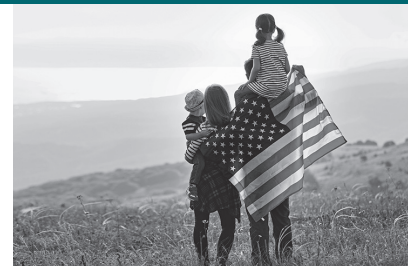


# National Taxpayer Advocate **OBJECTIVES REPORT TO CONGRESS**

Fiscal Year 2023



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## National Taxpayer Advocate's Introductory Remarks

I began my service as the National Taxpayer Advocate in March 2020 – just as the IRS and much of society were shutting down due to the COVID-19 pandemic. Since that time, the effects of the pandemic have brought challenges and opportunities that have affected virtually all facets of tax administration. Today, the IRS is still working to resolve an unprecedented backlog of unprocessed paper tax returns and returns with suspected errors or suspected identity theft; taxpayers are still experiencing unprecedented delays in receiving their refunds; taxpayers continue to face unprecedented challenges in reaching the IRS by phone; and the IRS's unprecedented delays in processing correspondence are contributing to additional refund delays and taxpayer frustrations.

In my Objectives Report to Congress last June, I wrote that the 2021 filing season “was perhaps the most challenging filing season taxpayers and the IRS have ever experienced.” When I released my Annual Report to Congress six months ago, I wrote that “Paper is the IRS's Kryptonite, and the agency is still buried in it.” Fast forward to this Objectives Report: It's Groundhog Day.

At the end of May, the IRS had a larger backlog of paper tax returns than it did a year ago, and its pace of processing paper tax returns was slowing. That the backlog continues to grow is deeply concerning, primarily because millions of taxpayers have been waiting six months or more to receive their refunds.

The IRS's paper processing delays were evident more than a year ago, and the IRS could have addressed them more aggressively at that time.<sup>1</sup> Had the IRS taken steps a year ago to reassign current employees to processing functions, it could have reduced the inventory backlog carried into this filing season and accelerated the payment of refunds to millions of taxpayers. Had the IRS implemented 2-D barcoding, optical character recognition, or similar technology in time for the 2022 filing season, it could have reduced the need for employees to engage in the highly manual task of transcribing paper tax returns. Had the IRS quickly used some of the \$1.5 billion of additional funds provided by the American Rescue Plan Act of 2021 (ARPA), which was enacted 15 months ago, to hire and train additional employees, it could have worked through the backlog, answered more taxpayer telephone calls, and otherwise improved taxpayer service.<sup>2</sup> These were missed opportunities.

In fairness, the agency has multiple taxpayer service, information technology (IT), and enforcement priorities and limited resources to allocate among them. The IRS's technology needs are well known, and it originally intended to use the three-year supplemental ARPA funding it received to complete much-needed IT upgrades and accelerate functionality. These projects include modernizing its Individual Master File, robotics process automation/intelligent automation, a workforce infrastructure initiative, digitalization, Enterprise Case Management, Enterprise Data Platform, and Information Returns Modernization, and increasing the functionality of its online taxpayer accounts.

During the pandemic, Congress entrusted the IRS to help taxpayers by delivering three rounds of Economic Impact Payments (EIPs) and monthly Advance Child Tax Credit (AdvCTC) payments to tens of millions of taxpayers. IRS employees should be proud of what they were able to accomplish in this regard while navigating various obstacles.

In addition, the IRS has taken certain steps this year to work through its paper backlog, it has paused automated notices, it has been encouraging and educating taxpayers to file electronically, and it has worked with numerous external stakeholders to get the word out to taxpayers about EIPs and the AdvCTC. It has reassigned some employees to its processing functions, and it is making use of “direct-hire” authority provided by Congress so it can bring on employees more quickly. And earlier this year, it reallocated a portion of the ARPA funds from future IT projects to cover some of the cost associated with the backlog.



The IRS has committed to reduce the paper tax return backlog to a “healthy” level by the end of the 2022 calendar year. I am pleased the IRS leadership has made this commitment because it strengthens its message that this is a top agency priority. However, it will be a difficult commitment to achieve.

As detailed below, the IRS currently has a paper tax return backlog of over 21 million returns – slightly larger than its backlog of unprocessed paper returns at this time last year. That is because its pace of processing paper tax returns has not kept up with new receipts. The IRS’s difficulty in processing original individual income tax returns (Forms 1040), a portion of the backlog, illustrates its challenges most vividly. As of late May, the IRS had a known backlog of 8.2 million paper Forms 1040, and it may end up receiving as many paper tax returns this year as it received last year (17 million).

Processing has been comparatively slow. As of April 29, the IRS had processed a weekly average of 242,000 paper Forms 1040 over the preceding four weeks. As of May 27, the IRS had processed a weekly average of 205,000 paper Forms 1040 over the preceding four weeks.<sup>3</sup> That represents a productivity decline of 15 percent from April to May. If the IRS were to process paper Forms 1040 at its current rate of 205,000 per week over a 52-week year, it would only process 10.7 million returns in a full year. To work through its current Form 1040 paper inventory and the additional Form 1040 paper returns it will receive as we approach the extended filing deadline of October 15, the IRS would have to process far more than 10.7 million returns – and do it in less than half a year. It likely would have to process well over 500,000 Forms 1040 per week to eliminate the backlog this year. The math is daunting.

To work through the backlog more quickly, the IRS has several options: hire more employees to transcribe paper tax returns in its Submission Processing function; find a way to transfer data transcription duties to its Accounts Management function; utilize contractors; implement scanning technology to machine-read paper returns; or undertake some combination of these steps. At present, paper tax returns are only transcribed in three Submission Processing locations (Austin, Kansas City, and Ogden). The IRS has had difficulty hiring in those cities. The IRS set a hiring goal of 5,473 employees in Submission Processing this year, but as of May 27, it had only onboarded 2,056 employees – 3,417 short of its goal.

The IRS’s Accounts Management function is not currently able to process paper returns, but because its employees are not limited to those three locations, the IRS has been able to hire employees in that function much more successfully. It has onboarded 4,938 employees in Accounts Management – which constitutes 99 percent of its hiring goal of 5,000 employees. There are many obstacles to transferring data transcription duties to Accounts Management or contractors, including taxpayer confidentiality concerns, but if the IRS cannot solve the problem in other ways, those are options it will need to explore.

The other step the IRS can take is to automate the transcription of paper tax returns. Today, the digits on every paper return must be manually keystroked into IRS systems by an employee. In the year 2022, that doesn’t just *seem* crazy. It *is* crazy. In March, I issued a Taxpayer Advocate Directive (TAD) directing the IRS to implement 2-D barcoding or other scanning technology for next year so data from paper returns can be machine-read.<sup>4</sup> In my view, the data intake process needs to be automated in time for the 2023 filing season.

In making its commitment to achieve “healthy” inventory levels by year end, the IRS did not define how it will measure “healthy.” I believe the most important metric is the refund delivery period. Historically, the IRS has paid refunds resulting from paper-filed returns within four to six weeks. Refunds are now taking six months or longer for taxpayers who filed paper returns or whose e-filed returns have been held up in processing. From a taxpayer perspective, returning to a four- to six-week refund delivery period is a reasonable definition of “healthy.”

## THE GOOD NEWS

For the overwhelming majority of taxpayers who e-filed tax returns, the filing season went smoothly. We estimate that more than 85 percent of individual taxpayers e-filed their federal income tax returns and either received the refunds they claimed or paid any balance due without issue.<sup>5</sup> At the end of the filing season, the IRS reported it had received about 139 million individual income tax returns and had issued refunds to 89 million taxpayers, or 64 percent.<sup>6</sup> By late May, those numbers had increased to 145 million receipts and 96 million refunds, or 66 percent.<sup>7</sup>

The IRS's leadership and its employees deserve credit for successfully processing such a high percentage of returns despite an extraordinarily complicated tax code, notoriously antiquated technology programs (Individual Master File and Business Master File), inadequate staffing, lingering challenges resulting from the COVID-19 pandemic, and significant changes in law the IRS was required to implement on short notice – most notably the AdvCTC. Despite these challenges, the tax system, as a whole, has held up well during the past two years.

The IRS also deserves credit for more quickly processing returns sent to its Error Resolution System (ERS), which resolves disparities between the amounts claimed on tax returns and amounts reflected on IRS records. Refunds are not paid on returns pending in ERS until disparities are resolved. At the close of the 2021 filing season, the ERS inventory stood at 10.3 million returns, most involving Recovery Rebate Credit (RRC) disparities.<sup>8</sup> In an effort to reduce these disparities, the IRS took several steps. One was to send letters to recipients of EIPs and AdvCTC payments to let them know the amounts of the payments they received according to IRS records and to update each taxpayer's Online Account with the same information.<sup>9</sup> While IRS records are not correct in all cases, they are mostly accurate, and the hope was that providing this information to taxpayers in advance of filing would reduce disparities and eliminate delays.

A second step was to automate the review of most RRC and AdvCTC disparities, as ERS's review of RRC disparities had required employee review in 2021. These steps made a big difference. At the close of the 2022 filing season, the ERS inventory stood at 1.6 million returns – a reduction of nearly 85 percent as compared with 2021.<sup>10</sup> This means that millions of taxpayers received timely refunds who would have experienced delays under last year's procedures.

## THE BAD NEWS

Notwithstanding the IRS's efforts and despite some notable improvements, millions of taxpayers have continued to experience lengthy refund delays, and getting in touch with the IRS has remained very difficult.

### Backlog in Processing of Paper Tax Returns

A year ago, it was clear the biggest challenge the agency faced was processing its backlog of paper tax returns, suspended returns that required manual processing, and paper correspondence. A year later, not enough progress has been made. For the week ending May 22, 2021, the backlog of unprocessed paper tax returns stood at 20 million. At the end of May of this year, the backlog had increased to 21.3 million.

For the week ending May 27, 2022, the backlog included 10.5 million known individual returns, 7.4 million known business returns, and 3.4 million returns that the IRS had not yet been able to classify as individual or business returns. Figure 1 compares the unprocessed backlog inventory from May 2021 with the unprocessed backlog inventory from May 2022.

**FIGURE 1, Status of Unprocessed Paper Tax Returns Comparing Weeks Ending May 22, 2021, and May 27, 2022<sup>11</sup>**

	Individual	Business	Not Specified	Total
<b>Paper Returns Awaiting Processing – 2021</b>				
Original Returns	6,100,000	5,600,000	5,100,000	16,800,000
Amended Returns	2,700,000	500,000	-	3,200,000
<b>Total Paper Returns Awaiting Processing</b>	<b>8,800,000</b>	<b>6,100,000</b>	<b>5,100,000</b>	<b>20,000,000</b>
<b>Paper Returns Awaiting Processing – 2022</b>				
Original Returns	8,200,000	6,500,000	3,400,000	18,100,000
Amended Returns	2,300,000	900,000	-	3,200,000
<b>Total Paper Returns Awaiting Processing</b>	<b>10,500,000</b>	<b>7,400,000</b>	<b>3,400,000</b>	<b>21,300,000</b>

As Figure 1 shows, the backlog of paper tax returns classified as individual returns has grown from 8.8 million to 10.5 million – an increase of 19 percent. The backlog of paper tax returns classified as business returns has grown from 6.1 million to 7.4 million – an increase of 21 percent. Assuming the 3.4 million unclassified returns are ultimately classified in proportion to the current count of individual and business returns (*i.e.*, 59 percent are individual returns and 41 percent are business returns), the individual backlog is about 12.5 million, and the business backlog is about 8.8 million.

These delays matter because most taxpayers receive refunds, and when the IRS is delayed in processing returns, taxpayers cannot get access to the funds claimed on those returns. During 2021, 77 percent of individual taxpayers received refunds.<sup>12</sup> With an estimated 12.5 million unprocessed individual returns, it is likely that nearly nine million individual taxpayers are experiencing refund delays because of the backlog. While the impact on the business side is more difficult to quantify due to the variety of business tax returns, many business taxpayers are also awaiting refunds, and some have been waiting extended periods to receive Employee Tax Credits for which they are eligible.

### Delays in Processing Taxpayer Correspondence

During the 2022 filing season, the IRS sent taxpayers tens of millions of notices.<sup>13</sup> These included 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 third-party information return), notices requesting a taxpayer authenticate his or her identity (where IRS security filters flagged a return as potentially filed by an identity thief), correspondence examination notices, and collection notices. If 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.

When a taxpayer receives a notice and is requested to respond or chooses to respond, the taxpayer must generally do so by mail. Through May 21, the IRS processed five million taxpayer responses to proposed adjustments, and it took an average of 251 days to do so – more than eight months. That's more than triple the processing time of 74 days in fiscal year (FY) 2019, the most recent pre-pandemic year.<sup>14</sup> When a math error or similar notice is generated in connection with a paper-filed tax return, the combination of the return processing delay and the correspondence processing delay may mean that the taxpayer must wait well over a year to get the issue resolved and receive the refund due. Earlier this year, the IRS suspended the issuance of automated notices, which should decrease future correspondence requiring processing and eliminate some taxpayer confusion.<sup>15</sup>

In addition, there are currently over 336,000 taxpayers who could not file their returns or receive their refunds because identity thieves had already filed a return using their identifying information.<sup>16</sup> These taxpayers must submit affidavits and other documentation to substantiate their identities. They now generally must wait at least a year to receive their refunds. The IRS website states: “[D]ue to extenuating circumstances caused by the pandemic our identity theft inventories have increased and on average it is taking about 360 days to resolve identity theft cases.”<sup>17</sup>

### Difficulty Reaching the IRS by Phone

The IRS's telephone service has continued to be unacceptably poor. In 2021, the IRS received 167 million calls during the filing season. Telephone assistants answered nine percent, and hold times averaged 20 minutes.<sup>18</sup> This filing season, the IRS received 73 million calls, telephone assistants answered ten percent, and hold times averaged 29 minutes.<sup>19</sup>

**FIGURE 2, IRS Enterprise Telephone Results Comparing Weeks Ending May 21, 2021, and April 23, 2022**

Filing Season	Calls Received	Number of Calls Answered by an IRS Employee	Percentage of Calls Answered by an IRS Employee	Time on Hold
2021	167 million	15.7 million	9%	20 minutes
2022	73 million	7.5 million	10%	29 minutes

In ordinary times, if calls dropped by more than half from one year to the next and staffing remained relatively constant, IRS employees predictably would answer about double the percentage of calls in the second year. But that didn't happen because Accounts Management employees perform double duty – they answer most of the telephone lines, and they also process taxpayer correspondence, including some amended returns. To help reduce the correspondence backlog, the IRS made the decision to shift employees toward processing correspondence and away from the phones. I agree with and applaud that decision. The IRS must get current on processing returns, refunds, and correspondence. However, the allocation of more employees to handle correspondence has made the IRS as hard to reach as last year, with nine out of ten calls not reaching an employee.

Not surprisingly, the IRS has been ranked poorly in two leading customer satisfaction surveys. The American Customer Satisfaction Index's ranking of federal agencies placed the Treasury Department, which interacts with the public primarily through the IRS, “dead last.”<sup>20</sup> Forrester Research's U.S. Customer Experience Index ranked 221 companies and federal agencies and similarly found the IRS ranked last among all brands and agencies in customer satisfaction. The Forrester report also noted that the IRS score suffered one of the steepest year-over-year declines.<sup>21</sup>

The combination of more than 21 million unprocessed paper tax returns, more than 14 million math error notices,<sup>22</sup> eight-month backlogs in processing taxpayer correspondence, and extraordinary difficulty reaching the IRS by phone has made this filing season particularly challenging. At the end of the day, a typical taxpayer cares most about receiving his or her refund timely. Particularly for lower income taxpayers who receive Earned Income Tax Credit benefits, their refunds may constitute a significant percentage of their household income for the year. Thus, these processing delays are creating unprecedented financial difficulties for millions of taxpayers and outright hardships for many.

### TAS OBJECTIVES

As required by law, this report describes the key objectives of the Office of the Taxpayer Advocate for the upcoming fiscal year. In light of the challenges taxpayers have been facing over the last two years, we will be



placing heavy emphasis on working with the IRS to improve the processing of tax returns and taxpayer service generally. Among our priorities are the following:

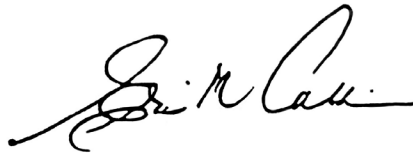
- **Automating the processing of paper tax returns.** On March 29, as discussed above, I issued a TAD directing the IRS to implement scanning technology by the start of the 2023 filing season so that paper tax returns can be machine-read and employees will not have to keystroke each digit on the return into IRS systems.<sup>23</sup> After obtaining an extension for responding, the IRS's answer to my TAD is now due on Monday, June 27. Although IRS leaders have indicated they are not likely to implement 2-D barcoding, I strongly urge them to implement a plan to achieve automation of paper processing in time for the next filing season. Doing so is critical. In the year 2022, it is unacceptable that the agency is still paying thousands of employees to keystroke the data from millions of tax returns, digit by digit, into IRS systems – creating the current processing backlog and producing an error rate in transcribing individual returns last year of 22 percent.<sup>24</sup>
- **Reducing barriers to e-filing tax returns.** Some taxpayers still prefer to file paper tax returns. However, many paper filers, perhaps the majority, would prefer to e-file their returns but are not able to do so. Among the barriers: some taxpayers must file IRS forms that the IRS does not accept through its e-file system; some taxpayers must include attachments (e.g., appraisals or disclosure statements) that cannot be filed by their tax software packages; some software packages block returns from e-file if the taxpayer overrides certain entries; IRS systems reject certain returns during the e-file process and require affected taxpayers to mail the return instead; and some taxpayers live in areas of the country without broadband internet access or lack computer access and thus face greater difficulty in preparing and e-filing their returns. The IRS must reduce e-filing barriers so that more taxpayers can e-file, and there will be fewer paper tax returns to transcribe or scan.
- **Improving the IRS's hiring and training processes.** In FY 2022, Congress increased the IRS's overall budget by almost six percent and the taxpayer services portion of the budget by nearly nine percent.<sup>25</sup> Many of the IRS's challenges stem from inadequate staffing, including limited staffing in Submission Processing and telephone call centers. Hiring and adequately training new employees will enhance the taxpayer experience.
- **Improving telephone service.** Some taxpayer issues may be resolved through technology channels, and enhancing those channels must be a priority. But some issues are best resolved through a conversation, and some taxpayers are not comfortable with technology. It is critical that taxpayers be able to reach the IRS by phone. As discussed above, IRS employees were only able to answer ten percent of taxpayer telephone calls this filing season. If a private company failed to answer nine out of ten customer calls, customers would go elsewhere. That, of course, is not an option for U.S. taxpayers, so it is critical that the IRS increase staffing in its telephone call centers to handle the volume of calls it receives.
- **Enhancing online accounts and digital communication.** Just as most Americans use online accounts to conduct financial transactions and communicate electronically with service providers, taxpayers and their representatives should have the option of conducting business with the IRS from their computers – without having to wait on hold for telephone service and without having to exchange correspondence. The IRS has had IT plans for many years that set this as a goal. From a taxpayer perspective, it is critical that the IRS make it a reality.

TAS does not have the authority to make changes to IRS systems and processes on its own. Our effectiveness depends on working with the IRS to make administrative changes and, when necessary, working with Congress to make legislative changes. TAS serves on numerous cross-functional teams within the IRS, and through these teams and regular meetings with senior IRS leaders, we seek to persuade the IRS to adopt our recommendations to improve taxpayer service, strengthen taxpayer rights, and enhance tax administration. In our 2021 Annual Report to Congress, we made 88 administrative recommendations. I am pleased to report that the IRS has agreed to adopt 61 of them. The IRS's detailed responses are posted on our website at <https://www.taxpayeradvocate.irs.gov/arc-recommendations-tracker>.

Despite the challenges of the last two years, I remain optimistic that significant improvements in tax administration are on the way. The IRS, after many years of tight budgets, has now been given significant additional funding. The direct-hire authority recently authorized by Congress will allow the IRS to bring on new employees more quickly. And the challenges presented by the pandemic have brought into stark view the vulnerabilities of the IRS's over-reliance on paper tax return processing, paper correspondence processing, and telephone operations, while highlighting the dire need to modernize the agency's technology. Modernization is needed both for the IRS's internal operations and its taxpayer-facing operations – not as a replacement for personal service but as an attractive option that will substantially reduce taxpayer demand for personal service and increase trust in the agency.

Over the coming year, I look forward to working with the IRS and with Congress to improve tax administration, and while doing so, ensuring that taxpayer rights and taxpayer service remain top of mind.

