21, 2021), <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-may-21-2021>; IRS, 2019 Filing Season Statistics (week ending Apr. 19, 2019), <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-19-2019> (showing the IRS processed 131 million returns and issued 96 million refunds totaling \$261 billion during the 2019 filing season).

2 The IRS reports it issued 160 million payments worth \$270 billion under the Coronavirus Aid, Relief, and Economic Security (CARES) Act; 147 million payments worth \$142 billion under the COVID-Related Tax Relief Act of 2020; and 169 million payments worth \$395 billion under the American Rescue Plan Act of 2021. See IRS News Release, IR-2021-38, As Required by Law, All First and Second Economic Impact Payments Issued; Eligible People Can Claim Recovery Rebate Credit (Feb. 16, 2021), <https://www.irs.gov/newsroom/as-required-by-law-all-first-and-second-economic-impact-payments-issued-eligible-people-can-claim-recovery-rebate-credit>; IRS News Release, IR-2021-127, More Than 2.3 Million Additional Economic Impact Payments Disbursed Under the American Rescue Plan; Total Payments Top 169 Million (June 9, 2021), <https://www.irs.gov/newsroom/more-than-2-point-3-million-additional-economic-impact-payments-disbursed-under-the-american-rescue-plan-total-payments-top-169-million>.

THE WORST OF TIMES

The impact of the pandemic on IRS operations — and therefore on taxpayers — has been significant.

Historical Highs: The IRS Finished the Filing Season With Over 35 Million Tax Returns Awaiting Manual Reviews

This year, the IRS is dealing with an unprecedented number of returns requiring manual review, slowing the issuance of refunds. The IRS finished the filing season with a backlog of over 35 million individual and business income tax returns that require manual processing — meaning that employee involvement is generally required before a return can advance to the next stage in the processing pipeline. The backlog includes about 16.8 million paper tax returns waiting to be processed; about 15.8 million returns suspended during processing that require further review; and about 2.7 million amended returns awaiting processing.

Of the 15.8 million returns suspended, approximately 10.3 million were in suspense in the Error Resolution System (ERS) unit as of May 22, 2021. Once the IRS identifies a return as having a potential error, it sends it to ERS, where an employee must manually review it to address the identified error(s). During a typical filing season, ERS can quickly determine if an error was made and move the return through the process, but this filing season was anything but typical, leading to long delays in processing.

In particular, large numbers of returns were sent to ERS where (i) there was a discrepancy between the amount of the Recovery Rebate Credit (RRC) a taxpayer claimed and the amount for which IRS records indicated the taxpayer qualified and (ii) a taxpayer elected to use 2019 earnings (rather than 2020 earnings) for purposes of claiming the Earned Income Tax Credit (EITC) or Additional Child Tax Credit (ACTC). In these and other circumstances, employees needed to review the return and either manually release the refund or confirm the error. Reduced staffing combined with the high volume of returns sent to ERS has forced the IRS to “suspend” returns (essentially placing them into a work queue) until ERS is able to work them.

If the IRS does not have math error authority to automatically correct an identified error, it will send the return to its “Processing Rejects” unit. For example, taxpayers may submit returns where a schedule is missing or where the taxpayer has omitted Form 8962, Premium Tax Credit, and Form 1095-A, Health Insurance Marketplace Statement, both of which are necessary to reconcile the Premium Tax Credit with the Advance Premium Tax Credit. As of May 22, 2021, there were approximately 1.4 million returns in the Processing Rejects unit.

The next possible detour for a taxpayer's return that cannot be processed is the “Unpostables” unit. Unpostable tax returns commonly result from entity problems with the taxpayer's identification number, name, or both. As of May 22, 2021, there were approximately 2.0 million returns in the Unpostables unit.

