

National Taxpayer Advocate delivers Annual Report to Congress; focuses on taxpayer impact of processing and refund delays

IR-2022-11, Jan. 12, 2022

WASHINGTON — National Taxpayer Advocate Erin M. Collins today released her [2021 Annual Report to Congress](#), calling calendar year 2021 “the most challenging year taxpayers and tax professionals have ever experienced.” The report says tens of millions of taxpayers experienced delays in the processing of their returns, and with 77 percent of individual taxpayers receiving refunds, “processing delays translated directly into refund delays.”

The report credits the Internal Revenue Service for performing well under difficult circumstances. Since the start of the pandemic, the IRS, in addition to its traditional work, has implemented significant programs enacted by Congress. Among other things, it has issued 478 million stimulus payments (referred to as Economic Impact Payments or “EIPs”) totaling \$812 billion and has sent Advance Child Tax Credit (AdvCTC) payments to over 36 million families totaling over \$93 billion.

The report says “[t]he imbalance between the IRS’s workload and its resources has never been greater.” Since fiscal year (FY) 2010, the IRS’s workforce has shrunk by 17 percent, while its workload – as measured by the number of individual return filings – has increased by 19 percent. The report reiterates the National Taxpayer Advocate’s longstanding recommendation that Congress provide the IRS with sufficient funding to serve taxpayers well.

Major challenges for taxpayers

“There is no way to sugarcoat the year 2021 in tax administration,” Collins wrote. “The year 2021 provided no shortage of taxpayer problems.”

“While my report focuses primarily on the problems of 2021, I am deeply concerned about the upcoming filing season,” Collins added in releasing the report. “Paper is the IRS’s Kryptonite, and the agency is still buried in it.” As of late December, the IRS had backlogs of 6 million unprocessed original individual returns (Forms 1040), 2.3 million unprocessed amended individual returns (Forms 1040-X), more than 2 million unprocessed employer’s quarterly tax returns (Forms 941 and 941-X), and about 5 million pieces of taxpayer correspondence – with some of these submissions dating back at least to April and many taxpayers still waiting for their refunds nine months later.

Although e-filed returns fared better than paper returns, the report says millions of e-filed returns were suspended during processing due to discrepancies between amounts claimed on the returns and amounts reflected on IRS records. The most common discrepancy involved Recovery Rebate Credit (RRC) claims by taxpayers who did not receive some or all of their stimulus payments as EIPs the prior year. These returns had to be manually reviewed, and the IRS issued more than 11 million math error notices to taxpayers over RRC discrepancies with IRS records. When a taxpayer disagreed with a math error notice and submitted a response, the taxpayer’s response went into the IRS’s paper processing backlog, further delaying the refund.

Collins is concerned that the number of returns suspended and requiring manual processing is likely to be high again in 2022. In March, Congress authorized two advance tax credits that may result in additional discrepancies between amounts claimed on tax returns and in IRS records. It authorized a third round of EIPs that may be claimed as RRCs by taxpayers who did not receive them, and it authorized monthly payments of the Advance Child Tax Credit (AdvCTC) for the second half of 2021, both of which will have to be claimed and/or reconciled on 2021 individual tax returns. The IRS is attempting to minimize discrepancies by sending notices to taxpayers who received EIPs and AdvCTC showing how much they received, but millions of discrepancies – and math error notices – remain likely.



At the postponed filing deadline of May 17, 2021, the IRS was holding 35.3 million tax returns for employee review that consisted of roughly half unprocessed paper returns and half tax returns suspended during processing, leading to refund delays for many of these taxpayers. “Refund delays have a disproportionate impact on low-income taxpayers,” the report says. “Earned Income Tax Credit (EITC) benefits are worth up to \$6,660, Child Tax Credit benefits [were] worth up to \$2,000 per qualifying child under tax year 2020 rules, and RRCs are potentially worth several thousand dollars for families who did not receive some or all of their EIPs. Millions of taxpayers rely on the benefits from these programs to pay their basic living expenses, and when refunds are substantially delayed, the financial impact can range from mild inconvenience to severe financial hardship.”

The report says processing delays led to a cascade of customer service problems:

The IRS’s “Where’s My Refund?” tool often could not answer the question. Taxpayers attempted to check the status of their refunds on IRS.gov more than 632 million times last year, but “Where’s My Refund?” does not provide information on unprocessed returns, and it does not explain any status delays, the reasons for delays, where returns stand in the processing pipeline, or what actions taxpayers need to take, if any. For taxpayers who experienced significant refund delays, the tool often did not do its job.

Telephone service was the worst it has ever been. The combination of processing delays and questions about new programs like the AdvCTC caused call volumes to almost triple from the prior year to a record 282 million telephone calls. Customer service representatives (CSRs) only answered about 32 million, or 11 percent, of those calls. As a result, most callers could not obtain answers to their tax law questions, get help with account problems, or speak with a CSR about a compliance notice. “Among the lucky one in nine callers who was able to reach a CSR, the IRS reported that hold times averaged 23 minutes,” the report says. “Practitioners and taxpayers have reported that hold times were often much longer, and frustration and dissatisfaction was high throughout the year with the low level of phone service.”