Respectfully submitted,



Erin M. Collins  
National Taxpayer Advocate  
June 22, 2022

## Endnotes

- 1 Although I was not the only voice calling attention to these problems, I note that I highlighted the IRS's processing delays in a three-part series of blogs dating back to April 2021, in congressional testimony in May 2021, and in my FY 2022 Objectives Report to Congress in June 2021. See Erin M. Collins, 2021 Filing Season Bumps in the Road, NATIONAL TAXPAYER ADVOCATE BLOG (Part I posted on Apr. 22, 2021; Part II posted on Apr. 27, 2021; Part III posted on June 29, 2021), <https://www.taxpayeradvocate.irs.gov/taxnews-information/blogs-nta>; *Internal Revenue Service: Narrowing the Tax Gap and Improving Taxpayer Services: Hearing Before the Subcomm. on Financial Services and General Government of S. Comm. on Appropriations*, 117th Cong. (May 19, 2021) (statement of Erin M. Collins, National Taxpayer Advocate), <https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/05/National-Taxpayer-Advocate-Testimony-Senate-Approps-FSGG-Hearing-5-19-2021.pdf> ("Technology is available that would allow the IRS to machine-read paper returns and avoid the need for manual data entry. One option is 2-D barcoding... I encourage the IRS to move quickly. Scanning technology will improve accuracy and reduce costs, and it should be relatively easy to implement."); National Taxpayer Advocate FY 2022 Objectives Report to Congress (*Preface*).
- 2 ARPA, Pub. L. No. 117-2, § 9601(d), 135 Stat. 4, 144 (2021) (providing supplemental funding of almost \$1.5 billion for the IRS to use, in its discretion, for any of several purposes, including "the provision of taxpayer assistance").
- 3 IRS, Wage & Investment Division (W&I) data (as of May 27, 2022).
- 4 TAD 2022-1, Implement Scanning Technology to Machine Read Paper Tax Returns and Address the Paper Return Backlog (Mar. 29, 2022), <https://www.irs.gov/pub/irs-utl/tad-2022-1-memo-from-nta.pdf>.
- 5 The IRS received 139 million returns during the filing season ending April 18. It has received about eight million paper returns, and it has issued about 14 million math error notices to taxpayers, of which more than 11 million decrease the taxpayer's refund or create a balance due. See IRS, Compliance Data Warehouse (CDW), Individual Returns Transaction File (math error data as of Apr. 28, 2022).
- 6 IRS, Filing Season Statistics for Week Ending April 22, 2022, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-22-2022>.
- 7 IRS, Filing Season Statistics for Week Ending May 20, 2022, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-may-20-2022>.
- 8 IRS, W&I data (week ending May 21, 2021).
- 9 See IRS, IR-2021-255, IRS issues information letters to Advance Child Tax Credit recipients and recipients of the third round of Economic Impact Payments; taxpayers should hold onto letters to help the 2022 Filing Season experience (Dec. 22, 2021), <https://www.irs.gov/newsroom/irs-issues-information-letters-to-advance-child-tax-credit-recipients-and-recipients-of-the-third-round-of-economic-impact-payments-taxpayers-should-hold-onto-letters-to-help-the-2022-filing-season>.
- 10 IRS, W&I data (week ending Apr. 22, 2022).
- 11 IRS, W&I data (weeks ending May 22, 2021, and May 27, 2022). Taxpayers may e-file amended individual returns, but once received, the IRS processes them as if they were paper tax returns. We therefore include them in the paper backlog inventory. In addition to the unprocessed paper tax return backlog, the IRS has a backlog of 5.4 million returns suspended during processing and 5.3 million cases pending in its Accounts Management function (excluding amended returns). Therefore, the total processing backlog as of the end of May was about 32 million returns.

- 12 IRS, Filing Season Statistics for Week Ending December 3, 2021, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-3-2021>.
- 13 IRS, CDW, Notice Delivery System (May 9, 2022).
- 14 IRS, Research Analysis and Data, Accounts Management Reports: Collection Information System (CIS) Closed Case Cycle Time (FY 2022 through May 21, 2022, and FY 2019).
- 15 See IRS, IR-2022-31, IRS continues work to help taxpayers; suspends mailing of additional letters (Feb. 9, 2022), <https://www.irs.gov/newsroom/irs-continues-work-to-help-taxpayers-suspends-mailing-of-additional-letters>.
- 16 IRS, CAS Accounts Management Paper Inventory Reports, IDTVA (Identity Theft Victim Assistance) Report (week ending June 4, 2022).
- 17 IRS, W&I data (as of May 27, 2022); IRS, IRS Operations During COVID-19, Mission-critical Functions Continue: Victims of Identity Theft who Sent a Form 14039 or 14039-B, Identity Theft Affidavit, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited June 7, 2022).
- 18 IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot/Enterprise Total (week ending May 21, 2021).
- 19 IRS, JOC, Snapshot Reports: Enterprise Snapshot/Enterprise Total (week ending Apr. 23, 2022).
- 20 American Customer Satisfaction Index, *Federal Government Report 2021*, at 3 (2022).
- 21 Katie Deighton, *Customer Experience Is Getting Worse*, WALL ST. J. (June 7, 2022).
- 22 IRS, IRS Math Error Report for CY 2022, Cycle 21 (as of May 26, 2022).
- 23 TAD 2022-1: Implement Scanning Technology to Machine Read Paper Tax Returns and Address the Paper Return Backlog (Mar. 29, 2022), <https://www.irs.gov/pub/irs-utl/tad-2022-1-memo-from-nta.pdf>.
- 24 IRS response to TAS information request (Sept. 16, 2021).
- 25 Compare Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, Div. E, Title I (2022) with Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182, 1385 (2020) (increasing the overall IRS appropriation from approximately \$11.9 billion to \$12.6 billion and the Taxpayer Services account from approximately \$2.6 billion to \$2.8 billion).

## INTRODUCTION

The IRS timely processed the original returns of most taxpayers who filed electronically without any errors. When the returns included direct deposit information, taxpayers received refunds promptly. However, for millions of taxpayers who had inconsistencies or errors in their returns or who filed paper returns, the 2022 filing season<sup>1</sup> was not much better than last year, and these taxpayers will be waiting for refunds for six months or longer. At the end of the 2022 filing season, the IRS and taxpayers still faced long delays in processing paper original returns, electronic returns with inconsistencies, and electronic- and paper-filed amended returns, as well as the backlog of correspondence the IRS still needed to address from 2021 plus the 2022 correspondence. The high level of backlog and the corresponding delays have strained the IRS, its employees, and most importantly, taxpayers.

As of April 22, 2022, the IRS had 2.3 million paper tax returns filed in 2021 that it still needed to process.<sup>2</sup> Because the IRS processes returns on a first-in, first-out basis, it will not begin processing the paper returns filed in 2022 until it processes the 2021 paper returns. In other words, any taxpayer who chose to file or who was required to file a paper return will not see his or her refund until the IRS catches up on its prior paper backlog. As of this writing, it is anticipated that the IRS will be caught up with the 2021 paper tax filings by the end of June 2022, at which point it will begin processing the paper returns filed beginning January 24, 2022.

Before we discuss the problems encountered in the 2022 filing season, I want to credit the IRS for doing a lot right under difficult circumstances. In fairness, each year the agency has multiple taxpayer service, information technology (IT), and enforcement priorities and limited resources to allocate among them. The extraordinarily high return processing and correspondence backlogs we have seen over the past two years did not exist before the pandemic. The pandemic forced the IRS to temporarily shut down its processing facilities for the health and safety of employees. That, in turn, caused the IRS to fall behind on its inventories. Over the last two years, IRS inventories snowballed into unprecedented delays and challenges, and the IRS is still struggling to catch up. Adding further complexity, during the pandemic, Congress directed the IRS to administer several financial relief programs that required the IRS to divert resources from its tax administration work, straining its resources even more. These challenges are a few of the reasons that taxpayers are waiting unusually long for their refunds. Although understandable, it is not acceptable for such unreasonable delays in taxpayers' refunds.

### January 24, 2022 – Opening of the Filing Season

The IRS began accepting tax year 2021 returns for processing on January 24, 2022, and the filing season closed on April 18, 2022.<sup>3</sup> The 2022 filing season was the first “normal” tax filing season since 2019, at least in the sense that the filing season period reverted to the traditional dates. However, normalcy is relative – the IRS and taxpayers are still dealing with significant challenges stemming from the COVID-19 pandemic culminating in delays and frustrations for millions of taxpayers.

## FILING SEASON PERFORMANCE

Of the nearly 139 million individual returns that the IRS received in the 2022 filing season, 96 percent were filed electronically.<sup>4</sup> Figure 1 presents an overview of returns processed and refunds issued during the past four filing seasons. Because the 2020 and 2021 filing seasons were such an aberration due to the impact of the pandemic, we will compare 2022 filing season data to 2019 filing season data, where available.

**FIGURE 1, Comparing Filing Season Weeks Ending April 19, 2019; July 17, 2020; May 21, 2021; and April 22, 2022<sup>5</sup>**

		2019	2020	2021	2022	Percent Change 2019-2022
Individual Income Tax Returns	Total Receipts	137,233,000	151,782,000	148,012,000	138,942,000	1.2%
	Total Processed	130,775,000	145,464,000	135,773,000	133,773,000	2.3%
E-Filing Receipts	Total e-Filing	126,264,000	143,379,000	138,563,000	133,410,000	5.7%
	Tax Professionals	70,476,000	73,806,000	74,195,000	70,509,000	0.0%
	Self-Prepared	55,788,000	69,573,000	64,368,000	62,900,000	12.7%
Total Refunds	Number	95,737,000	100,483,000	95,632,000	88,667,000	-7.4%
	Amount	\$260.9 bil	\$276.1 bil	\$270.3 bil	\$267.0 bil	2.3%
	Average Refund	\$2,725	\$2,748	\$2,827	\$3,012	10.5%
Direct Deposit Refunds	Number	83,249,900	83,384,000	87,045,000	83,891,000	0.8%
	Amount	\$238.4 bil	\$240.5 bil	\$252.4 bil	\$260.0 bil	9.1%
	Average Refund	\$2,863	\$2,884	\$2,899	\$3,099	8.2%
Web Usage	Visits to IRS.gov	421.5 mil	1,380.7 mil	1,372.7 mil	609.1 mil	44.5%

As Figure 1 shows, there was an increase of about one percent in the volume of individual income tax returns received this filing season when compared to the 2019 filing season. We attribute this increase in receipts in part to tax returns filed by taxpayers who typically have no filing requirement but who filed tax returns this filing season so they could receive their Economic Impact Payments (EIPs, or stimulus payments) and reconcile the Advance Child Tax Credit (AdvCTC) or receive the Child Tax Credit (CTC).

**FIGURE 2, Cafeteria of an IRS facility in Austin**

Photograph of the cafeteria of an IRS facility in Austin. Courtesy of the Department of the Treasury.



*Puerto Rico:* Included in the total number of e-filed returns are returns filed by residents of Puerto Rico. Historically, the Additional Child Tax Credit was only available to Puerto Rico residents with a filing requirement and at least three children. However, for the 2021 filing season, the credit became available to residents of Puerto Rico with at least one child, whether or not they had a filing requirement.<sup>6</sup> To claim the refundable credit, taxpayers must file Form 1040PR, U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for *Bona Fide* Residents of Puerto Rico) (Puerto Rico Version), or Form 1040SS, U.S. Self-Employment Tax Return (Including the Refundable Child Tax Credit for *Bona Fide* Residents of Puerto Rico).

The data shows a substantial increase in visits to IRS.gov since 2019, even disregarding the pandemic-related spikes in visits during 2020 and 2021. Undoubtedly, this is partly attributable to the many questions taxpayers had about returns requiring manual processing that delayed millions of refunds beyond the normal processing time and the difficulty of taxpayers reaching an IRS assistor on the toll-free telephone lines.

On the last day of the 2022 filing season (April 18), a significant spike in web traffic caused a temporary disruption in taxpayers' ability to access the Make a Payment feature in Online Account. While the IRS resolved the issue the same day, it affected 891,000 individuals and added a level of anxiety for those taxpayers on an already stressful day.<sup>7</sup>

The IRS provides weekly filing season updates and other matters impacting the filing season on its website.<sup>8</sup> Some of the most significant filing season challenges have been return processing delays, correspondence processing delays, difficulty reaching the IRS by telephone, and an inability to obtain information from the IRS's Where's My Refund? and Where's My Amended Return? tools. The IRS must get current on its inventory backlog before the start of the 2023 filing season.

### Over 13 Million Paper Tax Returns Required Manual Processing

At the close of the 2021 filing season (which was May 17, 2021, due to the postponed deadline), the IRS had a backlog of 35.8 million tax returns requiring manual processing.<sup>9</sup> This backlog consisted of roughly half unprocessed paper returns and half tax returns (both paper and e-filed) suspended during processing for manual review, leading to refund delays for many of these taxpayers. For original returns that were e-filed, the IRS has mostly worked through the backlog. But the story is very different for paper returns.

Paper processing remains the agency's biggest challenge, and that will likely continue throughout 2022. As of April 22, 2022, the IRS still had backlogs of 6.2 million unprocessed original individual returns (Form 1040 series) and 2.6 million unprocessed amended individual returns (Forms 1040-X) – with many taxpayers still waiting for their refunds from their 2020 tax return filings. The IRS had in its inventory about 13.3 million tax returns and about 5.3 million pieces of taxpayer correspondence/Accounts Management (AM) cases (excluding amended tax returns) that require manual processing, as shown in Figure 3.

**FIGURE 3, Status of Inventory Requiring Manual Processing (as of April 22, 2022)<sup>10</sup>**

	Individual	Business	Not Specified	Total
<b>Paper Returns Awaiting Processing</b>				
Received in Calendar Year 2021	1,600,000	684,000	-	2,300,000
Received in Calendar Year 2022	4,600,000	4,500,000	2,000,000	11,000,000
<b>Total Paper Returns Awaiting Processing</b>	<b>6,200,000</b>	<b>5,200,000</b>	<b>2,000,000</b>	<b>13,300,000</b>
<b>Paper and Electronic Returns – Processing Suspended</b>	<b>5,300,000</b>	<b>1,600,000</b>	<b>-</b>	<b>6,800,000</b>
<b>Amended Returns Inventory</b>	<b>2,600,000</b>	<b>1,100,000</b>	<b>-</b>	<b>3,700,000</b>
<b>Total Unprocessed Returns</b>	<b>14,100,000</b>	<b>7,900,000</b>	<b>2,000,000</b>	<b>23,800,000</b>
<b>Correspondence/Accounts Management Cases (excluding amended returns)</b>	<b>2,200,000</b>	<b>1,000,000</b>	<b>2,100,000</b>	<b>5,300,000</b>
<b>Total Inventory Requiring Manual Processing</b>	<b>16,300,000</b>	<b>8,900,000</b>	<b>4,100,000</b>	<b>29,100,000</b>

Of all individual returns processed during the current filing season through April 22, 2022, 64 percent resulted in refunds.<sup>11</sup> With roughly two-thirds of individual tax returns claiming refunds, the practical impact of IRS processing delays affects taxpayers' pocketbooks. Refund delays can create financial hardships for many taxpayers, particularly those who are low-income. While taxpayers who e-filed their returns generally fared better than taxpayers who filed on paper, millions of e-filed returns were suspended during processing due to discrepancies between amounts claimed on the returns and amounts reflected in the IRS's records.<sup>12</sup>

The most common discrepancy involved Recovery Rebate Credit (RRC) claims filed by taxpayers who did not receive some or all of their EIPs the prior year. Another source of discrepancies was monthly payments of the AdvCTC for the second half of 2021. Taxpayers had to claim and/or reconcile AdvCTC and RRC on a 2021 individual tax return. The IRS attempted to minimize discrepancies by including the information in online taxpayer accounts and sending notices to taxpayers who received EIPs and AdvCTC payments showing how much they received. But even so, millions of discrepancies – and consequent math error notices – occurred.<sup>13</sup>

For the period January 1 through April 21, 2022, the IRS issued about 12.1 million math error notices for RRC, CTC, or other inconsistencies.<sup>14</sup> When a taxpayer disagreed with a math error notice and submitted a response, the correspondence added to the IRS's mounting paper submission pile that awaited processing and generated more delayed responses. Although the IRS has created temporary "surge" teams to help with the current inventory backlog, it continues to struggle with high inventory levels of math error correspondence.<sup>15</sup>

### Delays in Processing Taxpayer Correspondence

The IRS sent millions of notices to taxpayers during the 2022 filing season.<sup>16</sup> These included math error notices, Automated Underreporter notices,<sup>17</sup> notices requesting a taxpayer to authenticate his or her identity (where IRS security filters flagged a return as potentially filed by an identity thief), correspondence examination notices, and collection notices. If 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.

On June 3, 2022, the IRS updated its website to inform taxpayers that due to extenuating circumstances caused by the pandemic, its identity theft inventories have increased, and on average, it is taking about 360 days to resolve identity theft cases.<sup>18</sup> This is yet another area in which the IRS must improve and reduce

the timeframe to resolve these problems. Taxpayers cannot afford to experience similar challenges in future filing seasons. Taxpayers deserve better; the IRS must figure out a way to issue timely tax refunds and process taxpayer correspondence.

### The IRS Must Continue to Prioritize the Processing of Tax Returns and Correspondence Through an “All-Hands-on-Deck” Surge Strategy

In late February 2022, the IRS reassigned employees from other areas to its AM function, including telephone customer service representatives (CSRs) and provided this AM “surge team” with additional training to process tax returns and correspondence.<sup>19</sup> The IRS plans to continue this reallocation of employees until the agency fully works through its backlog, as it continues to struggle with its antiquated IT systems for return processing and the overwhelming volume of paper returns and correspondence. The IRS also increased staffing in its Submission Processing function (second surge team) as a significant volume of the unprocessed returns work resides there, including all paper Forms 1040. Additionally, paper Forms 1040-X, Amended U.S. Individual Tax Return, are sent through Submission Processing for initial screening, and many are worked through manual adjustments by Submission Processing employees. The IRS has also contracted for clerical assistance with the return processing. These steps are an important effort to close the year without a large backlog carrying over into the 2023 filing season. Time will tell if it is enough to get to a healthy state by year end.

### Unacceptably Low Level of IRS Telephone Service

Taxpayers whose returns were caught in backlogs or submission processing delays called the IRS seeking information – such as the reason for the delays and what they needed to do. Taxpayers who did not receive their EIPs when they expected also called – and perhaps called often – and many did not receive fruitful information or satisfying results.

Taxpayers had difficulty reaching the IRS by telephone in the 2022 filing season, with a Level of Service (LOS) dipping down to 18 percent. The fewer than one-in-five calls that managed to get through to an IRS CSR had to wait, on average, 29 minutes on hold.

Figure 4 shows the large surge of calls the IRS received and the related challenges taxpayers experienced while navigating this difficult filing season.

**FIGURE 4, IRS Telephone Results, 2019-2022 Filing Seasons Comparing Weeks Ending April 19, 2019; July 17, 2020; May 21, 2021; and April 23, 2022<sup>20</sup>**

	2019	2020	2021	2022	Percent Change 2019-2022
<b>Enterprise Total</b>					
Calls Received	40,796,555	55,267,317	167,396,426	72,811,503	78%
Calls Answered by CSRs	10,082,963	11,605,369	15,667,499	7,453,961	-26%
Percent of Calls Answered by CSRs	25%	21%	9%	10%	-60%
CSR Level of Service	59%	52%	19%	18%	-69%
Average Speed of Answer (in minutes)	13	17	20	29	123%

*Continued on next page.*

	2019	2020	2021	2022	Percent Change 2019-2022
<b>Accounts Management</b>					
Calls Received	34,382,805	46,538,775	150,183,477	60,036,799	75%
Calls Answered by CSRs	8,059,818	8,716,057	10,962,520	4,641,053	-42%
Percent of Calls Answered by CSRs	23%	19%	7%	8%	-65%
CSR Level of Service	67%	56%	15%	15%	-78%
Average Speed of Answer (in minutes)	9	15	19	28	211%
<b>Form 1040 Line</b>					
Calls Received	7,316,757	12,089,419	85,121,466	15,317,600	109%
Calls Answered by CSRs	1,903,012	2,246,263	2,527,682	1,161,185	-39%
Percent of Calls Answered by CSRs	26%	19%	3%	8%	-69%
CSR Level of Service	67%	54%	6%	14%	-79%
Average Speed of Answer (in minutes)	9	14	20	26	189%
<b>Consolidated Automated Collection System Lines</b>					
Calls Received	3,741,588	5,594,176	6,252,494	5,038,973	35%
Calls Answered by CSRs	1,098,111	1,688,704	2,369,001	1,641,744	50%
Percent of Calls Answered by CSRs	29%	30%	38%	33%	14%
CSR Level of Service	33%	35%	41%	34%	4%
Average Speed Answer (in minutes)	41	26	23	36	-12%

AM CSRs answered only 4.6 million, or eight percent, of the 60 million calls received this filing season. 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 if desired. Among the one in 12 callers able to reach an AM CSR, the IRS reported that hold times averaged 28 minutes.<sup>21</sup>

One toll-free telephone line that had particularly poor service was the Taxpayer Protection Program (TPP) line. The IRS instructed taxpayers whose tax returns were flagged for potential identity theft to call the TPP line to verify their identity. During the 2022 filing season, the IRS received approximately 4.5 million calls to the TPP line where the average LOS was 3.7 percent.<sup>22</sup> The IRS needs to provide better service to these taxpayers so that they may confirm their identities and receive their refunds quickly.