Returns flagged as having potentially been filed by an identity thief are referred for manual review to the Taxpayer Protection Program (TPP), requiring taxpayers to authenticate their identities over the phone, online, or by visiting a Taxpayer Assistance Center (TAC) prior to the processing of the return. From January 1, 2021, through May 22, 2021, the IRS selected about 3.7 million returns for TPP review, of which

1.4 million have been verified as non-identity theft, leaving at least 2.1 million suspected identity theft returns in inventory.³

These processing backlogs matter greatly because most taxpayers overpay their tax during the year by way of wage withholding or estimated tax payments and are entitled to receive refunds when they file their returns. Moreover, the government uses the tax system to distribute other financial benefits. So far for tax year 2020, in addition to repaying overpayments of tax, the IRS issued about 20 million refunds that included EITC benefits⁴ worth up to \$6,660⁵ and about 15 million refunds that included ACTC benefits⁶ worth up to \$1,400 per qualifying child.⁷ This year, over eight million taxpayers also may be eligible to receive RRCs.⁸

PATIENCE IS A VIRTUE

The IRS's historically high number of returns requiring manual review means that most individual taxpayers in this group and many business taxpayers will not receive timely refunds and will have to wait until the IRS eventually processes their returns. For taxpayers who can afford to wait, the best advice is to be patient and give the IRS time to work through its processing backlog. But particularly for low-income taxpayers and small businesses operating on the margin, refund delays can impose significant financial hardships. Not everyone can afford to be patient.

Historical Highs and Historical Lows: The IRS Received Over Four Times as Many Telephone Calls as in 2020, Resulting in Historically Poor Service, With Telephone Assistors Answering Only About Seven Percent of Taxpayer Calls

The IRS received more telephone calls during the 2021 filing season than it had ever received in a full fiscal year.⁹ During the height of the filing season, the IRS at one point received telephone calls at the rate of about 1,500 per second.¹⁰ Needless to say, IRS employees could not handle this massive volume of calls. The IRS reported a “Level of Service” on its Accounts Management telephone lines of 15 percent, with only seven percent of taxpayer calls reaching a telephone assistor.¹¹ The most frequently called toll-free number is the “1040” line for individual income tax services. It logged about 85 million calls, and only three percent of calls (*i.e.*, three out of 100) reached a Customer Service Representative (CSR).¹²

3 IRS, TPP Combined Report 3 (May 24, 2021). IRS, IDT and IVO Analysis – Main Performance Report (May 26, 2021, including data as of May 19, 2021). Some additional return selections have not cleared return processing and are therefore not included in the TPP ending inventory.

4 IRS, Compliance Data Warehouse (CDW) Individual Returns Transaction File (IRTF). This includes returns processed through May 27, 2021. These volumes will likely be even higher when the IRS is able to process all tax year 2020 paper returns and work through the returns where processing has been temporarily suspended.

5 See IRC § 32. See also Rev. Proc. 2019-44, 2019-47 I.R.B. 1093.

6 IRS, IRS FY 2019 Data Book, Table 7 (June 2020).

7 See IRC § 24(d)(1). See also Rev. Proc. 2019-44, 2019-47 I.R.B. 1093.

8 See IRC §§ 6428, 6428A. IRS News Release, IR-2021-127, More Than 2.3 Million Additional Economic Impact Payments Disbursed Under the American Rescue Plan; Total Payments Top 169 Million (June 9, 2021), <https://www.irs.gov/newsroom/more-than-2-point-3-million-additional-economic-impact-payments-disbursed-under-the-american-rescue-plan-total-payments-top-169-million>.

9 Until this year, the IRS had received its highest number of telephone calls in FY 2008 when it logged about 166.6 million net attempts. During the 2021 filing season, it recorded 167.4 million net attempts. IRS, Joint Operations Center (JOC) Snapshot Reports, Enterprise Total (comparing FY ending Sept. 30, 2008, with week ending May 22, 2021).

10 *The IRS's Fiscal Year 2022 Budget, Hearing Before the S. Comm. on Finance*, 117th Cong. (June 8, 2021) (statement of Charles P. Rettig, Commissioner of Internal Revenue).

