

E-FILE AND FREE FILE

E-Filing Barriers and the Absence of a Free, Easy-to-Use Tax Software Option Cause Millions of Taxpayers to Continue to File Paper Tax Returns

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

When taxpayers cannot electronically file (e-file) their tax returns, including IRS forms or schedules, attachments, and other documents, they face delays in processing, the possibility of transcription errors, and longer waits for their refunds. Unlike paper returns, e-filing benefits taxpayers and the IRS with reduced errors and quicker return processing and refund payments. The mechanism for undertaking e-filing, however, can be unduly burdensome and often places significant obstacles in the paths of otherwise willing e-filers.

EXPLANATION OF THE PROBLEM

Most U.S. adults are legally required to file federal income tax returns, which are essential to determining the amount of their liabilities and obtaining refunds.¹ Taxpayers have a right to expect that this process will be as easy and straightforward as possible, and the IRS has an interest in facilitating it, because the U.S. tax system relies on self-assessment and voluntary compliance for the collection of revenue.

Approximately 92 percent of individual taxpayers e-filed during processing year (PY) 2022.² All too often, however, the e-file process was unnecessarily frustrating and costly for many taxpayers.³ In PY 2022, only two percent of all taxpayers used Free File, the result of the IRS's Free File Inc. partnership with the tax return preparation industry.⁴ This is the case even though the IRS targets Free File eligibility at 70 percent of taxpayers.⁵ Many businesses also faced obstacles to e-filing.⁶

Although the IRS has achieved good e-file numbers among individual taxpayers and is taking meaningful steps to enhance e-filing by businesses, significant room for improvement remains. Among other things, it should aggressively pursue innovations that other countries have long embraced.⁷ The IRS should facilitate

e-filing by enhancing the functionality of the process, both by making shorter-term improvements and by pursuing longer-term systemic transformation to lessen the delays associated with paper returns.

A high-quality e-file system, designed and provided by the IRS, will streamline the filing process for taxpayers, encourage compliance, and help prevent future paper return backlogs.

ANALYSIS

Taxpayers Are E-Filing Despite Obstacles

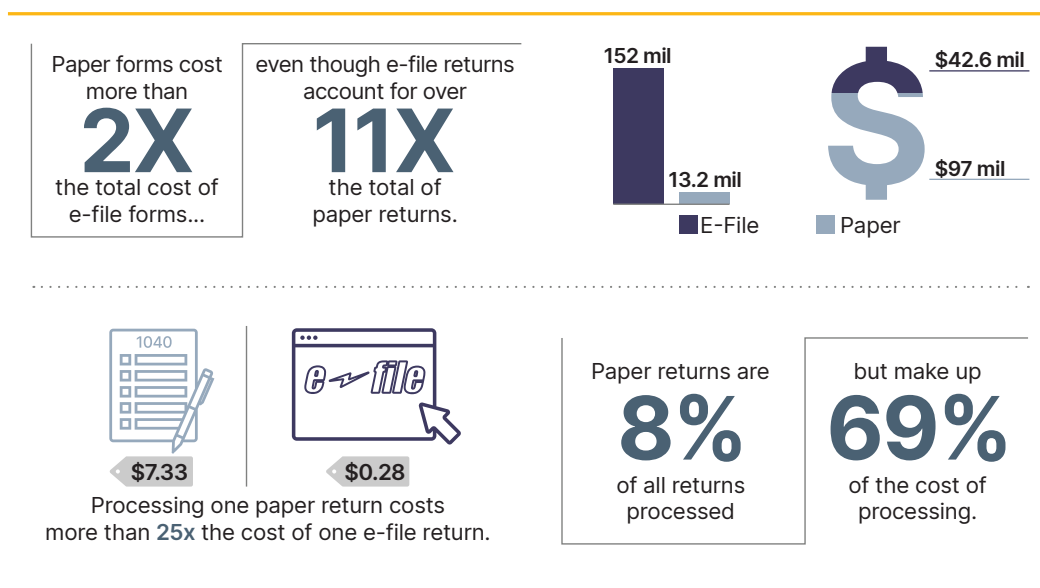
The Overwhelming Majority of Individual Returns Are E-Filed

During 2022, individual taxpayers e-filed approximately 92 percent of returns received by the IRS.⁸ Specifically, 152 million returns were e-filed, while 13.2 million were filed on paper.² Even though the paper filings appear insignificant on a proportionate basis, they have nevertheless caused huge processing backlogs, disruptions to taxpayer service, and extraordinary delays in processing and payment of refunds.¹⁰ Thus, taxpayers are well advised to e-file whenever they can, and the IRS has a significant interest in reducing the volume of paper returns to the smallest possible number while respecting the need or desire of taxpayers who choose to file paper returns.