Each year, Congress appropriates a budget and allocates funds for specific tasks. For fiscal years (FYs) 2021 and 2022, Congress funded the IRS to provide CSR Levels of Service of 32 and 30 percent, respectively – meaning it anticipated that CSRs were *expected* to answer only three out of every ten incoming calls to the IRS toll-free telephone lines.<sup>23</sup> That expectation is unacceptable (per Figure 4, the IRS achieved a CSR LOS well below expectation – 19 percent for the 2021 filing season, 18 percent for the 2022 filing season). For future budgets, the National Taxpayer Advocate urges Congress to provide additional funds for this essential service and urges the IRS to continue to explore efficiencies with its phone service and continue to improve other options such as increased functionality with online accounts and other web solutions and resources. High-quality, timely phone assistance facilitates trust in the IRS.

## Where's My Refund? and Where's My Amended Return? Tools

With the processing delays, millions of taxpayers turned to the IRS's Where's My Refund? tool to check the status of their refunds using the most up-to-date information available to the IRS.

**FIGURE 5, Where's My Refund? Visits, Filing Seasons 2019 to 2022<sup>24</sup>**

Tool	Visits for January 1 Through April 19, 2019	Visits for January 1 Through July 17, 2020	Visits for January 1 Through May 21, 2021	Visits for January 1 Through April 22, 2022	Percent Change 2019-2022
Where's My Refund?	317,417,000	468,824,000	483,439,000	334,399,000	5%

Taxpayers attempted to check the status of their refunds on IRS.gov over 334 million times during the 2022 filing season, but Where's My Refund? does not provide information on unprocessed returns or explain any status delays, the reasons for delays, where returns stand in the processing pipeline, or what actions taxpayers need to take, if any.<sup>25</sup> Where's My Amended Return? received 11.6 million visits but suffered from similar limitations.<sup>26</sup>

On May 25, 2022, the IRS introduced a welcome new feature that allows taxpayers to check the status of their current tax year and two previous years' refunds. This change will provide some assistance for taxpayers still waiting on prior year refunds but still does not identify the reason for the delay.

TAS has recommended that the IRS improve its Where's My Refund? tool by providing taxpayers with specific information about the cause of the refund delay, what information the taxpayer needs to provide, and an estimate when the IRS might issue the refund.<sup>27</sup> Providing taxpayers with more information regarding the status of refunds or potential delays will better protect their *right to be informed* and may have the downstream benefit of reducing taxpayers' need to call the IRS for additional information, thereby reducing the strain on its toll-free lines.

## Reconciliation of Earned Income Tax Credit Payments

### "Lookback Rule" for the Earned Income Tax Credit

The Earned Income Tax Credit (EITC) is an important tax incentive for working individual taxpayers. This refundable tax credit helps low- to moderate-income workers and families reduce their tax liability, and unlike most other tax credits, can result in the claimant being entitled to a tax refund.<sup>28</sup> The American Rescue Plan Act of 2021 provided temporary relief for taxpayers who earned less income in 2021 than 2019<sup>29</sup> to maximize the credit. Specifically, the provision allows taxpayers to elect to use their 2019 earned income to calculate EITC, if the taxpayers' 2019 earned income is larger than the 2021 earned income, resulting in larger credits.

While the lookback rule benefits individual taxpayers who experienced a drop in earned income during the pandemic, a significant number of these taxpayers experienced a delay in receiving their much-needed refunds in the 2021 filing season due to the IRS having to manually validate the 2019 income for the credit amount calculation.<sup>30</sup> For the 2022 filing season, the IRS developed an automated tool that enabled employees to systemically access returns and fix the errors in seconds, which allowed processing of such returns to avoid the 12- to 14-week delay taxpayers encountered in the 2021 filing season.<sup>31</sup>

For the period January 1 through April 28, 2022, approximately 435,000 2021 returns calculated EITC using 2019 earned income. These returns claimed nearly \$1.8 billion in EITC. TAS estimates that there were nearly 2.3 million taxpayers who used 2021 earned income but would have received nearly \$2.6 billion more in EITC had they used their 2019 income.<sup>32</sup> We urge the IRS to consider outreach to this group of taxpayers to explain the benefit of amending their returns.



## Major Hiring Initiative Announced in March 2022

Working with Treasury, the Office of Personnel Management, and the National Treasury Employees Union, the IRS secured direct-hire authority for a total of 10,000 positions – 5,000 employees to be onboarded in the spring and early summer and an additional 5,000 new hires to be made over the course of the next year.<sup>33</sup> Congress also provided hiring flexibilities to further expedite hiring in critical positions.<sup>34</sup> However, due to the challenges of hiring during the pandemic and competition from other employers for the same talent, this environment is an exceptionally difficult one for hiring.<sup>35</sup>

In March 2022, the IRS announced its hiring initiative under this special hiring authorization. The IRS sought to bring in over 5,000 new hires in its three service processing centers.<sup>36</sup> Unfortunately, the IRS was only able to meet 12 percent of the hiring goal as of April 22, 2022.<sup>37</sup> Even with direct-hire authority, considering the time required for security clearance and training needed to get new employees up to speed, these new hires could not contribute during the 2022 filing season but should be available to work the inventory backlog and process returns filed on extension through October 15, 2022. On June 1, 2022, the IRS announced plans to hold additional virtual information sharing events in June to boost its workforce and better help taxpayers and businesses. The IRS announced it is looking to hire over 4,000 contact representative positions at several IRS offices nationwide this summer.<sup>38</sup>

## Face-to-Face Service at Taxpayer Assistance Centers

The IRS provides face-to-face assistance to taxpayers in the 50 states, the District of Columbia, and Puerto Rico at Taxpayer Assistance Centers (TACs). Over the past decade, the IRS had reduced the number of TACs from 401 (in 2011) to 358 (in 2019).<sup>39</sup> As of April 7, 2022, the IRS maintained 358 TACs, but due to attrition and resource limitations, 39 are not staffed on a full-time basis (24 TACs provided a virtual service delivery alternative to an in-person visit). All staffed TACs offer appointments and the ability to walk in.<sup>40</sup>

Recognizing the importance of providing face-to-face assistance to taxpayers outside of normal business hours, the IRS expanded its hours for certain TACs.<sup>41</sup> Approximately 700 IRS employees volunteered at 74 TAC locations participating in “Taxpayer Experience Days” to offer expanded face-to-face service to taxpayers one Saturday a month during the 2022 filing season.<sup>42</sup>

The IRS continued its policy of requiring taxpayers to schedule an appointment to receive assistance at any of its TACs.<sup>43</sup> To schedule an appointment, taxpayers are to call the TAC Appointment line, where an assistor determines the taxpayer’s need and directs the taxpayer to resources where he or she may find answers to his or her questions.<sup>44</sup> This filing season, there were 434,000 scheduled appointments for face-to-face assistance at TACs, a decrease of 46 percent compared to the 2019 filing season.<sup>45</sup> This trend is not surprising given the ongoing physical distancing practices during the COVID-19 pandemic.

**FIGURE 6, Face-to-Face Assistance, Filing Seasons 2019 to 2022<sup>46</sup>**

	January 1 Through April 19, 2019	January 1 Through July 17, 2020	January 1 Through May 21, 2021	January 1 Through April 22, 2022	Percent Change 2019-2022
Total Field Assistance Face-to-Face Contacts	799,000	537,000	394,000	434,000	-46%
Walk-in Exceptions (No Scheduled Appointment)	87,000	37,000	1,964	6,000	-93%

In limited instances, taxpayers may receive assistance from a TAC without an appointment. This filing season, 6,000 taxpayers were assisted at TACs without an appointment because of openings in the day’s calendar

or as staffing permitted, down 93 percent from the 2019 filing season.<sup>47</sup> The appointment-only approach can negatively affect taxpayers who need assistance urgently and cannot wait to obtain an appointment.<sup>48</sup> TAS is pleased that the IRS's guidance to employees includes managerial discretion to assist taxpayers without appointments if the taxpayer has a hardship or can be assisted without affecting other scheduled appointments.<sup>49</sup> However, serving taxpayers without appointments remains an exception.

Prior to the COVID-19 pandemic, the IRS began an initiative to virtually assist taxpayers through web-based software. The IRS began Phase 2 of its Web Service Delivery (WebSD) pilot program on March 15, 2022.<sup>50</sup> Taxpayers may make WebSD appointments to meet virtually with an IRS assistor on topics such as EIPs, math error notices, and refund inquiries. Through April 22, 2022, 224 WebSD appointments were booked as part of this pilot program.<sup>51</sup> While we are pleased the IRS has undertaken this pilot, it must considerably increase availability to meet the needs of a broader segment of taxpayers.

### Limited Volunteer Tax Return Preparation Services Available to Taxpayers

This filing season, volunteers once again provided tax return preparation assistance at virtual and in-person sites via the Volunteer Income Tax Assistance (VITA) and the Tax Counseling for the Elderly (TCE) programs. VITA offers free tax return preparation assistance to people who generally make \$58,000 or less, persons with disabilities, and limited English-speaking taxpayers who need assistance in preparing their own tax returns, and TCE provides free tax help for individuals aged 60 and older.<sup>52</sup> Many taxpayers depend on the services offered by these two programs to meet their income tax return filing requirements or claim refundable credits such as EITC.

Unfortunately, however, assistance provided by volunteers significantly decreased as many individuals were dealing with the safety and logistical issues presented by the pandemic. In mid-January 2022, there were almost 44 percent fewer volunteers trained and certified to staff VITA and TCE sites than the number at the same time in 2020 (pre-COVID-19).<sup>53</sup>

As Figure 7 indicates, another impact of COVID-19 was the 39 percent decline of returns prepared at volunteer sites from the 2019 to 2022 filing seasons.

**FIGURE 7, Individual Returns Filed by Volunteers, 2019 to 2022 Filing Seasons<sup>54</sup>**

	Filing Season 2019 (January 1 Through April 19, 2019)	Filing Season 2020 (January 1 Through July 17, 2020)	Filing Season 2021 (January 1 Through May 21, 2021)	Filing Season 2022 (January 1 Through April 22, 2022)	Percent Change 2019 to 2022
Total Individual Returns Prepared by Volunteers	3,440,000	2,455,000	1,877,000	2,095,000	-39%

To ensure the health and safety of taxpayers and volunteers, some volunteer tax return preparation sites offered virtual help to taxpayers, either over the phone or online. However, the pandemic severely hampered VITA and TCE activity the past two filing seasons.

The National Taxpayer Advocate recognizes and thanks those individuals who volunteered this year despite the challenges, as their efforts assisted taxpayers who filed approximately 2.1 million returns.<sup>55</sup> This is yet another example of how Americans stepped up and gave back to those in need during the pandemic by assisting individuals with their tax obligations.

## Endnotes

- 1 The 2022 filing season began on January 24, 2022, and closed on April 18, 2022. The return due date was April 18 instead of April 15 because of the Emancipation Day holiday in the District of Columbia for all taxpayers except those who live in Maine or Massachusetts. Taxpayers in Maine or Massachusetts had until April 19, 2022, to file their returns due to the Patriots' Day holiday in those states.
- 2 Email from the Wage and Investment (W&I) Division (May 2, 2022); IRS, Status of Unopened Mail and Backlog Inventory (Apr. 29, 2022) (showing data as of April 22, 2022).
- 3 IRS, IR-2022-08, 2022 tax filing season begins Jan. 24; IRS outlines refund timing and what to expect in advance of April 18 tax deadline (Jan. 10, 2022), <https://www.irs.gov/newsroom/2022-tax-filing-season-begins-jan-24-irs-outlines-refund-timing-and-what-to-expect-in-advance-of-april-18-tax-deadline>.
- 4 IRS, Filing Season Statistics for Week Ending Apr. 22, 2022, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-22-2022> (last visited May 2, 2022). IRS, Filing Season Statistics for Week Ending May 21, 2021, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-may-21-2021> (last visited May 28, 2021).
- 5 IRS, Filing Season Statistics for Week Ending Apr. 22, 2022, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-22-2022> (last visited May 2, 2022); IRS, Filing Season Statistics for Week Ending May 21, 2021, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-may-21-2021> (last visited May 28, 2021); IRS, Filing Season Statistics for Week Ending July 17, 2020, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-july-17-2020> (last visited May 28, 2021); Filing Season Statistics for Week Ending April 19, 2019, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-19-2019> (last visited May 28, 2021). For 2020, total and electronically filed returns include returns filed to obtain EIPs by those who would not usually file income tax returns. Total e-filing line may not equal subtotals due to rounding.
- 6 See Internal Revenue Manual (IRM) 3.38.147.15.3, Additional Child Tax Credit (ACTC) - Puerto Rico (Jan. 1, 2022). See also Rev. Proc. 2022-22, 2022-21 I.R.B. 1098.
- 7 IRS response to TAS information request (June 2, 2022).
- 8 IRS, IRS Operations During COVID-19: Mission-critical functions continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited June 6, 2022).
- 9 National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 5-6; data provided by W&I on June 23, 2021 (on file with TAS). In our FY 2022 Objectives Report, we reported that the backlog of unprocessed tax returns at the end of the 2021 filing season was 35.3 million. The IRS has since advised us that an additional 500,000 amended business tax returns had not been processed at that time. Therefore, the backlog of unprocessed tax returns at the end of the 2021 filing season was 35.8 million.
- 10 Email from W&I (May 2, 2022); IRS, Status of Unopened Mail and Backlog Inventory (Apr. 29, 2022) (showing data as of April 22, 2022).
- 11 IRS, Filing Season Statistics for Week Ending April 22, 2022, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-22-2022> (last visited May 2, 2022).
- 12 See, e.g., IRS, Math Error Report for CY 2022 (cycle 16).
- 13 As of the close of the 2022 filing season, the IRS had issued more than 12 million math error notices. IRS, Math Error Report for CY 2022 (cycle 16).
- 14 *Id.*
- 15 *Id.*
- 16 See, e.g., IRS, Math Error Report for CY 2022 (cycle 16).
- 17 Automated Underreporter notices are issued when an amount reported on a tax return does not match the corresponding amount reported to the IRS on a Form 1099 or other third-party information return. Such notices issued during the 2022 filing season were likely to be associated with a prior year return.
- 18 IRS, IRS Operations During COVID-19: Mission-critical functions continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited June 7, 2022).
- 19 See AM Customer Account Services, Reduction of Accounts Management Adjustments Inventory – Directed Reassignments (Surge Team) (Jan. 19, 2022); email from Commissioner Rettig to all IRS employees (Feb. 2, 2022); AM Inventory Surge Team, Frequently Asked Questions (Feb. 11, 2022).
- 20 IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot for Enterprise Total, Accounts Management, and Consolidated Automated Collection Service data (weeks ending Apr. 20, 2019; June 30, 2020; and May 22, 2021); IRS, JOC, Snapshot Reports: Product Line Detail for the Form 1040 data (weeks ending Apr. 20, 2019; June 30, 2020; and May 22, 2021). For 2020, the last day of the JOC planning period including the filing season is June 30, although the 2020 filing season was extended to July 15. Percentage of Calls Answered by CSRs reflects the number of calls answered by CSRs divided by the number of calls received. CSR Level of Service is an IRS performance measure that reflects the number of calls answered by CSRs divided by the number of calls directed to CSRs (*i.e.*, it excludes primary abandons, taxpayers who encounter busy signals or are disconnected, and calls routed for automated responses). Average Speed of Answer is a measure of the average number of seconds customers waited in queue before receiving service. The Percent Change column is computed based on actual numbers, not rounded numbers. All numbers in Figure 3, IRS Telephone Results, 2019-2022 Filing Seasons Comparing Weeks Ending April 19, 2019; July 17, 2020; May 21, 2021; and April 23, 2022, are rounded; however, the percentage change is calculated on the actual numbers.
- 21 *Id.*
- 22 IRS, JOC, Weekly TPP Snapshot Report (week ending Apr. 23, 2022).
- 23 Department of the Treasury, *Budget in Brief* 10 (Fiscal Year 2023); Department of the Treasury, *Budget in Brief* 12 (Fiscal Year 2022).
- 24 IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing July 19, 2019, and July 17, 2020; IRS, 2021 Weekly Individual Filing Season Report, Cumulative Statistics Comparing May 22, 2020 (Day 117 of 2020 Filing Season), and May 21, 2021 (Day 99 of 2021 Filing Season). IRS, 2022 Weekly Individual Filing Season Report, Cumulative Statistics Comparing and April 23, 2021, and April 22, 2022.
- 25 See U.S. Government Accountability Office (GAO), GAO-22-104938, *Tax Filing: 2021 Performance Underscores Need for IRS to Address Persistent Challenges* 31-38 (Apr. 2022).
- 26 IRS response to TAS information request (May 16, 2022).
- 27 See, e.g., Erin M. Collins, Lifecycle of a Tax Return, NATIONAL TAXPAYER ADVOCATE BLOG (May 18, 2021), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-lifecycle-of-a-tax-return/>.

- 28 IRC § 32. Working families filing married filing jointly with three or more qualifying children could be eligible for a credit up to \$6,728. Workers without a qualifying child could receive up to \$1,502. See IRS, Pub. 596, Earned Income Credit (EIC), For Use in Preparing 2021 Returns 33-42.
- 29 The American Rescue Plan Act of 2021, Pub. L. No. 117-2, Title VII, Subtitle G, § 9626, 135 Stat. 157-158 (2021).
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- 32 IRS Compliance Data Warehouse, Individual Returns Transaction File for tax year 2021 returns filed through April 2022.
- 33 See *Hearing on the Filing Season and the IRS Budget Before the Senate Finance Committee*, 117th Cong. (Apr. 7, 2022) (statement of Charles P. Rettig, Commissioner Internal Revenue Service), <https://www.irs.gov/newsroom/written-testimony-of-charles-p-rettig-commissioner-internal-revenue-service-before-the-senate-finance-committee-on-the-filing-season-and-the-irs-budget>.
- 34 Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, Div. E, Title I, § 111, 136 Stat. 49 (2022).
- 35 See *Filing Season and IRS Operations, Hearing Before the H. Ways and Means Comm., Subcomm. on Oversight*, 117th Cong. (Mar. 17, 2022) (statement of Charles P. Rettig, Commissioner of Internal Revenue), <https://www.irs.gov/newsroom/written-testimony-of-charles-p-rettig-commissioner-internal-revenue-service-before-the-house-ways-and-means-committee-subcommittee-on-oversight-on-the-filing-season-and-irs-operations>.
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- 38 IRS, IR-2022-114, IRS seeks to offer jobs to thousands of workers this summer (June 1, 2022), <https://www.irs.gov/newsroom/irs-seeks-to-offer-jobs-to-thousands-of-workers-this-summer>.
- 39 See GAO, GAO-12-176, *Processing Gains, but Taxpayer Assistance Could Be Enhanced by More Self-Service Tools* (Dec. 2011); *Review of the FY 2020 Budget Request for the U.S. Department of Treasury: Hearing Before the S. Subcomm. on Financial Services and General Government of the S. Comm. on Appropriations*, 116th Cong. (2019) (written testimony of Charles P. Rettig, Commissioner of Internal Revenue).
- 40 *Hearing on the Filing Season and the IRS Budget Before the Senate Finance Committee*, 117th Cong. (Apr. 7, 2022) (statement of Charles P. Rettig, Commissioner Internal Revenue Service), <https://www.irs.gov/newsroom/written-testimony-of-charles-p-rettig-commissioner-internal-revenue-service-before-the-senate-finance-committee-on-the-filing-season-and-the-irs-budget>.
- 41 See IRS, IRS Face-to-Face Saturday Help, <https://www.irs.gov/help/irs-face-to-face-saturday-help> (last visited June 2, 2022).
- 42 W&I, Business Performance Review Q2 FY 2022, at 3 (May 16, 2022).
- 43 IRS, IR-2019-67, IRS.gov: Best place to get last-minute tax tips and resources (Apr. 9, 2019), <https://www.irs.gov/newsroom/irsgov-best-place-to-get-last-minute-tax-tips-and-resources>.
- 44 IRM 21.1.1.3, Customer Service Representative (CSR) Duties (Oct. 1, 2018).
- 45 IRS, 2022 Weekly Individual Filing Season Report (Apr. 22, 2022).
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- 48 W&I, Business Performance Review Q2 FY 2019, at 15 (Apr. 30, 2019). The IRS will, in some circumstances, “double book” an appointment if the taxpayer has an urgent need. However, this will happen only when the taxpayer is able to explain the need, and the phone assistor is able to recognize the urgency. There are exception criteria for taxpayers who show up at a TAC without an appointment. Likewise, the taxpayer will need to explain the need, and a TAC employee needs to recognize the taxpayer should receive service.
- 49 IRM 21.3.4.2.4.2, TAC Appointment Exception/Hardship Procedures (Feb. 5, 2021).
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## INTRODUCTION

IRC § 7803(c)(2)(B)(i) requires the National Taxpayer Advocate to annually submit a report to Congress that describes the objectives outlined by the Office of the Taxpayer Advocate for the upcoming fiscal year (FY) by June 30. This report is known as the Objectives Report to Congress. The following sections present TAS's key goals and planned activities for FY 2023 in three areas: Systemic Advocacy Objectives, TAS Case Advocacy and Other Business Objectives, and TAS Research Objectives.