The IRS took months to process taxpayer responses to its notices, further delaying refunds. The IRS sent tens of millions of notices to taxpayers during 2021. These included nearly 14 million math error notices, Automated Underreporter notices (where an amount reported on a tax return did not match the corresponding amount reported to the IRS on a Form 1099 or other information reporting document), notices requesting a taxpayer authenticate his or her identity where IRS filters flagged a return as potentially fraudulent, correspondence examination notices and collection notices. In many cases, taxpayer responses were required, and if the IRS did not process a response, its automated processes could take adverse action or not release the refund claimed on the tax return. The IRS received 6.2 million taxpayer responses to proposed adjustments and took an average of 199 days to process them – up from 74 days in FY 2019, the most recent pre-pandemic year.

The ten most serious problems encountered by taxpayers. By statute, the National Taxpayer Advocate is required to identify the ten most serious problems encountered by taxpayers in their dealings with the IRS. This year’s report details the following problems: processing and refund delays; challenges in employee recruitment, hiring, and training; telephone and in-person taxpayer service; transparency and clarity; filing season delays; limitations of online taxpayer accounts; limitations in digital taxpayer communications, including e-mail; e-filing barriers; correspondence audits; and the impact of collection policies on low-income taxpayers. For each problem, the report includes an IRS response.

Taxpayer Advocate Service administrative recommendations to the IRS

The report makes numerous recommendations to address taxpayer problems, including the following:



- **Utilize scanning technology and reduce barriers to e-filing.** The IRS could reduce its backlog of paper tax returns by using scanning technology to machine read returns, as many state tax agencies have been doing for more than ten years. In addition, some taxpayers who try to e-file their returns are blocked for several reasons, including when they need to file certain tax forms that the IRS has not programmed its systems to receive electronically. These Taxpayer Advocate Service (TAS) recommendations would reduce the need for IRS employees to manually transcribe the data from paper returns – the primary cause of the backlog and of transcription errors that led to math error notices and refund delays. For individual taxpayers who filed on paper, the report says “roughly one out of every four returns had a transcription error that could trigger an unwarranted compliance action or an erroneous refund that the IRS might later seek to recover.”
- **Deploy “customer callback” technology on all telephone lines, so taxpayers and tax professionals don’t have to wait on hold and can receive a return call when the next CSR is available.** Customer callback technology is not a cure-all for IRS telephone operations because if the IRS workforce only has the capacity to answer 32 million telephone calls, as it did last year, customer callback will not enable the IRS to handle the 250 million calls that went unanswered. However, many taxpayers call the IRS multiple times before they get through, and if effectively used, customer callback technology could substantially reduce the need for repeat calls.
- **Improve online taxpayer accounts and allow taxpayers to communicate with the IRS routinely by secure email.** The report says online taxpayer accounts are plagued by limited functionality. For example, taxpayers generally cannot use their online accounts to view images of past tax returns, most IRS notices, or proposed assessments; file documents; or update their addresses. Similarly, the IRS generally does not communicate with taxpayers by email. Limitations on communicating with the IRS electronically frustrate taxpayers who have been conducting comparable transactions with financial institutions for more than two decades. This increases the number of telephone calls and pieces of correspondence the IRS receives and leads to more paper processing delays.
- **Create and update a weekly “dashboard” on IRS.gov to provide the public with specific information about delays.** The IRS has created a webpage, [IRS Operations During COVID-19: Mission-critical functions continue](#), that provides certain high-level information. However, it does not provide detailed information on processing backlogs, saying for amended returns only that “[t]he current timeframe can be more than 20 weeks.” It does not provide detailed information on correspondence backlogs, saying only that processing mail “is taking longer than usual,” and “[t]he exact timeframe varies depending on the type of issue.” It does not provide information on recent telephone delays, even though doing so would give taxpayers a better sense of whether they should devote the time to calling. TAS recommends that the IRS post a filing season dashboard, updated at least weekly, that lists each category of work and the length of time it is taking to complete it. This should include the number of weeks to process original paper tax returns and amended paper tax returns, the number of weeks to process math error and other taxpayer correspondence by category, and the percentage of taxpayers who called the IRS the previous week and reached an employee.

National Taxpayer Advocate “Purple Book” of legislative recommendations

The National Taxpayer Advocate’s 2022 Purple Book proposes 68 legislative recommendations for consideration by Congress. Among them are the following:

- **Provide sufficient funding for the IRS to improve taxpayer service and modernize its information technology systems.** The IRS receives its annual appropriation in four accounts: Taxpayer Services, Enforcement, Operations Support, and Business Systems Modernization.

During the past year, there has been considerable discussion about substantially increasing funding for the Enforcement account and related activities in the Operations Support account. To address taxpayer problems identified in this report, TAS recommends that Congress substantially increase funding for the Taxpayer Services account.