Not only does e-filing result in quicker and better service from a taxpayer perspective, but it also saves the IRS resources. A paper-filed return may need to be handled by multiple employees during processing, whereas the IRS processes an e-filed return using automation and only requires human intervention if the return has an issue. According to the IRS, a paper-filed Form 1040 costs \$7.33 to process, whereas an equivalent e-filed return costs only \$0.28.¹¹ In the aggregate, this means that the total cost of processing all e-filed Forms 1040 was approximately \$42.6 million, whereas the total cost of processing paper Forms 1040 was approximately \$97 million. Even though paper returns account for only about eight percent of the total number of returns, they represent about 69 percent of the total costs of processing returns.¹²

FIGURE 2.6.1¹³

Cost Comparison of E-Filed Versus Paper-Filed Tax Returns



Taxpayers have demonstrated their eagerness to e-file, and the IRS desperately needs to increase e-filing capabilities for all taxpayers, whether individuals, businesses, tax-exempt entities, estates, trusts, or filers of employment tax returns or information returns. The IRS must eliminate the need for paper filing. The logical next step is for the IRS to facilitate this by continuing to make e-filing easier and more seamless.

Individual Taxpayers Face Needless Effort and Cost to E-File

Even though overall e-filing numbers are encouraging, individual horror stories abound. Some commenters to a *Washington Post* editorial related their experiences and observations as follows: “On Tax Day, as I worked toward a free file on TurboTax, I had to add one item of miscellaneous income from a small court settlement. Simple, right? Not to TurboTax. I was forced into paying for the Deluxe edition which ended up costing me over \$100. ...”¹⁴ “I pay taxes in both Sweden and the US. My US taxes take weeks with lots of frustration. In Sweden maybe five minutes and sending off an SMS [text message].”¹⁵

One challenge encountered by some taxpayers is that they attempt to e-file but are unexpectedly blocked from doing so. This happens when a return triggers an IRS business processing rule in the Modernized e-File (MeF) system. The IRS generally designs these rules to prevent identity theft and refund fraud, but the most commonly triggered MeF rules, many of which seek to validate taxpayer identity, can also be the result of a simple typo or misplaced prior year records. Each year, these rules generate millions of rejected e-file returns.

In PY 2022, just under 21 million taxpayers have collectively experienced approximately 33.8 million rejected e-file attempts.¹⁶ Roughly 31 percent of these taxpayers endured more than one rejection in attempting to e-file their return. Among taxpayers experiencing this rejection, only approximately half were able to rectify the issues and successfully e-file.¹⁷ For the unsuccessful half of taxpayers, these rejections generally ended up as paper returns, or, in some cases, as nonfiled returns.¹⁸ A few errors are common across many of these rejected returns, and for taxpayers who cannot fix them, these returns make a significant contribution to the paper return processing load.¹⁹ This is particularly unfortunate because the IRS is forcing taxpayers who are eager to e-file to instead file paper returns, which take longer for the IRS to process and can result in transcription errors.²⁰

TAS has recommended that the IRS consider ways to adjust the MeF rules to accommodate e-filing more easily.²¹ The IRS could accept a return that it has rejected several times due to a particular business rule violation and then route the electronic return directly to a unit for manual processing. If needed information is missing, it is not necessarily an improvement for a taxpayer to simply paper file the flawed return without understanding that there is a deficiency in the return. The IRS should consider the possibility that accepting those flawed returns electronically and segregating them for manual attention may represent an improvement in processing over the current paper system. Going forward, the IRS needs to consider options to decrease paper while ensuring the accuracy of returns.