Systemic Advocacy Objectives describe the objectives TAS will pursue to improve tax administration and to address systemic issues causing taxpayer burden or harm or negative impact on taxpayer rights. Similar to the way Most Serious Problems are identified in the Annual Report to Congress, the National Taxpayer Advocate calls upon a multitude of sources to assist in identifying key Systemic Advocacy Objectives including the experience of TAS staff, trends in advocacy efforts and TAS casework, and interactions with practitioners and external stakeholders.

TAS Case Advocacy and Other Business Objectives describe activities TAS will pursue to advance its advocacy efforts for individual taxpayers through casework. Local case advocates work directly with taxpayers on identifying issues, researching solutions, and advocating on taxpayers' behalf within the IRS. TAS's goal is to continuously improve its internal processes and business operations on behalf of taxpayers. This section details planned TAS activities for organizational improvement and promotion of its advocacy efforts.

TAS Research Objectives focus on understanding how IRS procedures affect taxpayers and how taxpayers react to IRS actions. The objectives of TAS Research are to improve IRS operations and assist the IRS with balancing its compliance efforts with taxpayer rights while also reducing taxpayer burden. Three research projects are scheduled for FY 2023.

### 1. USE AUTOMATION TO PROCESS PAPER-FILED TAX RETURNS

The COVID-19 pandemic has contributed to an exceptionally high volume of backlogged inventory for the IRS, and paper-filed tax returns continue to be the IRS's Kryptonite,<sup>1</sup> causing long delays and frustration for taxpayers and practitioners. As Figure 1 shows, the IRS had approximately 18.1 million tax returns, 3.2 million amended returns,<sup>2</sup> and 5.3 million pieces of taxpayer correspondence that require manual processing in its backlog as of May 27, 2022.



**FIGURE 1, Status of Inventory Requiring Manual Processing (as of May 27, 2022)<sup>3</sup>**

	Individual	Business	Not Specified	Total
<b>Paper Returns Awaiting Processing</b>				
Received in Calendar Year 2021	353,000	334,000	-	687,000
Received in Calendar Year 2022	7,800,000	6,200,000	3,400,000	17,400,000
<b>Total Paper Returns Awaiting Processing</b>	<b>8,200,000</b>	<b>6,500,000</b>	<b>3,400,000</b>	<b>18,100,000</b>
<b>Paper and Electronic Returns – Processing Suspended</b>	<b>3,800,000</b>	<b>1,600,000</b>	<b>-</b>	<b>5,400,000</b>
<b>Amended Returns Inventory</b>	<b>2,300,000</b>	<b>884,000</b>	<b>-</b>	<b>3,200,000</b>
<b>Total Unprocessed Returns</b>	<b>14,300,000</b>	<b>9,000,000</b>	<b>3,400,000</b>	<b>26,700,000</b>
<b>Correspondence/Accounts Management Cases (Excluding Amended Returns)</b>	<b>2,200,000</b>	<b>900,000</b>	<b>2,200,000</b>	<b>5,300,000</b>
<b>Total Inventory Requiring Manual Processing</b>	<b>16,500,000</b>	<b>9,900,000</b>	<b>5,600,000</b>	<b>32,000,000</b>

IRS processing delays combined with attrition in its processing staff workforce, inability to hire new employees, and the lack of automation of paper filings all negatively impacted the 2020, 2021, and 2022 filing seasons. This year, with its current staffing levels, the IRS once again found itself having to process the prior filings (from 2021) before processing the 2022 paper filings. As a result, taxpayers who file paper returns requesting a refund in 2022 will have to wait five months or longer to receive their refunds.

When taxpayers experience challenges and delays with the processing of their returns and claims for refunds, they lose trust in the agency and may become less likely to voluntarily comply. From a tax administration perspective, the IRS cannot continue to function year after year carrying a large inventory backlog and must get current in its processing of original and amended returns. The IRS needs to reconsider its entire process for paper-filed returns, including historical business reasons for rejecting e-file returns. Rather than rejecting an e-filed return upon attempted submission, the IRS could implement a systemic change that would allow it to accept the return and pull it out of the automated resolution and processing functions. The IRS should also develop tools to enable taxpayers to e-file more complex returns.<sup>4</sup>

Additionally, the IRS could reduce its backlog of paper tax returns by using scanning technology to machine-read paper returns and prevent future delays for subsequent filing seasons. On March 29, 2022, the National Taxpayer Advocate issued Taxpayer Assistance Directive (TAD) 2022-1 directing the IRS to work with the tax return software industry to implement 2-D barcoding for the 2023 filing season.<sup>5</sup> The TAD also directed the IRS to implement optical character recognition or similar technology for the 2023 filing season if possible or, if not, for the following filing season.

**Objective 1 for FY 2023 – TAS will work with the IRS to explore the viability of utilizing scanning technology to assist with processing paper-filed tax returns.**

- Activity 1: Continue working with the IRS on implementing and utilizing 2-D barcoding, optical character recognition, or similar technology for upcoming filing seasons to automate the processing of paper returns and reduce delays.
- Activity 2: Review and revisit the IRS's acceptance or rejection policy of e-filed returns, with the objective to increase the number of e-filed returns.

## 2. SEEK IMPROVEMENTS IN IRS HIRING AND RECRUITMENT PROCESSES AND PURSUE IMPROVEMENTS IN IRS EMPLOYEE TRAINING STRATEGY

The IRS continues to experience significant challenges with timely recruiting, hiring, and training employees to effectively carry out its mission. Since the publication of the National Taxpayer Advocate's 2021 Annual Report to Congress, the IRS has addressed some hiring and recruiting challenges. However, several challenges still persist.

On February 24, 2022, the U.S. Office of Personnel Management (OPM) granted the IRS direct-hire authority (DHA) for up to 10,000 employees to address immediate hiring needs in the IRS Wage and Investment Division's Accounts Management and Submission Processing organizations.<sup>6</sup> This hiring authority expires on December 31, 2023.<sup>7</sup> The IRS is also seeking to expand use of Streamlined Critical Pay and increase the scope of positions designated for Critical Position Pay beyond the allowed Information Technology (IT) positions. This request is awaiting approval from OPM.<sup>8</sup> Consistent with the TAS recommendation, the IRS is also working on the necessary documentation and justification required for IRS business units' request that OPM establish higher rates of basic pay or special rates for groups or categories of General Schedule positions.<sup>9</sup> To increase the IRS Human Capital Office's (HCO's) hiring capacity, in FY 2021, HCO was authorized to hire an additional 250 employees.<sup>10</sup> The HCO Strategic Talent Analytics and Recruitment Solutions Office has plans to add another 15 recruiters in FY 2022 to meet IRS recruiting needs.<sup>11</sup> The IRS is also developing a comprehensive new training strategy as described in the IRS's Taxpayer First Act Report to Congress, including an ambitious plan to create a new corporate university, IRS University.<sup>12</sup>

TAS will continue advocating for the IRS to pursue higher rates of basic pay or special rates of pay under existing authorities to increase compensation for certain critical positions, minimize the duration of time it takes to bring on a new employee, and augment the quality of its training. TAS will continue participating in the IRS Next Office's "Employee Experience" team to collaborate on developing strategies to strengthen the IRS's onboarding process. Finally, TAS will continue advocating for adequate sustained multiyear funding to increase IRS hiring and to rebuild the IRS workforce. This effort will include proposing legislative and administrative recommendations as appropriate.

### Objective 2 for FY 2023 – TAS will continue to advocate for improvements in IRS hiring, recruitment, and employee training processes.

- Activity 1: Propose strategies to better leverage the IRS's limited DHA, including increasing virtual recruiting events and improving the pace of hiring needed to achieve the level of staffing to the full extent authorized.
- Activity 2: Propose strategies to minimize the duration of time it takes to bring on a new employee, including increasing IRS staffing to support the often lengthy background investigations, credentialing, and onboarding processes.
- Activity 3: Propose potential options to improve and streamline the IRS interview and selection process.
- Activity 4: Consult with outside stakeholders such as large accounting firms to learn about best training practices, including best practices in operating a corporate university similar to the IRS University, and make recommendations to improve IRS training processes.

## 3. IMPROVE IRS TELEPHONE SERVICE

Taxpayers must be able to reach the IRS by phone to get answers to questions and receive necessary assistance. They understandably become frustrated and demoralized when their good-faith efforts to reach the IRS are met with extended hold times, courtesy disconnects, and customer service representatives (CSRs) who are unable to provide useful information. Tax compliance depends on prompt, high-quality customer service, and when compliance becomes unduly burdensome, the IRS runs the risk that taxpayers will simply quit trying.

Taxpayers historically have had difficulty reaching CSRs to obtain tax assistance and account information, but FY 2021 presented extreme challenges, some of which have continued into FY 2022. In FY 2021, ongoing staffing issues and an upsurge of questions about COVID-19 relief legislation strained IRS capacity and exacerbated shortcomings in phone service.<sup>13</sup> Call volume exploded by over 300 percent from the 2019 to the 2021 filing season, with the number of calls received rising from approximately 41 million during the 2019 filing season to 167 million in the 2021 filing season.<sup>14</sup> The overall Level of Service (LOS) for the full FY 2021 plummeted to 21 percent, and the percentage of calls answered by CSRs dropped to 11 percent.<sup>15</sup> Given that LOS averaged only 18 percent for the 2022 filing season, with only ten percent of calls answered by CSRs, these challenges have not disappeared, even though the IRS only received 73 million calls this filing season.<sup>16</sup> FY 2023 presents no immediate prospect of improvement.

Because CSRs are also responsible for processing certain paper returns and correspondence, the unprecedented level of phone calls in FY 2021 pulled CSR attention away from these returns and contributed to the backlog of inventory. This created a vicious cycle in which additional taxpayers began calling to find out about the status of their unprocessed paperwork.<sup>17</sup> At that point, the IRS was forced to shift staff from across the agency to address the return and correspondence backlog, thus completing the cycle of dysfunction.<sup>18</sup>

Two parallel strategies exist for remedying deficiencies in IRS phone service. The first is to hire more CSRs to help minimize the imbalance between calls coming in and the personnel to answer them. The other approach is to more effectively employ technologies, including callback capacity, chatbots, online services, and IRS.gov functionality.<sup>19</sup> These developments will improve the customer experience and ensure that the only calls fielded by CSRs are those that require live support. Although the IRS is rightly pursuing these strategies in tandem, both are facing significant obstacles.<sup>20</sup> The IRS has launched an aggressive CSR hiring initiative, but TAS understands that these efforts have not yet met with meaningful success.<sup>21</sup> Further, both hiring and technology upgrades require significant long-term funding, and Congress has so far been unwilling to commit to anything beyond incremental increases.

### **Objective 3 for FY 2023 – TAS will work with the IRS to improve phone service and advocate for multiyear funding from Congress.**

- Activity 1: Provide analysis and recommendations in the 2022 Annual Report to Congress and congressional testimony for enhanced IRS phone service, measured in terms of percentage of calls answered, average hold times, first-contact resolution, and LOS.
- Activity 2: Work with IRS Collection and IT on the rollout and effectiveness of chatbots and make recommendations for implementation within other IRS functions including TAS.

## **4. ENHANCE TRANSPARENCY BY PROVIDING REGULAR PUBLIC UPDATES ON THE PROCESSING OF RETURNS AND FORMS AND THE STATUS OF TAXPAYER REFUNDS**

The taxpayer's *right to be informed* is the first of the ten fundamental taxpayer rights in the Taxpayer Bill of Rights.<sup>22</sup> The IRS's provision of timely, accurate, and clear information is a key component of this right and helps taxpayers to voluntarily comply with their tax filing and payment obligations. Unfortunately, during the past two filing seasons – times in which taxpayers desperately needed information – the IRS failed to provide timely updates regarding the status of IRS operations, the challenges it was facing, and what taxpayers could expect during their IRS interactions.

This lack of transparency often left taxpayers confused and frustrated. Over the past several filing seasons, taxpayers struggled to obtain information about the status of the IRS's return processing operations, such as a filing season backlog, delayed refunds, returns pulled for inconsistencies, or amended return processing delays. IRS tools and apps did not provide taxpayers the details they sought about their refund status. After much prompting by the National Taxpayer Advocate and outside stakeholders, the IRS began providing taxpayers

with more information by establishing a webpage entitled “IRS Operations During COVID-19: Mission-critical functions continue” (hereafter called the Operational page), where it posts information about several processing issues, such as delays in processing returns and amended returns.<sup>23</sup> Though this page provides taxpayers and tax professionals with some useful information, the information remains vague and difficult to navigate in some cases. Most significantly, the page still lacks a clear, easy-to-read dashboard that would provide updates on where the IRS is at in processing returns. Further, some of the data on the Operational page has not been updated since July 20, 2020.

Taxpayers have difficulty obtaining specific information about their refund status from the IRS’s Where’s My Refund? tool. Although it provides taxpayers with some information, the tool still lacks specificity and fails to provide taxpayers facing delays with the answers they seek, causing them to call the IRS with the hope of obtaining more information.<sup>24</sup>

Ensuring the IRS provides taxpayers with timely, clear, and accurate information will enhance their confidence in the tax system and aid in generating fewer calls to the IRS when taxpayers search for additional information.

**Objective 4 for FY 2023 – TAS will continue to evaluate the IRS’s transparency by reviewing the IRS’s progress in processing returns and other forms as well as its progress in providing taxpayers as much information as possible about processing delays or their refund status.**

- Activity 1: Continue participation on a cross-functional team that will work toward developing an easy-to-read dashboard that would provide weekly information on the filing season, including the total number of returns in inventory, number of returns beyond normal processing times, number of returns in suspense status, and the anticipated timeframes for working through the backlog.
- Activity 2: Work with the IRS to establish a cross-functional team that will explore enhancements to Where’s My Refund? and IRS2Go that will enable these applications to provide taxpayers specific information about the cause of their refund delay and an estimated date when the IRS might issue their refund.

## **5. IDENTIFY WAYS TO ALLEVIATE THE BACKLOG OF PAPER-FILED TAX RETURNS**

The COVID-19 pandemic challenged tens of millions of taxpayers attempting to meet their tax filing and payment obligations during the 2021 and 2022 filing seasons, as well as the IRS and its workforce attempting to deliver tax information, provide service, and issue refunds. Pandemic relief legislation in 2021 added auxiliary responsibilities to the IRS’s workload, which led to more phone calls to the toll-free telephone lines than the IRS could handle and caused an unprecedented backlog of unprocessed tax returns and correspondence.

Compounding these challenges, the pandemic forced the IRS to close or understaff facilities across the country to comply with local stay-at-home orders and social distancing guidelines, resulting in multiple challenges for the processing of returns and correspondence during the 2020 filing season that carried over into the subsequent filing seasons. As of the close of the 2021 filing season, there was a backlog of 16.8 million unprocessed paper returns.<sup>25</sup>

The 2022 filing season has proven to be another difficult one as the IRS has struggled to work through its backlog of paper-filed tax returns and correspondence. As of April 22, 2022, the backlog is an estimated 13.3 million paper-filed returns.<sup>26</sup> When the IRS is behind on processing tax returns, taxpayers are harmed because of the delays in receiving their tax refunds. Without sufficient staffing and an automated system to process paper-filed returns, the IRS will continue to encounter delays in the filing season and beyond.

**Objective 5 for FY 2023 – TAS will assist the IRS in identifying ways to alleviate the backlog of paper-filed tax returns.**

- Activity 1: Review and analyze the source of processing backlogs.
- Activity 2: Recommend actions the IRS can take to alleviate the backlog of paper-filed tax returns, including the use of automation.

**6. DEVELOP MORE ROBUST DIGITAL CHANNELS TO MEET THE NEEDS OF TAXPAYERS AND PRACTITIONERS**

In today's digital environment, consumers have certain expectations of their service providers, and the IRS needs to improve its customer service and raise the bar to meet those needs. Every day, consumers use their computers or mobile devices to access financial and other accounts and to conduct transactions without the need for face-to-face or telephone assistance. They pay bills, make changes to their account information, add/cancel services, purchase/return products, conduct banking or investment transactions, review credit card statements, order food deliveries, meet virtually with family members or friends, make inquiries, and even chat with a business CSR.

Surprisingly, similar options are not yet available for taxpayers wishing to engage online with the IRS. As the nation's tax administrator, the IRS needs to bridge the gap of digital disparity between it and the private sector and provide improved functionality of its online account offerings to individual taxpayers, business taxpayers, and taxpayer representatives.<sup>27</sup> Online service offerings are even more important for taxpayers as the IRS continues to deal with processing disruptions, low levels of telephone service, delays in correspondence, and limited options for walk-in assistance – taxpayers simply do not have many viable options for offline service.

Providing taxpayers and practitioners an efficient digital path to IRS services is critical to IRS modernization and efforts to build the workforce of the future and provide the types of digital services to which Americans are entitled. TAS will focus efforts to offer engagement with the IRS at all levels to bring the voice of the taxpayer to digital services.

**Objective 6 for FY 2023 – TAS will work with the IRS to influence the digital services implementation plans to emphasize proactive capabilities for taxpayers.**

- Activity 1: Create a team and analyze Systemic Advocacy Management System submissions to identify obstacles to achieving widespread participation in using IRS digital services offered by the IRS.
- Activity 2: Continue to participate on IRS teams to improve and expand the functionality of the IRS Online Account, Business Online Account, and Tax Pro Account applications.
- Activity 3: Collaborate with Case Advocacy frontline employees to analyze interactions with business taxpayers who reach out to TAS to identify capabilities and features needed in Business Online Account and provide the findings to the IRS.
- Activity 4: Conduct focus groups at IRS forums with tax practitioners to identify the online needs for them and their clients.

**7. IMPROVE OMNICHANNEL SERVICE BY INCREASING AVAILABILITY AND FUNCTIONALITY OF DIGITAL COMMUNICATION TOOLS**

Over the past two years, the IRS has struggled to process paper communications it receives from taxpayers as well as original and amended returns, leading to taxpayer frustration.<sup>28</sup> When the IRS does not process mail promptly, taxpayers are uncertain whether the IRS has received and is acting on their communications. The IRS may also send notices to taxpayers containing incorrect information because it has not processed associated correspondence. Solving these problems requires multifaceted solutions that must include digital communication tools that are easy to access and easy to use.



There are over 232 million potential individual taxpayers, and during calendar year 2021, this group filed over 169 million individual and jointly filed tax returns, while businesses filed over 12 million corporate and partnership returns.<sup>29</sup> In the 2021 Taxpayer First Act Report to Congress, the IRS committed to expanding digital communication options for the millions of taxpayers who interact with the IRS yearly.<sup>30</sup> For example, the IRS can use digital tools to allow taxpayers to securely sign and submit documents and verify the IRS has received them. It can use text chat to provide answers to taxpayer inquiries and reduce the number of phone calls to the IRS. Artificial intelligence bots can answer basic questions with automated responses, while IRS employees can address more complex questions via live chat.

Yet, the IRS offers certain digital communications options, such as secure email, Taxpayer Digital Communications Secure Messaging, and the Documentation Upload Tool, by invitation only for a limited number of programs and operations. And while digital tools enable taxpayers to bypass IRS mailroom backlogs, the IRS is not yet able to automatically process some electronically submitted documents, thus requiring the IRS to manually process these documents, which can result in backlogs.

Every digital communication portal the IRS uses requires authentication of the identity of the individual transmitting potentially sensitive information. To achieve this, the IRS implemented the modernized Secure Access Digital Identity (SADI) platform during 2021. The SADI platform is the identity proofing and authentication solution for public-facing IRS applications that will replace the legacy platform, Secure Access eAuthentication. This process creates verification obstacles for taxpayers who want to use digital communication services but are international taxpayers or are Individual Taxpayer Identification Number (ITIN) holders. As the IRS implements new digital communication services and enhances existing technologies, it is critical that it integrate these services and tools into an omnichannel service environment as the foundation for a seamless communication experience that is secure and consistent across all platforms and devices.