11 IRS, JOC Snapshot Reports, Accounts Management (week ending May 22, 2021).

12 IRS, JOC Snapshot Reports, Product Line Detail: Individual Income Tax Services (week ending May 22, 2021).

CSRs have experienced a very difficult year, with an unrelenting volume of calls and the inability to provide specific information on stimulus payment delays or pending refunds. These are difficult conversations to have and difficult for taxpayers to experience. In many cases, CSRs cannot determine the status of a taxpayer's return or pending refund and are doing the best they can. Yet from the taxpayer's perspective, the inability of the IRS to answer calls or provide answers causes frustration and undermines a fundamental taxpayer right — namely, the *right to be informed*.¹³

Each year, Congress appropriates a budget and allocates funds for specific tasks. This year, Congress funded the IRS to provide a 60 percent level of service with its CSRs¹⁴ — meaning it was anticipated that in a normal year, pre-pandemic, CSRs would answer six out of every ten calls routed to them. I believe that percentage, even in a good year, is unacceptable. For future budgets, I urge Congress to provide funding to achieve a level of service closer to 100 percent, and I urge the IRS to continue exploring ways to achieve greater efficiencies with its phone service. In my view, phone assistance is not merely an option or a luxury. The ability to talk with an IRS employee by phone to facilitate tax compliance is a fundamental right and a cornerstone of good tax administration.

Whether a taxpayer needs general information or is responding to an audit or collection notice, the IRS's toll-free lines are often the first or second option — as evidenced by the 167 million taxpayer calls during the filing season. When so few callers can get through to a telephone assistor, problems remain unsolved and taxpayer frustration mounts. While intellectually understandable, this filing season's telephone service was well below acceptable levels, and going forward, increased funding is required even for a “normal” filing season, let alone for a pandemic year.

WITH EXPERIENCE COMES WISDOM

The IRS Can Apply Lessons Learned From the Past Year to Improve Its Operations in the Future

Over the long run, the lessons learned from the pandemic are valuable in helping to identify or reprioritize needs for improved tax administration and taxpayer service. The pandemic exposed weaknesses and vulnerabilities that must be strengthened; it forced the IRS to experiment with new approaches to old problems; it led to a renewed awareness of the impact of cuts to the IRS's budget over the past decade and the IRS's need for additional funding; and it is causing the IRS and congressional overseers to collaborate on steps to improve the IRS's performance going forward to provide taxpayers with the service they deserve.

The following are recommended proactive steps to improve communication between the IRS and its customers:

- **Prioritize the development of accessible, robust online accounts.** The IRS offers an online account option for individual taxpayers, but its usefulness is limited in two ways. First, most taxpayers who try to establish online accounts fail because they cannot pass the e-authentication requirements.¹⁵ Second,

¹³ See IRC § 7803(a)(3)(A).

¹⁴ IRS, Pub. 5530, Budget in Brief Fiscal Year 2021, at 5 (June 2020), <https://www.irs.gov/pub/irs-prior/p5530--2020.pdf>.

¹⁵ IRS, Office of Privacy, Governmental Liaison and Disclosure response to TAS information request (Oct. 13, 2020) (stating that the authentication rate for IRS online applications requiring the highest level of assurance authentication, including online taxpayer accounts, was 42 percent in FY 2020).

the functionality of the accounts is very limited. It is also imperative that the IRS provide robust online accounts for tax practitioners on behalf of taxpayers. For individuals and businesses that have been banking online for two decades or more, the contrast between their online bank accounts and an online IRS account is stark. While the IRS is taking constructive steps to address the authentication issues, we have urged it to prioritize the development of a broadly functional online account that would enable taxpayers and practitioners to interact with the IRS virtually on most issues, just as customers can do with their financial institutions. Such an account not only would improve service for taxpayers who are comfortable with online communications, but it would free up CSRs to assist taxpayers who need or prefer in-person or telephonic communication.¹⁶