The IRS and e-file software providers should emphasize continued education informing taxpayers of the types and importance of prior year data necessary for e-filing. These pieces of information are not arbitrarily chosen but instead are intended as controls to prevent identity theft. While identity thieves should not have an open invitation to steal someone’s tax refund, this concern could be better balanced by allowing taxpayers the opportunity to e-file, followed by a subsequent manual review.²² At a minimum, this approach would still be more seamless and convenient for taxpayers when compared with paper filing and would be more efficient for the IRS.

Additional frustrations for taxpayers often come from the tax software they purchase to assist in accurately preparing their returns. As one personal finance columnist has observed, “People pay to get their tax returns prepared because the 1040 form – and most IRS schedules and forms – are incomprehensible to a normal person.”²³ However, the tax software, which should simplify matters and facilitate e-filing, does not always

do so. For example, since most tax return preparation software relies on a question-and-answer (Q&A) format, it can sometimes generate forms with incorrect values that taxpayers need to override. Depending on the software and the particular override, the software company may include disclaimers that warn that the override will prevent e-filing. This is based on a business decision of the company rather than on an IRS rule or program and can lead to unnecessary stress, frustration, and paper filing.²⁴

It is reasonable for the costs of tax return preparation software to rise as the sophistication of its services increases. However, these escalating costs are a reoccurring complaint that has been raised regarding commercial tax return preparation software. Commercial software includes features based on a cost-benefit analysis, which means that taxpayers whose tax situations are uncommon may get halfway through their tax returns only to find that they need to shop around for a different product or pay for an upgrade to enter all their dependents or claim a credit to which they are entitled. Allegations were raised that the “Free Edition” of one software product “comes with traps that can push customers lured with the promise of ‘free’ into paying, some more than \$200.”²⁵

Although the IRS has a good working relationship with the tax software industry, the IRS has no direct control over the business decisions made by commercial tax return preparation software companies. Nevertheless, tax software has become an inextricable part of the self-assessment and voluntary tax compliance system, and software providers and the IRS currently exist in a mutually dependent partnership. As a result, the IRS should continue to work closely with these companies to encourage transparency and fairness in their dealings with taxpayers.

Free File Is Underutilized and Has Not Met Expectations

In 2002, the IRS and certain commercial tax return preparation software providers (known as the Free File Alliance) entered a public-private partnership.²⁶ Its purpose was to induce software providers to make available free tax return preparation to a broad swath of the American public. After negotiations between the Free File Alliance and the IRS, it was agreed that the alliance would offer software enabling free tax return preparation to at least 60 percent of taxpayers in exchange for a commitment from the IRS not to develop systems that would directly compete with the software providers.²⁷

The Free File Alliance offers two methods for free e-filing, “IRS Free File” and “Free File Fillable Forms.” Free File consists of a variety of software provided by the members of the Alliance, and it enables taxpayers below a certain adjusted gross income (AGI) threshold to file for free using Q&A-type software similar to paid options.²⁸ Free File Fillable Forms, which is less widely known, is also designed by an industry partner and allows taxpayers of any income level to e-file, but it is not a software program; instead, it is a digitized set of tax forms that require the taxpayer to fill out the forms manually but with the benefit of e-filing for quicker processing and refunds.²⁹ Taxpayers using Free File Fillable Forms require a degree of sophistication and patience, as this method does not offer additional guidance beyond existing IRS instructions and publications, which means that some eligible taxpayers may be uncomfortable with or intimidated by this option.