**Objective 7 for FY 2023 – TAS will continue to encourage the IRS to develop secure digital communication tools for taxpayers. These tools should allow taxpayers to communicate more easily with the IRS and enable the IRS to confirm receipt of submissions.**

- Activity 1: Meet with IRS officials responsible for the expansion of digital communication and encourage them to expand the use of authenticated and non-authenticated bots that will provide taxpayers with answers to general or specific inquiries regarding their account.
- Activity 2: Meet with IRS leaders to expand the process for taxpayers living outside the United States and allow taxpayers with ITINs to authenticate themselves in a platform that meets National Institute of Standards and Technology requirements by the end of FY 2022.

## **8. IDENTIFY AND MINIMIZE ELECTRONIC FILING BARRIERS**

The IRS deserves considerable credit for raising the e-file rate for individual returns to about 90 percent in the 2021 filing season. During the 2022 filing season, as of May 20, 2022, 94 percent of individual returns have been e-filed.<sup>31</sup> However, historically, filers who file early e-file, and paper filers file later in the filing season and on extension. For example, last year as of May 22, 2021, 94 percent of returns were e-filed, but by December 3, 2021, the e-file rate decreased to 90 percent due to the subsequent paper filings.<sup>32</sup>

Despite the significant benefits of e-filing, taxpayers continue to file paper returns for a variety of reasons. While some taxpayers prefer to paper file, others prefer to e-file but are prevented from doing so. For example, some taxpayers who want to e-file may not have that option because the IRS Modernized E-File (MeF) system does not support the IRS forms that the taxpayers are required to file. In addition, the IRS rejects millions of electronically submitted returns each year because they broke one or more of the MeF business rules.<sup>33</sup>

During 2021, the IRS received approximately 17 million paper individual income tax returns and about 21 million paper business tax returns.<sup>34</sup> Taxpayers who file on paper deal with return processing delays, longer refund delivery times, and potential transcription errors made by IRS employees as they manually enter return information into the system. Transcription errors can also trigger unwarranted compliance actions, which lead to unnecessary correspondence and increased work for both the taxpayer and the IRS.<sup>35</sup>

As the IRS works to enable more taxpayers to e-file, it must strive to improve the processing of the millions of paper returns it continues to receive. Technology, such as optical character recognition and 2-D barcoding, is available that would allow the IRS to scan paper returns prepared with software and capture the data accurately and efficiently. We support implementation of scanning technology on a widescale basis to reduce the burden imposed on taxpayers who file by paper.<sup>36</sup>

**Objective 8 for FY 2023 – TAS will identify and work with the IRS to minimize e-filing barriers and improve the accuracy and efficiency of paper return processing.**

- Activity 1: Meet with the IRS to discuss the need for IRS MeF to support commonly used forms for both individual and business taxpayers.
- Activity 2: Meet with representatives of the tax return preparation software industry to identify and evaluate the e-file barriers their customers experience and to determine how the IRS can minimize such barriers.
- Activity 3: Meet with the IRS and representatives of the tax return preparation software industry to discuss the overall need to reject an e-filed “imperfect tax return” and evaluate the feasibility of accepting the imperfect tax return upon e-filing and directing it to a treatment stream for further review.
- Activity 4: Meet with representatives of the tax return preparation software industry to determine how to minimize any barriers to incorporate scanning technology into the processing of electronically prepared returns that are printed out and filed on paper.

**9. ELIMINATE CORRESPONDENCE AUDIT COMMUNICATION BARRIERS THAT HINDER LOW-INCOME TAXPAYER AUDIT RESOLUTION AND LEAD TO INCREASED BURDEN AND USE OF DOWNSTREAM RESOURCES**

In FY 2019, more than half of taxpayers subject to correspondence audits had total positive incomes below \$50,000, and most of these low-income taxpayers claimed the Earned Income Tax Credit (EITC).<sup>37</sup> These taxpayers often face challenges navigating the correspondence audit process and may encounter difficulties reaching assistance on IRS toll-free phone lines that operate with limited levels of service. The IRS correspondence audit process is structured to expend the least amount of examination resources to conduct the largest number of examinations, resulting in the lowest level of customer service to taxpayers having the greatest need for assistance.

Correspondence audits produce the lowest agreement rate, the highest no-response rate, and the highest volume of cases assessed by default.<sup>38</sup> The resulting high volume of unagreed cases leads to the use of downstream resources for resolution activities that include audit reconsideration and involvement of other IRS functions such as the IRS Office of Chief Counsel, the IRS Independent Office of Appeals, and TAS.

Appropriate correspondence audit customer service is necessary to reduce the burden on our nation’s least affluent and most vulnerable taxpayers. Increased customer service would improve low-income taxpayer audit participation, and education would help taxpayers better understand how to comply. Resulting increases in audit participation and compliance could reduce downstream unagreed audit resource costs. Taxpayers deserve increased access to assistance and personal interaction during the correspondence audit process to ensure their taxpayer *rights to quality service and a fair and just tax system* are protected.<sup>39</sup>

**Objective 9 for FY 2023 – TAS will continue to work with the IRS to eliminate correspondence audit barriers that hinder low-income taxpayer audit resolution, increase burden, and increase the use of downstream resources.**

- Activity 1: Participate on a recently created IRS cross-functional team designed to explore and address the root causes of high default and non-response rates experienced by low-income taxpayers involved in the correspondence audit process.
- Activity 2: Participate on a recently created IRS cross-functional team designed to explore and address the root causes of increased correspondence audit and Automated Underreporter program petitions filed without prior administrative review.

**10. IMPROVE COLLECTION POLICIES AND PROCEDURES**

As discussed in the National Taxpayer Advocate's 2021 Annual Report to Congress,<sup>40</sup> the COVID-19 pandemic exacerbated preexisting collection policies and procedures that harm taxpayers. The IRS declined to adopt most of the recommendations to improve collection policies and procedures. It cited temporary measures it took considering the COVID-19 pandemic to show that it has addressed some of the National Taxpayer Advocate's concerns. The IRS cited a lack of resources to implement some recommendations and did not agree that other recommended changes were appropriate. TAS will continue to advocate for the recommendations in the 2021 report to address longstanding problems, propose ways the IRS can implement the recommendations, and urge the IRS to reconsider its positions.

**Objective 10 for FY 2023 – In discussions with IRS Collection policy leaders and in reviewing Internal Revenue Manual (IRM) provisions and correspondence to taxpayers, TAS will continue to advocate for improved collection policies and procedures.**

- Activity 1: Propose specific revisions to IRM procedures to require the IRS to wait for 120 days (up from the current 105 days) after issuing a notice of deficiency before assessing additional tax to prevent premature assessments.
- Activity 2: Propose specific revisions to IRM procedures to require the IRS to defer collection activity until 45 days after the IRS addresses the merits of a taxpayer's correspondence and if requested, provide a six-month hold on collection matters while the taxpayer's correspondence, amended return, or other request is pending to minimize confusion and taxpayer frustrations.
- Activity 3: Propose revisions to Notice CP 15, Civil Penalty Notice, when issued for assessable penalties, to include detailed information about taxpayers' rights and consequences of an administrative appeal, to explain that the notice constitutes their only prepayment "opportunity to dispute" the liability, and to explain that the taxpayer will not be permitted to dispute the merits of the liability at a future Collection Due Process (CDP) hearing or before the U.S. Tax Court to protect taxpayer rights.
- Activity 4: Propose specific revisions to IRM procedures to allow the IRS to consider changes in taxpayers' circumstances when determining the installment agreement user fee.
- Activity 5: Draft and share with the IRS a proposed standardized form taxpayers can use to request Currently Not Collectible-Hardship consideration either online or by submitting the form to a dedicated fax number.
- Activity 6: Identify any obstacles (other than resource-related) that would prevent the IRS from programing its computer systems to allow employees to immediately freeze refunds while a taxpayer's request for an offset bypass refund (OBR) is under consideration to prevent denials of an OBR due to IRS processing times.
- Activity 7: Identify any obstacles (other than resource-related) that would prevent the IRS from making OBRs systemically available to taxpayers to the extent their allowable EITC claims exceed the current year's tax liability.

- Activity 8: Work with the IRS to conduct the pilot that Offer in Compromise Policy has agreed to champion, expected to take place in filing season of FY 2023 or FY 2024, targeting a specific pool of taxpayers to determine if specific messaging will lead to an increase in offer submissions.

## 11. ASSESS THE EFFECTIVENESS OF THE IRS'S EFFORTS TO REDUCE ITS BACKLOG OF AMENDED RETURNS AND WORK WITH THE IRS TO IMPROVE PROCESSING

The IRS continues to struggle with an exceptionally high volume of backlogged return inventory, causing long refund and processing delays and frustration for taxpayers and tax professionals. A significant portion of the backlog consists of unprocessed amended tax returns. As Figure 2 shows, the IRS had approximately 3.2 million amended tax returns that require manual processing in its backlog as of May 27, 2022.

**FIGURE 2, Backlog of Amended Returns Processing (as of May 27, 2022)<sup>41</sup>**

	Individual	Business	Not Specified	Total
Amended Returns Inventory	2,340,384	883,630	-	3,224,014

On November 9, 2021, the National Taxpayer Advocate issued TAD 2021-2 directing the IRS to complete processing of all backlogged amended tax returns by December 29, 2021, or provide a detailed plan by December 8, 2021, for completing processing of the backlog.<sup>42</sup> In its response to the TAD, the IRS stated that while it did not have the resources to clear its backlog of unprocessed amended returns, it was “pursuing several approaches to reduce the amended return inventory.”<sup>43</sup>

Historically, taxpayers and tax professionals had been unable to file amended tax returns electronically, which required the IRS to manually process such paper returns. The National Taxpayer Advocate’s 2021 Annual Report to Congress included a recommendation to implement electronic amended return processing.<sup>44</sup> The IRS responded that, beginning in January 2022, taxpayers could electronically file amended tax returns for tax years 2019, 2020, and 2021, but these returns still require manual processing.<sup>45</sup>

### Objective 11 for FY 2023 – TAS will assess the effectiveness of the IRS’s plans to reduce its backlog of amended returns.

- Activity 1: Review and comment on the effectiveness of the multifaceted approach to addressing the amended returns backlog outlined in the IRS’s response to TAD 2021-2.
- Activity 2: Identify and propose changes to IRS processes that would reduce barriers to e-filing amended returns, such as having the IRS prepopulate some fields on Form 1040-X, Amended U.S. Individual Income Tax Return, providing downloadable data, or allowing taxpayers to file Forms 1040-X via Online Account.

## 12. MITIGATE THE UNINTENDED EFFECTS OF THE 2020 AND 2021 FILING DEADLINE POSTPONEMENTS ON TIMELY FILED CLAIMS FOR CREDIT OR REFUND

To address the effects of the COVID-19 pandemic, the IRS exercised its authority under IRC § 7508A and postponed filing deadlines for both the 2020 and 2021 filing seasons (*i.e.*, the 2019 tax return filing deadline for individuals was postponed from April 15 to July 15, 2020; the 2020 tax return filing deadline for individuals was postponed from April 15 to May 17, 2021).<sup>46</sup> Millions of calendar-year taxpayers took advantage of the postponement of the filing deadlines; in fact, taxpayers filed nearly 35 million returns during the postponed period for the 2020 filing season and over 29 million returns during the postponed period for the 2021 filing season.<sup>47</sup> Taxpayers appreciated the extra time to file, considering the challenging circumstances many faced as a result of the pandemic, but as is sometimes the case, good intentions come with unintended consequences. In this case, the postponement of the filing season deadlines caused a

mismatch between two critical time periods in the rules concerning claims for credit or refund, resulting in the potential barring of claims for those taxpayers who took advantage of the postponed filing deadlines.

Under IRC § 6511(b), a taxpayer generally must file a claim for credit or refund within three years from the time the return was filed or two years from the time the tax was paid, whichever expires later. If a taxpayer files his or her claim within the three-year period, then the amount of the credit or refund cannot “exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to three years plus the period of any *extension* of time for filing the return.”<sup>48</sup>

Because IRC § 6511(b)(2) only includes *extensions* in the three-year lookback period and not *postponements*, some payments may fall outside the three-year lookback period. Specifically, for calendar-year taxpayers, IRC § 6513(b) provides that any tax deducted and withheld on wages and any amount paid as estimated tax are deemed to have been paid on April 15 in the year following the close of the taxable year to which the tax is allowable as a credit. The courts have held that IRC § 6513(b) also applies to amounts deemed refunded through the application of the EITC.<sup>49</sup> If the millions of calendar-year taxpayers who took advantage of the postponed filing deadlines file claims for credit or refund three years from that date, the claims would be considered timely under IRC § 6511(b)(1); however, the payments deemed paid on April 15 would fall outside the three-year lookback period.

*Example:* In 2019, a taxpayer had income tax withheld from his paycheck every two weeks. In 2020, the taxpayer filed his 2019 return on the postponed filing deadline of July 15. The taxpayer’s 2019 tax liability was fully paid through withholding, which was deemed paid on April 15, 2020, the due date of the return. Based upon the filing deadline postponement to July 15, the taxpayer timely files a claim for refund on July 14, 2023.

Under IRC § 6511(a), the claim for refund is timely. Under the three-year lookback period of IRC § 6511(b), however, the amount of the taxpayer’s refund is limited to payments made in the three years prior to filing the claim (*i.e.*, payments made on or after July 15, 2020). The withholding deemed paid on April 15, 2020, falls outside that period (as would any estimated tax payments) so the claim for refund will be denied. By contrast, if the taxpayer had requested a filing extension until October 15, 2020, the taxpayer would have had until October 16, 2023 (October 15, 2023, is a Sunday),<sup>50</sup> to be eligible to receive a refund.

This was most likely the unanticipated result of the interaction between the rules governing the filing of a claim for credit or refund and the rules limiting the amount of a credit or refund that may be allowed. These timeframes typically align, but this alignment is aggravated by the postponement of the filing season deadlines for filing seasons 2020 and 2021.

**Objective 12 for FY 2023 – TAS will continue to advocate for mitigation of the unintended impact of the filing season postponements on taxpayers who took advantage of the postponed filing season and whose advance payments (including withholding and quarterly payments) no longer align with the due date for 2019 and 2020 tax returns, resulting in the payments falling outside the three-year lookback period.**

- Activity 1: Meet with the IRS to discuss the need for published guidance that will provide when the Secretary postpones a filing deadline pursuant to IRC § 7508A, amounts paid in the three-year period preceding the filing of a claim for credit or refund plus the period of any postponement of the filing deadline are eligible for credit or refund.<sup>51</sup>
- Activity 2: If guidance is not issued to address this issue before tax filing season 2023, work with the IRS to ensure the public is informed of the refund payment risks associated with the tax return due dates postponed in 2020 and 2021 to prevent denial or reduction of refunds pursuant to the “lookback” rule.



### 13. RESTORE TAX BENEFITS THAT WERE DISALLOWED DUE TO INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER RENEWAL PROCESSING DELAYS

When non-citizens seek U.S. citizenship, immigration authorities view compliance with U.S. tax laws favorably.<sup>52</sup> The IRC requires some individuals who are not eligible for Social Security numbers (SSNs), such as nonresident aliens, to file U.S. tax returns and pay taxes. When they file their returns, these taxpayers who are ineligible for an SSN may be eligible to claim important tax benefits, such as the Child Tax Credit. They also may have a dependent who qualifies them for federal and state tax benefits even though the dependent is ineligible for an SSN. Examples include the Credit for Other Dependents, the American Opportunity Tax Credit, the Premium Tax Credit, Head of Household filing status, and state benefits.

Taxpayers and their dependents who are ineligible for SSNs must use an ITIN to file returns, claim credits, and pay taxes required under the law.<sup>53</sup> Taxpayers apply for an ITIN, either on their own behalf or on behalf of a dependent, by submitting Form W-7, Application for IRS Individual Taxpayer Identification Number.<sup>54</sup> *Form W-7 must be filed on paper.* The application must be supported by original documents such as a birth certificate or passport, or copies of original documents that have been certified by the issuing agency, that establish, for example, the taxpayer's alien status and identity, foreign status, and residency.<sup>55</sup> Taxpayers may mail their Form W-7 and required documentation directly to the IRS or may visit an Acceptance Agent (AA) for assistance in completing the application and submitting it and the required documentation to the IRS.<sup>56</sup> A Certifying Acceptance Agent (CAA) is an AA authorized by the IRS to authenticate documents and submit authenticated copies of those documents to the IRS ITIN Unit.<sup>57</sup> Taxpayers may also submit their application in person by making an appointment at an IRS Taxpayer Assistance Center (TAC), which can verify original documents and submit verified copies of those documents to the IRS ITIN Unit.<sup>58</sup>

We have reported on the IRS's recent backlog for processing Forms W-7 as well as on the IRS's backlog for processing paper returns.<sup>59</sup> Backlogs in processing first-time ITIN applications (as opposed to a renewal application) *delay* taxpayer refunds. However, as explained below, backlogs in processing renewal applications result in *disallowance* of claimed tax benefits.

#### ***Some Individual Taxpayer Identification Numbers Expire, and the IRS Processed Some Returns Without Regard to Pending Renewal Applications***

ITINs issued after December 31, 2012, expire after three consecutive years of non-use.<sup>60</sup> ITINs issued before January 1, 2013, also expire after three consecutive years of non-use, *or* on the "applicable date" if the applicable date is earlier.<sup>61</sup> For example, the applicable date for ITINs issued before January 1, 2008, was January 1, 2017; the applicable date for ITINs issued in 2011 or 2012 was January 1, 2020.<sup>62</sup> Taxpayers request an ITIN renewal by submitting Form W-7 with the same documentation required of first-time applicants. If the IRS approves an ITIN renewal application, the approval is retroactive to the original assignment date of the ITIN before it expired.<sup>63</sup>

Unlike first-time applications for an ITIN, which require an accompanying tax return, until recently ITIN renewal applications could be filed separately from a tax return (and the return could be filed electronically) if the IRS had not yet deactivated the ITIN.<sup>64</sup> When the renewal application is filed separately from the tax return, the ITIN Unit located in Austin processes the renewal application and an IRS Submission Processing function located in Austin, Kansas City, or Ogden processes the return.

As required by the American Rescue Plan Act of 2021 (ARPA), the IRS distributed Advance Child Tax Credit payments to qualifying taxpayers, including ITIN holders, generally based on information contained in their 2019 or 2020 tax return.<sup>65</sup> This made it essential for ITIN holders to file returns, including any delinquent 2019 or 2020 returns, to qualify for the Child Tax Credit in 2020 and receive advance payments in 2021 as well as any other tax benefits to which they were entitled in 2021. Taxpayers with expiring ITINs had to renew the ITIN before they could file their returns.

### ***Processing Backlogs of Renewal Applications Caused Disallowance of Important Tax Benefits***

When processing tax returns with an ITIN, the IRS uses its math error authority to disallow the claimed tax benefits if the ITIN included on the return has expired, even if the ITIN was unexpired when the return was filed, or the taxpayer submitted an ITIN renewal application that remained unprocessed when the return was processed.<sup>66</sup> IRS math error procedures provide taxpayers who receive a math error notice 60 days to respond to the disallowance.<sup>67</sup> If the taxpayer does not respond, the disallowance will stand without the IRS issuing a notice of deficiency.

In 2021, the IRS issued 214,105 math error notices because it appeared the taxpayer filed a return with an expired ITIN. As of April 30, 2022, the IRS had issued 61,312 such notices.<sup>68</sup> We expect this number to rise as the IRS processes more backlogged returns. The IRS acknowledges that it sends math error notices to taxpayers who filed a return with an unexpired ITIN but whose ITIN lapsed by the time the IRS processed the return.<sup>69</sup> In this situation, the taxpayer must request renewal of the ITIN. The IRS also recognizes that it sends math error notices to taxpayers whose ITIN renewal application was not processed by the time the IRS processed the return.<sup>70</sup> In either of these situations, the IRS can restore the disallowed tax benefits after it processes the ITIN renewal application but will do so only in response to an inquiry by the taxpayer.

At the end of processing year (PY) 2019, there were more than 26,511 unassigned (and unworked) renewal applications that carried over to 2020.<sup>71</sup> During 2020, the IRS renewed about 418,190 ITINs, and by the end of PY 2020, there were 104,771 unassigned applications for renewals. At the end of PY 2021, the IRS had renewed 566,402 ITINs but carried over 37,050 unassigned renewal applications to 2022.<sup>72</sup> Moreover, during 2020 and 2021, the rates at which the IRS rejected ITIN renewal applications were 20.5 percent and 17.9 percent, but the rejection rate increased to 37.6 percent for January-April 28, 2022.<sup>73</sup>

The IRS does not automatically restore the disallowed tax benefits when, as it clears its ITIN renewal backlog and its return processing backlog, it learns that the taxpayer renewed his or her ITIN or that the ITIN was still valid when the taxpayer filed the return. If a taxpayer in this situation does not contact the IRS, the IRS will not rectify the error. The National Taxpayer Advocate does not believe this outcome is fair to taxpayers when the disallowance of a tax benefit resulted from IRS processing backlogs.