- **Expand customer callback technology to all IRS toll-free telephone lines.** Many businesses and federal agencies with large telephone call centers offer customers the option of receiving a callback when the wait time to speak with a CSR is long. The IRS offers this option on some of its telephone lines, but the option is not yet offered on most lines, including the high-volume lines. Providing that option would substantially improve telephone service and the customer experience by reducing the time taxpayers spend waiting on hold and serving as a workload management tool for the IRS. When call volumes are low, telephone assistants can answer calls quickly. When call volumes are high, telephone assistants can call back taxpayers in the order in which their calls are received.¹⁷
- **Reduce barriers to e-filing tax returns.** One of the biggest challenges the IRS has faced over the past year has been processing paper returns. Although more than 90 percent of individual taxpayers now e-file their returns, about ten percent still mail them in on paper. Many of these taxpayers would prefer to file electronically but are prevented from doing so by IRS e-filing limitations. There are three principal limitations: (i) taxpayers sometimes are required to submit statements or other substantiation with their returns, and these attachments generally cannot be e-filed; (ii) some tax forms used by limited numbers of taxpayers are not accepted electronically; and (iii) taxpayers sometimes need to override default entries when preparing their returns with tax software, and some of these overrides render returns ineligible for e-filing. If the IRS addresses these limitations, all taxpayers will have the option of e-filing their returns.¹⁸
- **Utilize scanning technology for individual income tax returns prepared electronically but submitted on paper.** When taxpayers file returns on paper, IRS employees must manually transcribe the data line-by-line into IRS systems. In FY 2020, the IRS received about 17 million individual income tax returns and millions of business and other tax returns on paper. Manually entering data from so many paper returns is an enormous task, and transcription errors are common, particularly on longer returns. Transcription errors result in more work for the IRS and for taxpayers; namely, notices to taxpayers, taxpayer telephone calls, and taxpayer correspondence that must be reviewed and evaluated. Scanning technology is available that would allow the IRS to machine read paper returns and avoid the need for manual data entry. We understand the IRS is exploring the implementation of scanning technology for paper 2020 tax returns. I encourage the IRS to move quickly, as scanning technology will improve

16 For additional background, see National Taxpayer Advocate 2020 Annual Report to Congress 44-59 (Most Serious Problem: *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*).

17 For additional background, see National Taxpayer 2020 Annual Report to Congress 28-43 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Difficulty Reaching IRS Representatives Due to Outdated Information Technology and Insufficient Staffing*).

18 For additional background, see National Taxpayer 2020 Annual Report to Congress 75-83 (Most Serious Problem: *E-Filing and Digitalization Technology: Failure to Expand Digitalization Technology Leaves Millions of Taxpayers Without Access to Electronic Filing and Wastes IRS Resources*).

accuracy and reduce costs, it should be relatively easy to implement, and most important, it will provide taxpayers with better service and quicker refunds.¹⁹

- **Expand digital acceptance and transmission of documents and digital signatures.** The March 2020 closure of IRS offices and mail facilities made it impossible for IRS employees to receive paper documents from taxpayers. As a workaround, the IRS issued temporary guidance that authorizes employees to accept and transmit documents related to the determination or collection of a tax liability by email using an established secured messaging system.²⁰ Employees are also permitted to accept images of signatures (scanned or photographed) and digital signatures on documents related to the determination or collection of a tax liability. We strongly recommend the IRS make these temporary solutions permanent. In addition, the Taxpayer First Act (TFA) requires the IRS to develop guidance to establish uniform standards and procedures for the acceptance of taxpayers' electronic signatures for powers of attorney (Form 2848) and tax information authorizations (Form 8821).²¹ It is my understanding that the first version of this tool is anticipated to go live this summer. The IRS should move forward with additional digital taxpayer services.
- **Offer videoconferencing options to taxpayers.** Videoconference technology allows taxpayers and their authorized representatives to be both seen and heard and to share documents without being physically present. The IRS Independent Office of Appeals offers WebEx technology for virtual face-to-face conferences among taxpayers, representatives, and Appeals Officers. The IRS Office of Chief Counsel and the U.S. Tax Court are also conducting video communications and virtual trials using ZoomGov.com. Although videoconferencing should not replace in-person or telephone conference options, it adds a vital human interaction option to enable communication with taxpayers when appropriate, and it may provide options for taxpayers with difficulty traveling or the inability to take extended time off from work.