Both programs have fallen short of expectations. There is no standardization of Free File software, with the result that not all eligible taxpayers can file using any given program.³⁰ Some eligible taxpayers, due to their specific tax situations, may discover that no Free File offering contains the forms or schedules they require, and those taxpayers have no choice but to pay to e-file, redo their returns in Free File Fillable Forms, or paper file.³¹ Free File Fillable Forms is little-used and contains limitations that make it hit-or-miss for taxpayers, who might find that a key option is unavailable on one of their schedules.³² Again, these taxpayers are left with no option other than to pay to e-file or paper file their returns. For all these reasons, only about two percent of taxpayers used Free File to e-file their 2021 returns, even though the assortment of Free File programs is targeted at 70 percent of filers based upon their AGI.³³ The Treasury Inspector General for Tax Administration concluded that complexity and insufficient oversight of the Free File program were causal factors of this low taxpayer participation.³⁴

The portion of the agreement prohibiting the IRS from competing with the industry was removed in 2019.³⁵ As a result, the IRS can explore a range of alternative solutions that would better accommodate the needs of taxpayers and more comprehensively facilitate e-filing. Congress recognized the importance of this endeavor in 2022 as part of the Inflation Reduction Act, which appropriated funding for the IRS to study the costs of developing and running a free direct e-file tax return system.³⁶ Some expressed hope that this could be the impetus for improving a broken system.³⁷ The IRS should embrace this obligation as an opportunity to chart a course toward a reenvisioned and revitalized tax system.³⁸

The Biggest Short-Term Opportunity to Improve E-Filing Exists in the Business Returns Space

The number of e-filed business returns, although good, has lagged in comparison with individual returns. For instance, in 2022, individuals had an e-file rate of 92 percent, whereas business income tax returns had an e-file rate of 70 percent.³⁹ Employment tax returns had an e-file rate of only 58 percent.⁴⁰ Accordingly, focusing on ways of facilitating additional e-filing of business returns could yield significant benefits for this group of taxpayers as well as the IRS.

One source of difficulty for many businesses has been the Filing Information Returns Electronically (FIRE) system. Registering with FIRE requires numerous stages of authentication that, for some business owners, become more burdensome than beneficial, leading to abandonment and paper filing of information returns.⁴¹ Further, as the Electronic Tax Administration Advisory Committee (ETAAC) noted in its annual report to Congress, in 2021, FIRE suffered “performance issues throughout the information return filing season and outages throughout the day on the critical filing deadline,” highlighting the need for “a plan to upgrade FIRE with a modern platform.”⁴²

The Taxpayer First Act (TFA) included a phased threshold to require employers filing a certain number of information returns to do so electronically, but the system remains too convoluted to be an attractive option for many employers below that threshold, and the lowered threshold of ten information returns has yet to take effect.⁴³ TFA also mandated an online portal for filing Forms 1099, which is expected to go live in January 2023 and will be available to replace FIRE first for Forms 1099, and then in January 2024, for all information returns currently accepted by FIRE.⁴⁴ This portal should represent a major forward step for taxpayers and the IRS, and according to ETAAC, “This progress is an excellent example of what the IRS can accomplish with a properly funded technology initiative.”⁴⁵ Modernizing these components of information return e-filing will be crucial in engaging paper filers and creating the information technology (IT) infrastructure needed to carry out Congress’s vision. Currently, approximately 99.5 percent of all information returns, such as Forms 1099, are e-filed.⁴⁶ This additional progress will help deal with the anticipated upswing in information returns occurring on account of digital asset reporting and other investments.⁴⁷

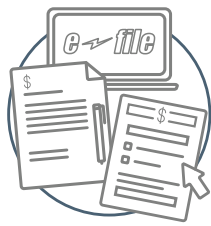
Where employment tax returns are concerned, barriers are both behavioral and structural. Research undertaken by the IRS Small Business/Self-Employed Division indicates some of the main reasons why companies file their employment tax returns on paper are because it appears cheaper and easier, because they have always done so, and because their tax return preparers advise them to do so.⁴⁸ An important factor in this behavior can be traced to the circumstance that businesses are only able to e-file employment tax returns through the use of payroll software providers.⁴⁹ This dependence has a number of downsides, including increased costs and security concerns. Until businesses can e-file directly with the IRS, these obstacles will remain, and many businesses will continue to opt to file on paper. If the IRS developed this capacity and made strong educational efforts about the benefits of e-filing, behavioral barriers, such as habit, would likely quickly reverse themselves.

The IRS has taken meaningful strides regarding the e-filing of business income tax returns and information returns. There is still room for progress, however, particularly in the case of employment tax returns.⁵⁰

Significant improvement in this area will require continued determination on the part of the IRS and the allocation of additional long-term resources by either the IRS or Congress.