### **Objective 13 for FY 2023 – TAS will work with the IRS to assist taxpayers whose requested ITIN renewal was not processed timely.**

- Activity 1: Investigate how many ITIN holders' claimed tax benefits the IRS disallowed because it did not timely process their ITIN renewal application or tax return.
- Activity 2: Work with the IRS to restore affected taxpayers' claimed tax benefits.
- Activity 3: Work with the IRS to investigate the reason for the increased rate of ITIN renewal application rejections.
- Activity 4: Identify obstacles to allowing CAAs to use a digital upload tool to provide supporting documents for Form W-7 and the associated tax return, which would increase the efficiency of processing Forms W-7.

## **14. END SYSTEMIC ASSESSMENTS OF INTERNATIONAL INFORMATION RETURN PENALTIES, WHICH HARM TAXPAYERS AND BURDEN THE IRS**

The IRS's systemic assessment of disproportionate international information return (IIR) penalties disadvantages taxpayers because they have no preassessment mechanism for disputing the penalty. The IRS assesses IIR penalties on returns it considers to be filed late, but many systemically assessed IIR penalties, particularly IRC §§ 6038 and 6038A penalties, are abated because the returns were filed timely, because reasonable cause relief was granted, or because of other administrative reasons. Taxpayers and the IRS expend

significant time, energy, and money addressing penalties that the IRS should not have assessed. Thus, these systemic assessments are ineffective in promoting taxpayer compliance and do not promote equity and fairness.

Because the penalties are systemically assessed, taxpayers' recourse is to rely on IRS discretion to grant an abatement of the penalties, request a CDP hearing, or pay the assessed penalty and sue for a refund in a federal district court or the U.S. Court of Federal Claims. The IRS use of systemic penalties in the context of IIRs not only creates hardships for taxpayers, but TAS believes rests on a legally questionable foundation.<sup>74</sup> Accordingly, for FY 2023, TAS will work with the IRS to develop a more sound approach to this penalty regime.

One means of proactively addressing the current burdensome regime is to send preassessment correspondence, giving impacted taxpayers the opportunity to explain why the IRS should not assess the penalty. This approach would educate 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.

### **Objective 14 for FY 2023 – TAS will work with the IRS to end systemic assessment of IIR penalties and replace that system with a more efficient and equitable program.**

- Activity 1: Participate in the Office of Servicewide Penalties working group to propose administrative reviews in lieu of systemic assessment of IIR penalties and to develop more efficient mechanisms for taxpayers to mitigate IIR penalties by showing reasonable cause, proof of timely filing, or application of the first-time abatement administrative relief prior to assessment.
- Activity 2: Review and analyze IIR penalties to distinguish trends in penalties abated or otherwise not sustained from those penalties that are ultimately upheld and share the results with the IRS.
- Activity 3: Propose and participate in a new TAS-IRS working group to explore a civil penalty-free version of the Delinquent International Information Return Submission Procedures, under which taxpayers who are not under audit and have no income to report can come forward, file delinquent information returns, and remain compliant for future years to avoid penalties.

### Endnotes

- 1 See, e.g., Erin M. Collins, Getting Rid of the Kryptonite: The IRS Should Quickly Implement Scanning Technology to Process Paper Tax Returns, NATIONAL TAXPAYER ADVOCATE BLOG (Apr. 15, 2022), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-getting-rid-of-the-kryptonite-the-irs-should-quickly-implement-scanning-technology-to-process-paper-tax-returns/>.
- 2 Amended returns inventory includes Forms 1045, Application for Tentative Refund, and Forms 1139, Corporation Application for Tentative Refund.
- 3 Email from Wage and Investment (W&I) Division (June 6, 2022); IRS, Status of Unopened Mail and Backlog Inventory (May 27, 2022). The sum of individual returns or case category volumes may exceed totals due to rounding. Figure 1 has been updated as of May 27, 2022, and contains data that differs from the figure shown in the *Review of the 2022 Filing Season*, *supra*, and Systemic Advocacy Objective: *Identify Ways to Alleviate the Backlog of Paper-Filed Tax Returns*, *infra*.
- 4 See Systemic Advocacy Objective: *Identify and Minimize Electronic Filing Barriers*, *infra*.
- 5 TAD 2022-1 (Mar. 29, 2022), <https://www.irs.gov/pub/irs-utl/tad-2022-1-memo-from-nta.pdf>.
- 6 IRS Response to the National Taxpayer Advocate's 2021 Annual Report to Congress (Apr. 25, 2022). See also *Filing Season and IRS Operations*, Hearing Before the H. Ways and Means Comm., Subcomm. on Oversight, 117th Cong. (Mar. 17, 2022) (statement of Charles P. Rettig, Commissioner of Internal Revenue), <https://www.irs.gov/newsroom/written-testimony-of-charles-p-rettig-commissioner-internal-revenue-service-before-the-house-ways-and-means-committee-subcommittee-on-oversight-on-the-filing-season-and-irs-operations>. For the definition of DHA, see 5 C.F.R. § 337.202. DHA enables an agency to hire, after public notice is given, any qualified applicant without regard to 5 U.S.C. 3309-3318, 5 C.F.R. part 211, or 5 C.F.R. part 337, subpart A. A DHA expedites hiring by eliminating competitive rating and ranking, veterans' preference, and traditional ranking procedures. See OPM, *Direct-Hire Authority Fact Sheet*, <https://www.opm.gov/policy-data-oversight/hiring-information/direct-hire-authority/#url=Fact-Sheet> (last visited May 25, 2022).
- 7 IRS Response to the National Taxpayer Advocate's 2021 Annual Report to Congress (Apr. 25, 2022).
- 8 *Id.* Critical position pay authority is an authority provided under 5 U.S.C. 5377 and 5 C.F.R. Part 535. Section 2103 of the Taxpayer First Act, titled *Streamlined Critical Pay Authority for Information Technology Positions*, added § 7812 to the IRC, reinstating streamlined critical pay authority for positions in IRS IT operations (which had lapsed in 2013) until September 30, 2025. Pub. L. No. 116-25, Title II, § 2103(a), 133 Stat. 1011 (2019). IRC § 7812 also allows the IRS to pay recruitment, retention, relocation incentives, and performance bonuses to streamlined critical pay appointees in positions in IT operations.

- 9 IRS Response to the National Taxpayer Advocate's 2021 Annual Report to Congress (Apr. 25, 2022). See also National Taxpayer Advocate 2021 Annual Report to Congress 51, 58-59 (Most Serious Problem: *IRS Recruitment, Hiring, and Training: The Lack of Sufficient and Highly Trained Employees Impedes Effective Tax Administration*).
- 10 IRS Response to the National Taxpayer Advocate's 2021 Annual Report to Congress (Apr. 25, 2022).
- 11 *Id.*
- 12 IRS, Pub. 5426, Taxpayer First Act Report to Congress (Jan. 2021), <https://www.irs.gov/pub/irs-pdf/p5426.pdf>. The Taxpayer First Act, Pub. L. No. 116-25, § 2402, 133 Stat. 1014 (2019), required that the Commissioner of Internal Revenue submit to Congress a written report providing a comprehensive training strategy for employees of the IRS.
- 13 National Taxpayer Advocate 2021 Annual Report to Congress 66-80 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*).
- 14 IRS, Joint Operations Committee (JOC), Snapshot Reports: Enterprise Snapshot for Enterprise Total, Accounts Management, and Consolidated Automated Collection Service data (weeks ending Apr. 20, 2019; June 30, 2020; and May 22, 2021). The weeks for which TAS pulled data correspond to the final week of the filing season in each of these years. These numbers are for enterprise total. See also National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 9 (*Review of the 2021 Filing Season*).
- 15 IRS, JOC, Snapshot Reports: Enterprise Snapshot (Sept. 30, 2021). For a definition of LOS and a discussion of its shortcomings, see National Taxpayer Advocate 2021 Annual Report to Congress 67 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*).
- 16 IRS, JOC, Snapshot Reports: Enterprise Snapshot (Apr. 23, 2022).
- 17 National Taxpayer Advocate 2021 Annual Report to Congress 67 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*).
- 18 Department of the Treasury, *Treasury and IRS Announce Aggressive Plan to End Pandemic Inventory Backlog This Year* (Mar. 10, 2022), <https://home.treasury.gov/news/press-releases/jy0648>.
- 19 See National Taxpayer Advocate 2021 Annual Report to Congress 109-121 (Most Serious Problem: *Online Accounts: IRS Online Accounts Do Not Have Sufficient Functionality and Integration With Existing Tools to Meet the Needs of Taxpayers and Practitioners*).
- 20 The IRS has announced a plan to hire 10,000 CSRs before the end of the year to process the tax return backlog and improve phone service. Department of the Treasury Office of Public Affairs, *Treasury and IRS Announce Aggressive Plan to End Pandemic Inventory Backlog This Year* (Mar. 10, 2022) <https://home.treasury.gov/news/press-releases/jy0648>. Voice and chatbots have been deployed on a number of IRS phone lines to help taxpayers set up payments and understand notices. This is a step in the right direction, although the actual time savings to taxpayers has yet to be determined. IRS, IRS unveils voice and chat bots to assist taxpayers with simple collection questions and tasks; provides faster service, reduced wait times, IR-2022-56 (Mar. 10, 2022) <https://www.irs.gov/newsroom/irs-unveils-voice-and-chat-bots-to-assist-taxpayers-with-simple-collection-questions-and-tasks-provides-faster-service-reduced-wait-times>.
- 21 National Taxpayer Advocate 2021 Annual Report to Congress 66-80 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*).
- 22 See IRC § 7803(a)(3); IRS, Pub. 1, Your Rights as a Taxpayer, <https://www.irs.gov/pub/irs-pdf/p1.pdf>.
- 23 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> (last visited June 7, 2022). This page addresses how long taxpayers may have to wait for Form 1040 return processing; the status of Form 941 processing; updates on submitting a missing form or document to the IRS; and Individual Taxpayer Identification Number application processing timeframes.
- 24 See, e.g., National Taxpayer Advocate 2021 Annual Report to Congress 81 (Most Serious Problem: *Transparency and Clarity: The IRS Lacks Proactive Transparency and Fails to Provide Timely, Accurate, and Clear Information*). Where's My Refund?, Where's My Amended Return?, and the IRS2Go app give taxpayers only these responses: return received, refund approved, or refund sent.
- 25 National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 5 (*Review of the 2021 Filing Season*) (excluding amended returns).
- 26 Email from W&I (May 2, 2022); IRS, Status of Unopened Mail and Backlog Inventory (Apr. 22, 2022).
- 27 See National Taxpayer Advocate 2021 Annual Report to Congress 109-121 (Most Serious Problem: *Online Accounts: IRS Online Accounts Do Not Have Sufficient Functionality and Integration With Existing Tools to Meet the Needs of Taxpayers and Practitioners*).
- 28 National Taxpayer Advocate 2021 Annual Report to Congress 66 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Difficulty Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*); National Taxpayer Advocate 2021 Annual Report to Congress 95 (Most Serious Problem: *Filing Season Delays: Millions of Taxpayers Experienced Difficulties and Challenges in the 2021 Filing Season*).
- 29 U.S. Census Bureau, *American Community Survey*, 2019 ACS 1 Year Estimates, Table S0101, Ages 18-74; derived as "age 18 and over" minus "age 75 and over;" Submission Processing (SP) Program Management/Process Assurance (PMPA) Branch Filing Season Statistics Report Individual Returns (cycle ending Dec. 17, 2021); SP PMPA Branch Filing Season Statistics Report Corporate and Partnership Returns (cycle ending Dec. 8, 2021).
- 30 Taxpayer First Act, Pub. L. No. 116-25, 133 Stat. 981 (2019). See also IRS, Pub. 5426, Taxpayer First Act Report to Congress 41 (Jan. 2021).
- 31 IRS, SP PMPA Branch Filing Season Statistics for Week Ending May 20, 2022; IRS SP PMPA Branch Filing Season Statistics Report for Week Ending May 22, 2021.
- 32 IRS, Filing Season Statistics for Week Ending December 3, 2021, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-3-2021>.
- 33 National Taxpayer Advocate 2021 Annual Report to Congress 136-148 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*).
- 34 IRS, Filing Season Statistics Report for Week Ending December 18, 2021.
- 35 National Taxpayer Advocate 2021 Annual Report to Congress 136-148 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*).



- 36 See Systemic Advocacy Objective: *Use Automation to Process Paper-Filed Tax Returns*, *supra*; National Taxpayer Advocate 2021 Annual Report to Congress 136-148 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*). See also Taxpayer Advocate Directive 2022-1: Implement Scanning Technology to Machine Read Paper Tax Returns and Address the Paper Return Backlog (Mar. 29, 2022); Erin M. Collins, Getting Rid of the Kryptonite: The IRS Should Quickly Implement Scanning Technology to Process Paper Tax Returns, NATIONAL TAXPAYER ADVOCATE BLOG (Mar. 30, 2022), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-getting-rid-of-the-kryptonite-the-irs-should-quickly-implement-scanning-technology-to-process-paper-tax-returns/>.
- 37 IRS, Compliance Data Warehouse (CDW), Automated Information Management System (AIMS) Closed Case Data FY 2019 individual audits and Individual Returns Transaction File (Nov. 2021). Internal Revenue Manual 4.1.1.1.6, Terms (Oct. 25, 2017).
- 38 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits (Nov. 2021). Correspondence audits include audits closed by campus tax examiners in either the W&I or Small Business/Self-Employed operating divisions.
- 39 See IRC § 7803(a)(3)(B). See also TAS, Taxpayer Bill of Rights, [www.taxpayeradvocate.irs.gov/taxpayer-rights](http://www.taxpayeradvocate.irs.gov/taxpayer-rights).
- 40 See National Taxpayer Advocate 2021 Annual Report to Congress, Most Serious Problems, <https://www.taxpayeradvocate.irs.gov/reports/2021-annual-report-to-congress/most-serious-problems/>.
- 41 Email from W&I (June 6, 2022); IRS, Status of Unopened Mail and Backlog Inventory (May 27, 2022). Amended Business Returns are Accounts Management only.
- 42 TAD 2021-2 (Nov. 9, 2021), <https://www.irs.gov/pub/irs-utl/tad-2021-2.pdf>.
- 43 IRS Response to TAD 2021-2 (Dec. 8, 2021), <https://www.irs.gov/pub/irs-utl/tad-2021-2-memo-from-dcse.pdf>.
- 44 National Taxpayer Advocate 2021 Annual Report to Congress 47 (Most Serious Problem: *Processing and Refund Delays: Excessive Processing and Refund Delays Harm Taxpayers*).
- 45 IRS Response to TAD 2021-2 (Dec. 8, 2021), <https://www.irs.gov/pub/irs-utl/tad-2021-2-memo-from-dcse.pdf>.
- 46 See Notice 2020-23, 2020-18 I.R.B. 742 (cross referencing Rev. Proc. 2018-58, 2018-50 I.R.B. 990); Notice 2021-21, 2021-15 I.R.B. 986. Under IRC § 7508A, when the Secretary determines that a taxpayer has been affected by a federally declared disaster, the Secretary is authorized to “disregard” for up to one year certain acts a taxpayer is required to undertake under the IRC, including the filing of a tax return. See also Treas. Reg. § 301.7508A-1.
- 47 IRS CDW, Individual Master File transaction history (Mar. 31, 2022).
- 48 IRC § 6511(b)(2)(A) (emphasis added).
- 49 See *Israel v. U.S.*, 356 F.3d 221 (2d Cir 2004).
- 50 See IRC § 7503 (when the last day for filing falls on a Saturday, Sunday, or legal holiday, the act will be timely if performed on the next business day). See also Rev. Rul. 2003-41, 2003-1 C.B. 814 (when a return is filed on the next day after a weekend or legal holiday, the lookback period is adjusted accordingly).
- 51 The National Taxpayer Advocate has recommended the legislative solution to this problem. See National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 22 (*Amend the Lookback Period for Allowing Tax Credits or Refunds Under IRC § 6511(b)(2)(A) to Include the Period of Any Postponement of Time for Filing a Return Under IRC § 7508A*).
- 52 See, e.g., 8 U.S.C. § 1427(a); 8 C.F.R. § 316.10; *Abuhekal v. U.S. Citizenship & Immigr. Servs.*, 2011 WL 2600709, at \*5 (D. Minn. June 30, 2011) (“Timely payment of taxes supports a finding of good moral character... . Conversely, failure to file or make timely payment of taxes may support a finding of a lack of good moral character.”) (internal citations omitted).
- 53 Any person required to make a return, statement, or other document to the IRS is required to include in such return, statement, or other document a taxpayer identifying number. See IRC § 6109; Treas. Reg. § 301.6109-1. See also IRC §§ 1, 2, 61, 871, 7701(b).
- 54 Spouses and dependents are not eligible for an ITIN or to renew an ITIN unless they are claimed for an allowable tax benefit, or they file their own return.
- 55 IRC § 6109(i)(2); Treas. Reg. § 301.6109-1(d)(3)(iii).
- 56 Treas. Reg. § 301.6109-1(d)(3)(ii)&(iv). See also Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (rev. Nov. 2021).
- 57 IRM 3.21.263.4.1, Acceptance Agent (AA) or Certifying Acceptance Agent (CAA) (Jan. 16, 2020), provides “CAAs can authenticate 12 of the 13 acceptable identification documents for primary and secondary (spouse) applicants. CAAs cannot authenticate foreign military identification cards and must submit the original or copies certified by the issuing agency. CAAs can ONLY authenticate passports and birth certificates for dependent applicants. They must submit the original or copies certified by the issuing agency of all other documents for dependent applicants. CAAs must attach Form W-7 Certificate of Accuracy (COA) to each Form W-7 as evidence of the documents they authenticated.” CAAs are located throughout the United States, and the 6,168 active CAAs as of Jan. 2021 included 181 foreign CAAs. In addition, 47,344 of the 1.1 million ITINs issued in 2020 were based on a CAA application. Treasury Inspector General for Tax Administration, Ref. No. 2022-40-013, *Administration of the Individual Taxpayer Identification Number Program* 20 (Jan. 26, 2022).
- 58 The IRS maintains 358 TACs, but due to attrition and resource limitations, 39 are presently not staffed on a full-time basis (24 TACs presently provide a virtual service delivery alternative to an in-person visit). All staffed TACs offer appointments as well as the ability to walk in. *IRS Filing Season and the IRS Budget, Hearing Before the Senate Finance Committee, 117th Cong.* (Apr. 7, 2022), (statement of Charles P. Rettig, Commissioner of Internal Revenue), <https://www.irs.gov/newsroom/written-testimony-of-charles-p-rettig-commissioner-internal-revenue-service-before-the-senate-finance-committee-on-the-filing-season-and-the-irs-budget>. The relevant IRS webpage, <https://www.irs.gov/help/itin-authenticating-tacs-link>, does not list the specific TACs that are open and provide ITIN services. The telephone number given on the webpage for taxpayers to call to schedule an appointment is not functional “due to extremely high call volume.”
- 59 See, e.g., National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 44 (Systemic Advocacy Objective: *Advocate for Efficiencies and Additional IRS Resources to Timely Process Individual Taxpayer Identification Number Applications*); National Taxpayer Advocate 2021 Annual Report to Congress 37 (Most Serious Problem: *Processing and Refund Delays: Excessive Processing and Refund Delays Harm Taxpayers*).
- 60 IRC § 6109(i)(3)(A).
- 61 IRC § 6109(i)(3)(B).