- **Extend the period for receiving refunds when the IRS postpones the tax filing deadline.** When a taxpayer files a timely refund claim, the IRS generally is permitted to refund only amounts paid within the preceding three years. If a taxpayer files a return on April 15 in Year 1, the IRS generally may issue a refund until April 15 in Year 4. In 2020, the IRS postponed the filing deadline for tax year 2019 tax returns from April 15 to July 15 due to the COVID-19 pandemic. Taxpayers who filed their returns on July 15, 2020, may reasonably believe they have until July 15, 2023, to obtain full refunds. However, income tax withholding and estimated tax payments for tax year 2019 are deemed paid on April 15, 2020. As a result, refund claims filed after April 15, 2023, will be limited to the amounts taxpayers paid or were deemed to have paid by April 15, 2020. A similar issue will arise in 2024 because the IRS postponed the 2021 filing deadline to May 17. This result was not anticipated and will prevent some taxpayers from receiving the full refunds to which they are otherwise entitled. TAS recommends Congress clarify that a postponement of the filing deadline extends the lookback period for paying refunds.
- **Authorize the IRS to establish minimum standards for paid tax return preparers.** Most taxpayers hire tax return preparers to complete their returns, and visits to preparers by Government Accountability Office and Treasury Inspector General for Tax Administration auditors posing as taxpayers, as well as IRS compliance studies, have found paid preparers make significant errors that both harm taxpayers and reduce tax compliance. Ten years ago, the IRS sought to implement minimum preparer standards, including requiring otherwise non-credentialed preparers to pass a basic competency test, but a federal court concluded the IRS could not do so without statutory authorization. TAS recommends Congress provide that authorization.
- **Expand the U.S. Tax Court's jurisdiction to hear refund cases.** Under current law, taxpayers who owe tax and wish to litigate a dispute with the IRS must go to the U.S. Tax Court, while taxpayers who have paid their tax and are seeking a refund must file suit in a U.S. district court or the U.S. Court of Federal Claims. The Tax Court is an easier forum to navigate, and it has established relationships with the Low Income Taxpayer Clinics and other pro bono programs that assist taxpayers when they litigate their cases in Tax Court. TAS recommends that taxpayers be given the option to litigate all tax disputes in the U.S. Tax Court.
- **Restructure the Earned Income Tax Credit (EITC) to make it simpler for taxpayers and reduce improper payments.** TAS has long advocated for dividing the EITC into two credits: (i) a refundable worker credit based on each individual worker's earned income unrelated to the presence of qualifying children and (ii) a refundable child credit. For wage earners, claims for the worker credit could be verified with nearly 100 percent accuracy by matching claims on tax returns against Forms W-2, reducing the improper payments rate on those claims to nearly zero. The portion of the EITC that currently varies based on family size would be combined with a child credit into a larger family credit. The National Taxpayer Advocate published [a report](#) making this recommendation in 2019, and TAS continues to advocate for it.
- **Expand the protection of taxpayer rights by strengthening the Low Income Taxpayer Clinic (LITC) program.** The LITC program effectively assists low-income taxpayers and taxpayers who speak English as a second language. When the LITC grant program was established in 1998, the law limited annual grants to no more than \$100,000 per clinic. The law also imposed a 100 percent "match" requirement (meaning a clinic cannot receive more in LITC grant funds than it is able to match on its own). The nature and scope of the LITC program has evolved considerably since 1998, and those requirements are preventing the program from providing high quality assistance to eligible taxpayers. TAS recommends that Congress remove the per-clinic cap and allow the IRS



to reduce the match requirement to 50 percent where doing so would provide coverage for additional taxpayers.

Other sections in the report

The report contains a taxpayer rights assessment that presents performance measures and other relevant data, a description of TAS's case advocacy operations during FY 2021, a summary of key TAS systemic advocacy accomplishments, and a discussion of the ten federal tax issues most frequently litigated during the preceding year. The section on most litigated tax issues for the first time contains an analysis of substantially all cases petitioned in the Tax Court rather than simply decided cases, providing a much broader view of issues taxpayers bring to court. Also for the first time, the report includes a section titled "At a Glance," which provides concise summaries of the ten "most serious problems." It is intended to give readers a quick overview of each issue so they can decide which ones they want to read about in depth.

Please visit <https://www.taxpayeradvocate.irs.gov/AnnualReport2021> for more information.

Related items:

- [Complete Report: 2021 Annual Report to Congress](#)
- [Executive Summary](#)
- [Purple Book](#)

About the Taxpayer Advocate Service

TAS is an *independent* organization within the IRS that helps taxpayers and protects taxpayer rights. Your local advocate's number is available in your local directory and at <https://taxpayeradvocate.irs.gov/contact-us>. You may also call TAS toll-free at 877-777-4778. TAS can help if you need assistance resolving an IRS problem, if your problem is causing financial difficulty, or if you believe an IRS system or procedure isn't working as it should. And our service is free. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to <https://taxpayeradvocate.irs.gov>. You can get updates on tax topics at facebook.com/YourVoiceAtIRS, [Twitter.com/YourVoiceatIRS](https://twitter.com/YourVoiceatIRS) and YouTube.com/TASNTA.