My office has recommended the IRS evaluate the feasibility of expanding the use of these technologies to as many taxpayer-facing functions as possible without removing the in-person options for taxpayers. Videoconferencing should continue to be expanded and offered as an option to taxpayers because it can help fill current or future voids in face-to-face service at TACs and in dealing with revenue agents or revenue officers. It can also be an extremely useful tool to supplement correspondence audits, where conversing face-to-face may facilitate a better understanding of the taxpayer's return. In addition, taxpayers who are geographically remote from a TAC and taxpayers with mobility or transportation challenges may find videoconferencing technology more helpful and economical than traveling for an in-person conference.

19 For additional background, see National Taxpayer Advocate 2021 Purple Book 14 (Legislative Recommendation: *Require the IRS to Work with Tax Software Companies to Incorporate Scanning Technology for Individual Income Tax Returns Prepared Electronically But Filed on Paper*).

20 See Memorandum from Sunita B. Lough, Deputy Commissioner, Services and Enforcement, for All Services and Enforcement Employees, Control No. NHQ-01-1120-0004, (1) Approval to Accept Images of Signatures and Digital Signatures [and] (2) Approval to Receive Documents and Transmit Encrypted Documents by Email (Dec. 1, 2020), <https://www.irs.gov/pub/irs-utl/approval-to-accept-images-of-signatures-and-digital-signatures.pdf>; Memorandum from Sunita B. Lough, Deputy Commissioner, Services and Enforcement, for All Services and Enforcement Employees, Control No. NHQ-01-0620-0002, (1) Approval to Accept Images of Signatures and Digital Signatures [and] (2) Approval to Receive Documents and Transmit Encrypted Documents by Email (June 12, 2020), <https://www.irs.gov/pub/foia/ig/spder/nhq-01-0620-0002.pdf>.

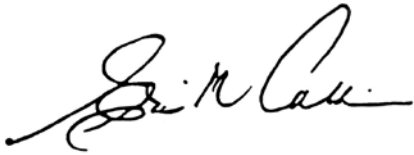
21 Pub. L. No. 116-25, § 2302, 133 Stat. 981, 1013 (2019). For additional background, see National Taxpayer 2020 Annual Report to Congress 75-83 (Most Serious Problem: *E-Filing and Digitalization Technology: Failure to Expand Digitalization Technology Leaves Millions of Taxpayers Without Access to Electronic Filing and Wastes IRS Resources*).

CONCLUSION

I am by nature an optimist, and I believe brighter days in tax administration lie ahead for several reasons. First, as a result of widespread vaccinations, the impact of the COVID-19 pandemic is abating in this country, which will have a positive impact on IRS operations. Second, in responding to directives contained in the TFA, the IRS has developed ambitious plans to improve the taxpayer experience. Third, and critically important, Congress has appropriated additional funding for IRS operations, which will enable the IRS to hire more CSRs and modernize its information technology systems to deliver on its TFA plans to improve taxpayer service.

In the coming months, the IRS must work through its backlog of tax returns and be current in processing its correspondence while focusing on rebuilding itself to become a more efficient and taxpayer-centric organization. In the coming years, the IRS must modernize its operations to better meet taxpayer needs, reduce administrative burdens, and improve the delivery of services. I look forward to working with the IRS leadership and Congress to help ensure that taxpayer rights are protected, taxpayer needs are better met, and taxpayer rights and services are always first and foremost in the mind of our employees as we move forward.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Erin M. Collins". The signature is fluid and cursive, with a large initial "E" and "C".

Erin M. Collins
National Taxpayer Advocate
June 30, 2021

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