- 62 IRC § 6109(i)(3)(C). The IRS was unable to meet the statutory schedule and adopted a deactivation schedule. The IRS began deactivating ITINs issued prior to 2013 in phases based on the middle digit of the ITIN, if they were not already deactivated due to nonuse. See, e.g., IRS, IRS Now Accepting ITIN Renewal Applications; Taxpayers Encouraged to Act Soon to Avoid Processing Delays in 2017, <https://www.irs.gov/newsroom/irs-now-accepting-itin-renewal-applications-taxpayers-encouraged-to-act-soon-to-avoid-processing-delays-in-2017>; IRS, Taxpayers should renew expiring ITINs early to avoid a refund delay next year, <https://www.irs.gov/newsroom/taxpayers-should-renew-expiring-itins-early-to-avoid-a-refund-delay-next-year>.
- 63 IRS, ITIN Expiration Frequently Asked Questions, Q10, <https://www.irs.gov/individuals/itin-expiration-faqs> (last visited June 11, 2022).
- 64 Effective Jan. 1, 2022, ITIN holders must generally attach a tax return to their ITIN renewal application. IRM 3.21.263.5.2, Filing Tax Return Versus Exception Criteria (Jan. 1, 2022). When the return is attached to the ITIN renewal request, the ITIN Unit holds the return until the ITIN renewal request is processed, and once the ITIN is renewed forwards the return to Submission Processing.
- 65 ARPA, Pub. L. No. 117-2, § 9611, 135 Stat. 359 (2021). Taxpayers' qualifying children are required to have an SSN. IRC § 24(h)(7). In addition, some joint filers with SSNs were eligible to receive 2020 Recovery Rebate Credits (RRCs) even though one spouse was an ITIN holder. See IRC §§ 6428(g)(2)(A), 6428A(g)(2)(A) (providing for a reduced amount where only one spouse had an SSN); IRC §§ 6428(g)(4), 6428A(g)(5) (providing for an unreduced amount in the case of military spouses when only one spouse had an SSN). The 2021 RRC follows the same rules for joint filers but is also allowed to ITIN holders for their dependents with an SSN or IRS Adoption Taxpayer Identification Number. IRC § 6428B(e)(2).
- 66 IRC § 6213(g)(2)(O).
- 67 IRC § 6213(b)(2).
- 68 Math Error Reports 480-62-61 (Dec. 30, 2021; Apr. 30, 2022). See also IRM 21.6.1.6.6.2, ITIN Renewal Math Error Adjustments (Oct. 18, 2021), for definitions of Taxpayer Notice Codes 315-323, 642-646, 709-710, and 817 for ITIN-related math errors.
- 69 IRM 21.6.1.6.6.2, ITIN Renewal Math Error Adjustments (Oct. 18, 2021).
- 70 *Id.*
- 71 A processing year, which corresponds roughly to the calendar year, refers to the period in which the IRS processes previous tax year returns. For example, the IRS began processing returns filed in 2020 (such as tax year 2019 and prior year returns) in the 2020 processing year.
- 72 ITIN Production Reports (Dec. 31, 2020; Dec. 31, 2021).
- 73 ITIN Production Reports (Dec. 31, 2020; Dec. 31, 2021; Apr. 30, 2022).
- 74 See National Taxpayer Advocate 2020 Annual Report to Congress 119-131 (Most Serious Problem: *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*); see also *id.* at 129 (IRS Comments).

TAS works to protect taxpayer rights and help all types of taxpayers (*e.g.*, individuals, business owners, trusts, and exempt organizations) resolve tax-related issues that they have not been able to resolve on their own through normal IRS channels. Our case advocates work directly with taxpayers on identifying issues, researching solutions, and advocating on behalf of taxpayers within the IRS. TAS also works to identify and propose solutions for larger systemic problems that may be affecting many taxpayers. Our goal is to continuously improve our internal processes and advocacy efforts.

Over the past year, TAS has refocused efforts to advocate for those taxpayers most in need of our services as inventories climbed due to IRS backlogs. In December 2021, TAS eased taxpayers' burden in providing documentation by authorizing the receipt and transmittal of documents by email and utilizing the Documentation Upload Tool (DUT).<sup>1</sup> In February 2022, TAS adjusted case acceptance criteria to focus on taxpayers facing economic hardships and suspended quality review and centralized intake operations to reallocate personnel to assist with case processing.<sup>2</sup> In fiscal year (FY) 2023, TAS will continue to monitor the IRS's progress as it continues to work through the backlog, and if necessary, will implement changes to internal processes to advocate on behalf of those taxpayers with the greatest need.

### 1. LEVERAGE TECHNOLOGY TO IMPROVE INTERACTIONS WITH TAXPAYERS AND THEIR AUTHORIZED REPRESENTATIVES

TAS recognizes that expanding the use of technology is critical to improving services provided to taxpayers and continues to make technological changes to enhance our interactions with taxpayers and their authorized representatives. TAS authorized employees, after obtaining proper taxpayer or authorized third party consent, to continue receiving and transmitting documents by email using password-protected encrypted attachments.<sup>3</sup> TAS partnered with IRS Information Technology to successfully pilot DUT.<sup>4</sup> This secure web tool allowed taxpayers to upload documents to support their tax issue and congressional offices to transmit taxpayer inquiries. In FY 2023, TAS will focus on expanding the use of current technology and implementing new technologies to enhance communications with taxpayers. TAS will explore further expansion of DUT so that taxpayers and tax professionals may remit new inquiries via Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order). Case Advocacy will also implement chatbot technology to help taxpayers with the case acceptance process and supplement our current means of communicating with taxpayers and their authorized representatives.

#### Objective 1 for FY 2023 – TAS will expand the use of digital tools and develop new tools to enhance interactions with taxpayers, tax professionals, and congressional offices.

- Activity 1: Expand DUT to allow taxpayers and tax professionals to remit new inquiries by uploading Form 911.
- Activity 2: Improve the case acceptance process by implementing unauthenticated chatbot technology. Taxpayers and tax professionals will not be required to verify their identity but will describe tax matters to allow TAS to determine eligibility for services.
- Activity 3: Implement authenticated chatbot technology and live chat to communicate with taxpayers and their authorized representatives regarding case-related matters.

### 2. REDUCE ADMINISTRATIVE BURDEN IN CASE PROCESSING TO ALLOW ADVOCATES TO FOCUS ON HELPING TAXPAYERS

In FY 2022, Case Advocacy commissioned a Lean Six Sigma (LSS) project to thoroughly examine case processing and identify improvements to better serve taxpayers. TAS leveraged the LSS assessment to identify deficiencies in case processing and introduce steps to fix them. TAS reduced administrative burdens and improved advocacy by establishing a case closing function, creating a case acceptance determination tool, and

suspending the requirement to complete several screens in the current case management system. These actions allowed case advocates to focus on helping taxpayers rather than dealing with administrative actions.

TAS also utilized the LSS assessment to make recommendations for the potential migration of TAS case processing to Enterprise Case Management (ECM). The purpose of the IRS's ECM initiative is to build a platform to assist employees and taxpayers in streamlining resolutions by providing a consolidated system to centralize case management and internal research. In FY 2022, TAS partnered with the IRS Enterprise Digitalization and Case Management Office and used the case processing map created during the LSS assessment to develop the prototype of the key business processes TAS requires to advocate on behalf of taxpayers.

In FY 2023, TAS will partner with the Wage and Investment Lean Six Sigma Organization to identify and initiate additional improvements based on the FY 2022 LSS assessment. Finally, once TAS migrates to ECM, Case Advocacy will form a diverse team to test the new system. This team will test ECM's case management and internal research capabilities and make recommendations for improvements to the system that will lead to more efficient, effective resolution of tax issues. The timing of TAS's ability to migrate to ECM will depend upon available IT funding and prioritization of TAS's needs for an improved case management system.

### **Objective 2 for FY 2023 – TAS will use the LSS assessment findings and test new technology to improve the efficiency of case processing.**

- Activity 1: Develop and implement one plan to improve the efficiency of case processing as identified in the FY 2022 LSS evaluation.
- Activity 2: Ensure taxpayer issues are resolved efficiently by forming a diverse team to test the new ECM system and make recommendations for improvements.

## **3. BETTER MEET TAXPAYER NEEDS BY INCREASING STAFFING AND REALIGNING SERVICES**

TAS recognizes the importance of hiring and properly training employees to better meet the needs of taxpayers. From February 2019 to February 2022, TAS staffing slightly increased, while the volume of taxpayers with eligible cases accepted into TAS increased significantly by 39 percent.<sup>5</sup> In FY 2022, TAS expanded its use of recruiting platforms to attract qualified candidates for open positions. However, like much of the IRS, TAS continues to face challenges recruiting enough qualified candidates to meet our staffing needs.

In FY 2023, TAS will continue to recruit qualified candidates focusing on recent college graduates, increase staffing in current TAS offices, and geographically realign services to better meet the needs of taxpayers outside the United States (international taxpayers). TAS will increase the total number of employees available to advocate on behalf of taxpayers and improve communications with international taxpayers in different time zones. TAS will serve international taxpayers according to where they reside. The Hawaii office will serve international taxpayers residing in the Western Hemisphere, and the Puerto Rico office will advocate for taxpayers located in the Eastern Hemisphere.

### **Objective 3 for FY 2023 – TAS will better meet taxpayer needs by recruiting college graduates, increasing staffing, and realigning services.**

- Activity 1: Increase staffing in current local TAS offices.
- Activity 2: Improve advocacy to international taxpayers by geographically realigning services.
- Activity 3: Use recruiting platforms to post job announcements, including social media, state government websites, and LinkedIn.
- Activity 4: Explore and identify new recruiting opportunities to target college graduates.

#### 4. REFINE TRAINING, FACILITATE ON-THE-JOB INSTRUCTORS, AND ARRANGE COACHES TO ENHANCE SKILLS AND COMPETENCE

During the COVID-19 pandemic, TAS continued to hire qualified candidates and modified all training to be delivered virtually. Case Advocacy analysts were required to complete a self-study curriculum, and new managers were assigned peer mentors. In FY 2022, TAS developed and introduced the Case Advocate Training Support program, which provided maximum support for newly hired case advocates by streamlining the curriculum and allowing trainees to promptly apply learned skills and work live cases.

In FY 2023, TAS will continue investing in our workforce. We will refine the training programs provided to new intake advocates, case advocates, and analysts in addition to boosting training and increasing knowledge sharing by implementing on-the-job instructor programs for new Case Advocacy analysts and managers. Finally, to develop skills and enhance competence in recognizing and solving problems, TAS will assign Human Capital Office coaches to each Case Advocacy analyst.

##### **Objective 4 for FY 2023 – TAS will refine training, facilitate on-the-job instructors, and arrange coaches to enhance skills and competence.**

- Activity 1: Assess the effectiveness of new Case Advocacy analyst training and modify courses to strengthen the curriculum, enhance analytical skills, and better meet the needs of the analysts to provide better taxpayer service.
- Activity 2: Develop and implement an on-the-job-instructor program for Case Advocacy analysts.
- Activity 3: Use the Human Capital Office mentorship and coaching program to assign a coach to each Case Advocacy analyst to build competence and enhance skills.
- Activity 4: Strengthen the new hire Case Advocate Training Support program by conducting trainee exit interviews and surveying the trainees' managers at the completion of the training period.
- Activity 5: Design and implement an on-the-job-instructor program for new Case Advocacy managers.

#### 5. EXPAND OUTREACH TO ADDITIONAL UNDERSERVED POPULATIONS

Despite difficulties during the pandemic, TAS continued to identify underserved populations and conduct outreach using Zoom.gov and other virtual platforms. In FY 2022, TAS identified senior citizens, Native Americans, members of the military, and homeless populations as underserved and conducted outreach to raise awareness about TAS and provide services to eligible taxpayers. TAS also conducted outreach and partnered with the IRS Stakeholder Partnerships, Education and Communication function to raise awareness about refundable credits including the Earned Income Tax Credit, Additional Child Tax Credit, and Credit for Other Dependents.

In FY 2023, TAS will use Microsoft Teams as an avenue to conduct outreach and complete Problem Solving Day events to reach additional underserved populations, including individuals with disabilities, first-time filers, small business owners, self-employed taxpayers, and international taxpayers. Finally, TAS will continue its partnership with the IRS and assist taxpayers during "Face-to-Face Saturday"<sup>6</sup> and "Hearing All Voices"<sup>7</sup> events.

##### **Objective 5 for FY 2023 – TAS will conduct outreach to additional underserved populations.**

- Activity 1: Expand use of Microsoft Teams technology to reach underserved populations and conduct Problem Solving Days.
- Activity 2: Establish new relationships with external stakeholders to expand outreach to additional underserved populations, including individuals with disabilities, first-time filers, small business owners, self-employed taxpayers, and international taxpayers.
- Activity 3: Assist taxpayers who are facing or about to face negative financial consequences or long-term adverse impact by partnering with IRS during the Hearing All Voices campaign and the IRS's Taxpayer Experience Office's Face-to-Face Saturday events.

## 6. CONTINUE NEGOTIATING UPDATES TO SERVICE LEVEL AGREEMENTS

TAS understands that time is of the essence in resolving taxpayer's tax issues. TAS and the IRS utilize Service Level Agreements (SLAs), which are nationally negotiated agreements between TAS and each IRS Business Operating Division (BOD) or function, that outline procedures and responsibilities for processing TAS casework when the authority to complete transactions rests outside of TAS. Although the basic framework contained within these SLAs is sound, the last update was over ten years ago, and there are areas for improvement. In FY 2022, TAS and the BODs/functions collaborated to publish the SLAs between the Wage & Investment Division, Tax Exempt/Government Entities Division, Chief Financial Officer Division, and Criminal Investigation Division into the Internal Revenue Manual (IRM) to make it easier to update and keep current moving forward.

In FY 2023, TAS will continue to protect taxpayers' *right to quality service* by redefining how, during the SLA negotiation process, TAS and the IRS will resolve disagreements and obtain requisite approvals to publish updates more efficiently to the IRM.

### Objective 6 for FY 2023 – TAS will update existing SLAs.

- Activity 1: Finalize a new IRM section describing how to negotiate an SLA at a high level with a BOD/function.
- Activity 2: Replicate the remaining SLAs into unique sections within the IRM through collaborations with the Independent Office of Appeals, Large Business and International Division, and Small Business/Self-Employed Division.
- Activity 3: Update the provisions in the SLAs to include, among other things, centralization of Operations Assistance Request<sup>8</sup> routing jointly with the IRS.

### Endnotes

- 1 Interim Guidance Memorandum (IGM) TAS-13-1221-0015, Interim Guidance – Digital Signatures and External Email Communications (Dec. 6, 2021), <https://www.irs.gov/pub/foia/ig/tas/tas-13-1221-0015.pdf>; IGM TAS-13-1221-0010, Interim Guidance – Document Upload Tool for Submissions from External Sources (Dec. 21, 2021), <https://www.irs.gov/pub/foia/ig/tas/tas-13-1221-0010.pdf>.
- 2 IGM TAS-13-0222-0002, Interim Guidance on Changes to TAS Case Acceptance Criteria for the Fiscal Year (FY) 2022 Filing Season and Temporary Modification of TAS Case Procedures (Feb. 3, 2022); IGM TAS-13-0222-0004, Interim Guidance on Changes to TAS Case Processing for Fiscal Year (FY) 2022 Filing Season (Feb. 14, 2022), <https://www.irs.gov/pub/foia/ig/tas/tas-13-0222-0004.pdf>.
- 3 IGM TAS-13-1221-0015, Interim Guidance – Digital Signatures and External Email Communications (Dec. 6, 2021), <https://www.irs.gov/pub/foia/ig/tas/tas-13-1221-0015.pdf>.
- 4 IGM TAS-13-1221-0010, Interim Guidance – Document Upload Tool for Submissions from External Sources (Dec. 21, 2021), <https://www.irs.gov/pub/foia/ig/tas/tas-13-1221-0010.pdf>.
- 5 TAS Business Results Report (Feb. 5, 2022).
- 6 See IRS, IRS Face-to-Face Saturday Help, <https://www.irs.gov/help/irs-face-to-face-saturday-help> (last visited June 2, 2022).
- 7 The Hearing All Voices initiative provides outreach and services and cultivates relationships within underserved, non-English speaking communities. The initiative involves holding half-day events to reach employers with English as a second, third, or fourth language.
- 8 When TAS does not have delegated authority to take actions necessary to resolve taxpayer issues, TAS uses Form 12412, Operations Assistance Request (OAR), to request or recommend actions from BODs/functions.



TAS seeks to use a data-driven approach to improve IRS services for all taxpayers. TAS Research focuses on understanding how IRS policies and procedures impact the IRS's ability to effectively and efficiently administer the IRC. To foster efficiency, TAS recommends that the IRS increasingly incorporate technology into its service offerings, most notably by expanding its online and digital services, while increasing the ease of accessibility of these tools to the vast majority of taxpayers. While taxpayers desperately need efficient access to IRS online services, the IRS also needs to ensure the effectiveness and availability of traditional services, such as sending correspondence to taxpayers, timely responding to or processing replies from taxpayers, and promptly answering telephone inquiries on its toll-free lines.

In fiscal year (FY) 2023, we continue research projects TAS initiated in FY 2022; specifically, TAS is continuing to develop and enhance three of its FY 2022 taxpayer-focused research studies.

## 1. STUDY TAXPAYER NEEDS AND PREFERENCES FOR IRS ONLINE ACCOUNT ACTIVITIES

The National Taxpayer Advocate's 2021 Annual Report to Congress includes both Online Accounts and digital services as two of the ten Most Serious Problems facing taxpayers. These two issues are very important to taxpayers, as shown in the IRS's 2021 Comprehensive Taxpayer Attitude Survey, where 85 percent of taxpayers reported the desire for a personal IRS online account to access their tax information and 81 percent wanted to be able to email questions to the IRS.<sup>1</sup> These capabilities are not only important to taxpayers, but they could also be of great benefit to the IRS. Through nearly the first eight months of FY 2022, IRS customer service representatives were only able to answer about 13 percent of the over 121 million phone calls received from taxpayers.<sup>2</sup> Expansion of the IRS Online Account service offerings has the potential to significantly reduce telephone inquiries to the IRS by providing account-related services and information to taxpayers without the need for human involvement. Although there is the potential to send communications between the IRS and taxpayers through the IRS's Online Account, the current IRS Online Account application does not accommodate that capability. TAS Research's review of online services offered by state taxing authorities finds some states offer this communications feature.<sup>3</sup> This simple enhancement would expedite communication between taxpayers and the IRS and potentially reduce the amount of time it would take to resolve a tax-related issue.

The current IRS Online Account application enables individual taxpayers to perform basic functions with the IRS.<sup>4</sup> Nevertheless, numerous obstacles exist in the IRS Online Account offerings, not the least of which is potential difficulty in establishing one's identity to open an IRS Online Account. As of May 28, 2022, only about 22 percent of individual tax return filers currently have access to an IRS Online Account.<sup>5</sup> In addition, access is complicated for joint filers. For instance, each spouse will need to sign into his or her own account to find his or her portion of the Economic Impact Payments.<sup>6</sup> In the recent initiative to distribute advance payments of the Child Tax Credit (CTC), each spouse had to separately access the CTC Update Portal if he or she wanted to halt the entire advance payment of the CTC.<sup>7</sup> TAS understands that the IRS must maintain robust security to protect taxpayer information and that even spouses have a right to protect their personal information; however, some state taxing agencies allow taxpayers to authorize a spouse access to the online account to prevent taxpayers from having to take the same online account action multiple times.<sup>8</sup>

The National Taxpayer Advocate continues to advocate for increased easy-to-access features on IRS Online Account, enabling taxpayers to both access their account information and to perform most necessary tasks in the online environment, reducing the need for telephone calls and paper correspondence. To increase use and build taxpayer confidence, the IRS should focus on offering services that taxpayers find beneficial and easy to use. It should prioritize developing additional online functionality and services, considering individual and business taxpayer needs and preferences. Accordingly, TAS is in the process of collecting information on the types of online services offered by state and foreign country taxing authorities, as well as other financial

institutions offering online account access; TAS expects to complete this activity before the end of FY 2022. TAS has also made plans to conduct focus groups with tax preparers regarding which online services they believe taxpayers would be most likely to use and which authentication requirements most taxpayers can meet to establish an IRS Online Account. TAS plans to use the data gleaned from these focus groups to design other focus group interactions or surveys of taxpayers to better understand their needs and preferences for establishing and using an IRS Online Account. Through our research efforts, we hope to help the IRS find ways to design and effectively market an IRS Online Account to taxpayers while ensuring that the process to establish an account is as straightforward and painless as possible.

**Objective 1 for FY 2023 – TAS will determine taxpayer needs and preferences for establishing online accounts with the IRS and authenticating secure access to those accounts.**

- Activity 1: Quantify unauthorized accesses in the online accounts of the taxing authorities of states or other nations or the online accounts of various financial institutions.
- Activity 2: Determine what online account features and capabilities U.S. taxpayers want to access.
- Activity 3: Determine what authentication criteria U.S. taxpayers could meet.
- Activity 4: Analyze whether the authentication criteria that U.S. taxpayers can meet varies by demographic groupings such as ethnicity, gender, or income.

## **2. STUDY TAXPAYER NON-RESPONSE TO CERTAIN IRS ACTIONS**

The IRS mailed over 106 million notices and letters to taxpayers in FY 2021.<sup>9</sup> This method of communicating with taxpayers is generally an inexpensive way of contacting taxpayers about their tax circumstances; however, many IRS communications never generate a response from the taxpayer. Therefore, it is imperative to understand why taxpayers often do not respond to the IRS, even when it is in their best interest to do so. Taxpayers who fail to respond not only thwart the IRS mission of collecting the proper amount of tax but also potentially increase their own financial burden by not providing information to establish their right to claim a credit or by incurring additional interest and penalties.

TAS Research has initially concentrated on taxpayers' non-response to IRS audits. Taxpayers are particularly unlikely to respond to notices and letters concerning correspondence audits. In the pre-pandemic fiscal year of 2019, nearly 90 percent of audits of taxpayers with less than \$50,000 of total positive income (TPI) were correspondence audits,<sup>10</sup> and nearly 40 percent of audited taxpayers with TPI under \$50,000 did not respond to the audit.<sup>11</sup> By FY 2021, the non-response rate of taxpayers with less than \$50,000 in TPI had risen to over 46 percent.<sup>12</sup> When taxpayers do not respond to IRS audits, the IRS automatically presumes that its initial audit findings are correct, and the taxpayer must pay the additional tax calculated by the IRS.

TAS has begun to develop and analyze a list of IRS notices and letters with high non-response rates. In conjunction with the IRS, TAS has also developed a moderator's guide for focus groups with tax preparers exploring why taxpayers do not respond to IRS notices and letters, particularly notices and letters informing them of a correspondence audit. TAS intends to use the feedback obtained from these focus groups to develop additional focus groups or surveys to be conducted directly with taxpayers.

**Objective 2 for FY 2023 – TAS will analyze why taxpayers often do not respond to various types of IRS notices and letters and how to improve the response rate.**

- Activity 1: Review internal processes to identify ways to improve efficiency when processing taxpayer responses.
- Activity 2: Identify ways to clarify communication so taxpayers understand what actions they should take.

- Activity 3: Conduct focus groups and surveys with taxpayers who have not responded to specific types of IRS correspondence to determine and quantify the reasons for non-response.

### 3. STUDY THE EFFECTS OF POTENTIAL CHANGES TO THE EARNED INCOME TAX CREDIT STRUCTURE

As of December 2021, about 25 million taxpayers had received about \$60 billion of the Earned Income Tax Credit (EITC) for tax year 2020.<sup>13</sup> Unfortunately, EITC has a high improper payment rate, estimated to be nearly \$19 billion for FY 2021.<sup>14</sup> For FY 2023, TAS will continue research into recommendations about changes to improve the EITC, originally outlined in the National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress. Specifically, TAS plans to elaborate on many of its prior recommendations for changes to the structure of the EITC and how such changes would affect the composition of the credit and the corresponding improper payment rate.<sup>15</sup>

This study will focus on whether dividing the EITC into two credits: (i) a refundable worker credit based on each individual worker's earned income, despite the presence of a qualifying child, and (ii) a refundable child credit, which will result in a similar total credit amount to those qualified to claim the EITC.<sup>16</sup> TAS will also focus on the qualifying child requirement of residency that is responsible for all or part of EITC disallowance in three-quarters of the National Research Program EITC audits where the eligibility of a qualifying child is an issue.<sup>17</sup> Rules for claiming EITC are complex, and the qualifications for residency often do not reflect today's family structure or living arrangements. Furthermore, the residency requirement for a qualifying child is extremely difficult for the IRS to verify when the child does not live in a traditional two-parent household.

#### **Objective 3 for FY 2023 – TAS will analyze tax return data, administrative EITC audit files, and census data to recommend a credit structure that is easier to administer while generating similar benefits to low-income families.**

- Activity 1: Analyze the outcome of prior EITC audits if the rules for the proposed per-worker and per-child credit were in place.
- Activity 2: Explore IRS and Census Bureau data to quantify the number of children who would qualify their parents for a per-child tax credit under various definitions of a “qualifying child.”
- Activity 3: Estimate the new improper payment rate for EITC based on the rules for the proposed per-worker and per-child credit.

#### Endnotes

- 1 IRS, 2021 Comprehensive Taxpayer Attitude Survey 36 (Apr. 2022).
- 2 IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot, Executive Level Summary (week ending May 28, 2021). These numbers are enterprise-wide rather than particular to a specific phone line.
- 3 See, e.g., Indiana Department of Revenue's INTIME User Guide for Individual Income Tax Customers (Oct. 2021), <https://www.in.gov/dor/files/intime-individual-guide.pdf>.
- 4 IRS Online Account features include viewing unpaid account balances and payment histories, establishing an installment agreement, and even making a payment. In fact, in FY 2021, taxpayers established over a million payment plans online. (Collection Activity Report 5000-6). Other online features available to taxpayers include obtaining account transcripts, checking on the status of a refund, acquiring an Identity Protection Personal Identification Number or Employer Identification Number, and verifying income for purposes of obtaining a loan. National Taxpayer Advocate 2020 Annual Report to Congress 46 (Figure 1.3.1). The IRS has also recently allowed tax professionals to submit Form 2848, Power of Attorney and Declaration of Representative, online and initiated other features for tax professionals. See IRS, Submit Forms 2848 and 8821 Online, <https://www.irs.gov/tax-professionals/submit-forms-2848-and-8821-online> (last visited June 12, 2022).
- 5 As of May 28, 2022, approximately 35.4 million individuals currently have access to an IRS online account. Slightly over 159 million taxpayers filed an individual income tax return in tax year 2020. IRS Individual Returns Transaction File on the IRS Compliance Data Warehouse (35.4 million/159 million = approximately 22 percent). However 16.8 million of these taxpayers obtained access to an IRS Online Account under old IRS authentication guidelines and may be required to take additional actions to maintain their account access in the future. IRS email response to TAS (June 3, 2022). Additionally, this percentage ignores the fact that both spouses who file a joint return must have their own individual account on IRS Online Account.
- 6 See IRS, News Release: Get ready for tax season using IRS Online Account, <https://www.irs.gov/newsroom/get-ready-for-tax-season-using-irs-online-account> (last visited May 24, 2022).

- 7 If only one spouse unenrolled from Advance CTC payments, the IRS continued to automatically pay half of the credit to the other spouse. See IRS, Advance Child Tax Credit Payments in 2021, <https://www.irs.gov/credits-deductions/advance-child-tax-credit-payments-in-2021> (last visited June 12, 2022).
- 8 See, e.g., Indiana Department of Revenue's INTIME User Guide for Individual Income Tax Customers (Oct. 2021), <https://www.in.gov/dor/files/intime-individual-guide.pdf>.
- 9 IRS Compliance Data Warehouse Notice Delivery System (June 2, 2022).
- 10 National Taxpayer Advocate 2021 Annual Report to Congress 14 (*Taxpayer Rights and Service Assessment*).
- 11 *Id.*
- 12 *Id.*
- 13 IRS, Statistics for Tax Returns with the Earned Income Tax Credit (EITC), <https://www.eitc.irs.gov/eitc-central/statistics-for-tax-returns-with-eitc/statistics-for-tax-returns-with-the-earned-income> (last visited June 12, 2022).
- 14 FY 2021 Payment Accuracy Dataset (Mar. 14, 2022), [www.PaymentAccuracy.gov](http://www.PaymentAccuracy.gov) (last visited May 19, 2022).
- 15 National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3, at 10-22 (Special Report: *Earned Income Tax Credit: Making the EITC Work for Taxpayers and the Government*).
- 16 National Taxpayer Advocate Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 115-118 (*Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce Improper Payments*).
- 17 IRS, Pub. 5162, Compliance Estimates for the Earned Income Tax Credit Claimed on 2006-2008 Returns (Aug. 2014).

## 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).<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> 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. 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, 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.<sup>5</sup>

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.<sup>6</sup>

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.”<sup>7</sup>

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.<sup>8</sup> 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 problems<sup>9</sup> 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)<sup>10</sup> 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;
- 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.<sup>11</sup>

Both the Annual Report to Congress and the Objectives Report are not subject to review by the IRS, Department of Treasury, or Office of Management and Budget, giving TAS a unique opportunity to directly provide information to Congress. “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.”<sup>12</sup>

Finally, TBOR 2 amended IRC § 7811, expanding 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.”<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup>

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 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).<sup>16</sup>

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.<sup>17</sup> 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.”<sup>18</sup>

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.<sup>19</sup> 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.<sup>20</sup>

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

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.<sup>22</sup>

The National Taxpayer Advocate advocated for many years that the IRS establish a TBOR. In June 2014, the IRS finally adopted the TBOR – a set of ten fundamental rights that taxpayers should be aware of when dealing with the IRS.<sup>23</sup> 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*.<sup>24</sup>

The passing of the TFA in July 2019 codified the timeframes surrounding issuance of TADs. Now, the IRS must respond to a TAD no later than 90 days after its issuance.<sup>25</sup> 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.<sup>26</sup>

## Endnotes

- 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, 1453-54 (July 30, 1996).
- 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 required 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 13.2.1.6.3, Taxpayer Advocate Directives (Sept. 29, 2020).
- 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).
- 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 IRS, IR-2014-72, IRS Adopts "Taxpayer Bill of Rights;" 10 Provisions to be Highlighted on IRS.gov, in Publication 1 (June 10, 2014), <https://www.irs.gov/newsroom/irs-adopts-taxpayer-bill-of-rights-10-provisions-to-be-highlighted-on-irsgov-in-publication-1>.
- 24 See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, § 401, 129 Stat. 2242, 3117 (Dec. 18, 2015).
- 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.<sup>1</sup>

TAS is currently assisting taxpayers with unprocessed tax year 2020 or earlier income tax returns filed by paper before June 1, 2021, that the IRS has not yet entered into its systems. However, TAS will assist taxpayers who filed their return electronically where the return has been delayed in processing and TAS case acceptance criteria is met.<sup>2</sup>

TAS case acceptance criteria fall into four main categories:

## 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.<sup>3</sup>

- 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.<sup>4</sup>

- 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.<sup>5</sup>

- 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.<sup>6</sup>

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

<sup>1</sup> IRC § 7803(c)(2)(A)(i).

<sup>2</sup> TAS changed its case acceptance criteria to generally stop accepting certain issues. See Internal Revenue Manual (IRM) 13.1.7.4, Exceptions to Taxpayer Advocate Service Criteria (Sept. 21, 2021), temporarily amended by Interim Guidance Memorandum (IGM) TAS-13-0522-0007, Interim Guidance on Changes to TAS Case Acceptance Criteria (May 13, 2022; expires Oct. 15, 2022), and IGM TAS-13-0521-0006, 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).

<sup>3</sup> See IRM 13.1.7.3.1, TAS Case Criteria 1-4, Economic Burden (Sept. 21, 2021).

<sup>4</sup> TAS changed its case acceptance criteria to generally stop accepting certain systemic burden issues. See IRM 13.1.7.3.2, TAS Case Criteria 5-7, Systemic Burden (Sept. 21, 2021) and IRM 13.1.7.4 (Sept. 21, 2021).

<sup>5</sup> See IRM 13.1.7.3.3, TAS Case Criteria 8, Best Interest of the Taxpayer (Sept. 21, 2021).

<sup>6</sup> See IGM TAS-13-0522-0008, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy (May 16, 2022).

## List of Low Income Taxpayer Clinics

Low Income Taxpayer Clinics (LITCs) represent individuals whose income is below a certain level and who 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 LTC. Using poverty guidelines published annually by the Department of Health and Human Services, each LTC 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 2022.

**FIGURE 1, LTC Income Guidelines (250 percent of the Federal Poverty Guidelines)**

Size of Family Unit	48 Contiguous States, Puerto Rico, and D.C.	Alaska	Hawaii
1	\$33,975	\$42,475	\$39,075
2	\$45,775	\$57,225	\$52,650
3	\$57,575	\$71,975	\$66,225
4	\$69,375	\$86,725	\$79,800
5	\$81,175	\$101,475	\$93,375
6	\$92,975	\$116,225	\$106,950
7	\$104,775	\$130,975	\$120,525
8	\$116,575	\$143,725	\$134,100
For each additional person, add	\$11,800	\$14,750	\$13,575

Figure 2 shows LITCs receiving federal funding for the 2022 calendar year that are 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, 2022 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	334-832-4570 334-223-0232	Spanish and other 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	800-967-9224 870-972-9224	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	213-365-7400	Spanish and Korean
	Los Angeles	Pepperdine LITC	213-673-4831	Spanish
	Los Angeles	Bookstein Low Income Taxpayer Clinic	818-677-3688	Spanish, Armenian, and Korean
	Mountain View	Elevate Community Center LITC	408-357-9538	Spanish, Chinese, Vietnamese, and Mandarin
	Orange	Chapman University Tax Law Clinic	877-242-7529 714-628-2535	Spanish and Vietnamese
	Riverside	Inland Counties Legal Services LITC	888-245-4257 951-368-2555	Spanish and other languages through interpreter services
	San Diego	Legal Aid Society of San Diego LITC	877-534-2524	Spanish, Vietnamese, Tagalog, Arabic, Farsi, and Somali
	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, and Toisanese
	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 and other languages through interpreter services
	Santa Ana	Public Law Center	714-541-1010	Spanish, Vietnamese, Tagalog, Chinese, Arabic, Farsi, and Mandarin

### Appendix 3: List of Low Income Taxpayer Clinics

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
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	Spanish and other languages through interpreter services
	Denver	University of Denver LITC	303-871-6331	Spanish
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, Mandarin, Chinese, French and other languages through interpreter services
DC	Washington	The Catholic University of America LITC	202-319-6788	Spanish and other languages through interpreter services
	Washington	American University Washington College of Law, Janet R. Spragens Tax Clinic	202-274-4144	All languages through interpreter services
DE	Georgetown	DCRAC LITC	877-825-0750 302-690-5000	Spanish and Hindi
FL	Ft. Myers	Florida Rural Legal Services Low Income Taxpayer Clinic	888-582-3410 863-688-7376	All languages through interpreter services
	Gainesville	University of Florida Levin College of Law Legal Clinics	352-273-0800	Spanish
	Miami	Legal Services of Greater Miami Community Tax Clinic	866-686-2760 305-576-0080	Spanish, Haitian, and Creole
	Plant City	Bay Area Legal Services Inc. LITC	813-752-1335	Spanish and Creole
	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, French, and other languages through interpreter services
	Tallahassee	Legal Services of North Florida	850-385-9007	Spanish, Chinese, French, and other languages through interpreter services
	West Palm Beach	Legal Aid Society of Palm Beach County LITC	800-403-9353 561-655-8944	Spanish, Haitian, and Creole
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	888-267-6891 678-646-5661	Spanish
HI	Honolulu	Hawaii Low Income Taxpayer Clinic	800-677-1159	All languages through interpreter services

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State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
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
IL	Chicago	Ladder Up Tax Clinic	312-630-0242	Spanish and Polish
	Chicago	Legal Aid Chicago LITC	312-341-1070	All languages through interpreter services
	Chicago	Loyola Federal Income Tax Clinic	312-915-7176	All languages through interpreter services
	Wheaton	Prairie State Legal Services LITC	855-829-7757	All languages through interpreter services
IN	Bloomington	Indiana Legal Services, Inc. LITC	800-822-4774 812-339-7668	All 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
KS	Kansas City	Kansas Legal Services, Inc. LITC	800-723-6953 913-621-0200	Spanish, French, German, Russian, Vietnamese, Polish, Croatian 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	AACA LITC	617-426-9492	Chinese and Vietnamese
	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	Spanish and other languages though interpreter services
	Lawrence	Northeast Legal Aid LITC	800-336-2262 978-458-1465	Spanish, Khmer, Portuguese, Bulgarian, Thai, Polish, French, Arabic, Hebrew, Italian, Luganda, Swahili, Hindi, Urdu, and other languages through interpreter services
	Springfield	Springfield Partners for Community Action LITC	844-877-7422 413-263-6500	Spanish, Vietnamese, Cantonese, Russian, and Chinese
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 3: 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	UMKC School of Law LITC	816-235-6201	All languages through interpreter services
	St. Louis	Washington University School of Law LITC	314-935-7238	All languages through interpreter services
MS	Oxford	Mississippi Taxpayer Assistance Project	888-808-8049	All 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
NE	Lincoln	Legal Aid of Nebraska LITC	877-250-2016 402-348-1060	All languages through interpreter services
NH	Concord	603 Legal Aid Low Income Taxpayer Project	603-228-6028	All languages through interpreter services
NJ	Atlantic City	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, and 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

### Appendix 3: List of Low Income Taxpayer Clinics

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
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	Spanish, Mandarin, Cantonese, Fuzhounese, Korean, Hindi, Bengali, Urdu, French, Creole, Croatian, Malayalam, and other languages through interpreter services
	New York	Fordham Law School	212-636-7353	Spanish and other languages through interpreter services
	New York	Mobilization for Justice	212-417-3839	Spanish, Chinese, French, Haitian, Creole, Urdu, Tagalog, Tamil, Persian, and other languages through interpreter services
	New York	The Legal Aid Society LITC	212-426-3013	Spanish and other languages through interpreter services
	Syracuse	Syracuse University College of Law LITC	888-797-5291 315-443-4582	All languages through interpreter services
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	All languages through interpreter services
	Columbus	The Legal Aid Society of Columbus LITC	877-224-8374 614-224-8374	Spanish, Somali, Arabic, Nepali, and other languages through interpreter services
	Columbus	Southeastern Ohio Legal Services LITC	844-302-1800 740-354-7563	All languages through interpreter services
	Toledo	Toledo Tax Controversy Clinic	419-684-8822	Arabic and other languages through interpreter services
OK	Tulsa	Legal Aid Services of Oklahoma LITC	833-284-6227 918-236-9572	All languages through language line services



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State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
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
	Portland	Oregon Law Center LITC	503-473-8325	All languages through interpreter services
PA	Philadelphia	Philadelphia Legal Assistance Taxpayer Support Clinic	215-981-3800	Spanish
	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
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	713-228-0735	Spanish, Vietnamese, 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 and other languages through interpreter services

### Appendix 3: List of Low Income Taxpayer Clinics

State	City	Clinic Name	Public Phone Number	Languages Served in Addition to English
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	866-534-5243 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 802-863-5620	All languages through interpreter services
WA	Seattle	University of Washington Federal Tax Clinic	866-866-0158 206-685-6805	Spanish, Russian, Mandarin, and Korean
	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	Morgantown	West Virginia University College of Law Legal Clinic	304-293-0819	All languages through interpreter services
WY	Laramie	University of Wyoming LITC	833-719-2490 307-766-6114	All languages through interpreter services

## Glossary of Acronyms

Acronym	Definition
AA	Acceptance Agent
ACS	Automated Collection System
ACTC	Additional Child Tax Credit
AIMS	Automated Information Management System
AdvCTC	Advance Child Tax Credit
AM	Accounts Management
ARC	Annual Report to Congress
ARPA	American Rescue Plan Act
BOD	Business Operating Division
CAA	Certifying Acceptance Agent
CATS	Case Advocate Training Support
CDW	Compliance Data Warehouse
CIS	Collection Information System
COA	Certificate of Accuracy
COVID-19	Coronavirus Disease of 2019
CP	Civil Penalty
CSR	Customer Service Representative
CTC	Child Tax Credit
CY	Calendar Year
DHA	Direct-Hire Authority
DUT	Documentation Upload Tool
ECM	Enterprise Case Management
EIC	Earned Income Credit
EIP	Economic Impact Payment
EITC	Earned Income Tax Credit
ERS	Error Resolution System
FY	Fiscal Year
GAO	Government Accountability Office
HCO	Human Capital Office
ID	Identification Documents
IGM	Interim Guidance Memorandum
IIR	International Information Return
IMF	Individual Master File
INTIME	Indiana Taxpayer Information Management Engine
IR	Internal Revenue
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
IT	Information Technology

Acronym	Definition
ITIN	Individual Taxpayer Identification Number
JCS	Joint Chiefs of Staff
JOC	Joint Operations Center
LITC	Low Income Taxpayer Clinic
LOS	Level of Service
LSS	Lean Six Sigma
LTA	Local Taxpayer Advocate
MeF	Modernized e-File
OAR	Operations Assistance Request
OBR	Offset Bypass Refund
OCR	Optical Character Recognition
OLA	Online Account
OPM	U.S. Office of Personnel Management
PMPA	Program Management/Process Assurance Branch
PRO	Problem Resolution Officer
PY	Processing Year
RRA 98	IRS Restructuring and Reform Act of 1998
RRC	Recovery Rebate Credit
SADI	Secure Access Digital Identity
SAMS	Systemic Advocacy Management System
SERP	Servicewide Electronic Research Program
SLA	Service Level Agreement
SP	Submission Processing
SSN	Social Security Number
TAC	Taxpayer Assistance Center
TAD	Taxpayer Advocate Directive
TAMRA	Technical and Miscellaneous Revenue Act
TAO	Taxpayer Assistance Order
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TCE	Tax Counseling for the Elderly
TFA	Taxpayer First Act
TIGTA	Treasury Inspector General for Tax Administration
TPI	Total Positive Income
TPP	Taxpayer Protection Program
VITA	Volunteer Income Tax Assistance
WebSD	Web Service Delivery
W&I	Wage and Investment Operating Division



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