The Way Forward

The IRS can and should take note of obstacles to e-filing and strive to mitigate those challenges, especially in the business return space. These efforts are important but should also parallel an initiative to develop a more comprehensive solution. The Inflation Reduction Act takes initial steps in this regard, as it appropriated funds for the IRS to study and report to Congress within nine months of the bill's passage on the costs of an agency-run free return filing system.⁵¹ The study must include taxpayer opinions and the views of an independent third party on the IRS's ability to deliver such a system.



The National Taxpayer Advocate strongly supports providing taxpayers with more free options to prepare and file their tax returns. While many taxpayers will continue to use preparers or commercial software, taxpayers should not be required to incur fees to comply with their tax return filing obligations.

This study could well represent the beginning of an e-file transformation within the United States. Conversations of a similar nature have been going on since the time of the Reagan administration but have resulted in little progress on account of the reluctance of a resource-starved IRS and the opposition of the tax return preparation industry.⁵² Over time, a groundswell of support has developed toward a more direct relationship between the IRS and taxpayers in the e-file process.

This relationship has been conceptualized as taking one of two broad forms. The more limited of these approaches would allow taxpayers to log into an IRS online account, see all the information returns and wage statements that have been provided by third parties to the IRS, and use that information to e-file directly with the IRS for free. Taxpayers would still calculate their own taxes, but the burden of information-gathering would be significantly decreased and transparency would be increased. Taxpayers would still be responsible for the ultimate accuracy of their returns and retain a filing obligation.

The broader approach, variously referred to as “pre-fill,” “auto-fill,” or “return-free filing,” would involve the IRS using the information returns and wage statements that it already receives from third parties to estimate a taxpayer’s taxable income. Taxpayers would need to only make any appropriate corrections; report any additional income, deductions, or credits not already captured by the IRS; sign the return; and electronically submit it to the IRS. One recent study based on Treasury Department data estimated that over 40 percent of tax returns could be accurately populated using only current year information returns and the prior year return.⁵³ Over 30 countries have adopted variants of this system, with large swaths of their populations being able to avoid the tax return preparation and filing burden by simply validating the correctness of the government-populated returns.⁵⁴

Based on the experiences of other countries, there are a variety of ways to achieve a return-free filing environment.⁵⁵ For instance, the United Kingdom has developed a widespread real-time withholding system that adjusts from one paycheck to the next so that many taxpayers do not have to file a return at all because their withholding accurately captures their income and credits.⁵⁶ Finland sends precompleted tax returns to all taxpayers, who only need to take action if the furnished return is not accurate; if it is correct,

taxpayers simply do nothing.⁵⁷ Australia, which offers prefilled tax returns through an online portal for easy, free e-filing, offers return-free filing to low-income people who owe no tax and have had no tax withheld, although people in that situation need to provide a form verifying that they do not need to file.⁵⁸ Taxpayers benefit by the time and money saved on simplified tax return preparation, and with accurate and widespread withholding, governments benefit from low tax gaps and reduced expenditures on revenue collection and enforcement.⁵⁹ However, these countries generally enact simpler tax laws than the United States, which facilitates this type of tax administration, and the complexities of the U.S. tax code pose a challenge to prepopulated returns for many taxpayers.⁶⁰

Some have advocated for the United States to move toward similar streamlining. President Ronald Reagan introduced the idea of a prefilled simple return as part of his tax reform plan in 1985, and the IRS Restructuring and Reform Act of 1998 directed the IRS to study the possibility of return-free filing.⁶¹ Currently, a bill has been proposed that would require the IRS to send all taxpayers a prefilled return and allow those taxpayers for whom the return is correct to avoid filing altogether.⁶²

The National Taxpayer Advocate strongly supports providing taxpayers with more free options to prepare and file their tax returns. While many taxpayers will continue to use preparers or commercial software, taxpayers should not be required to incur fees to comply with their tax return filing obligations. A free direct e-file tax return system will provide taxpayers with more options. In addition, taxpayers should be able to timely access third-party information returns, such as Forms W-2 and 1099, and download that information into their tax software.

However, the National Taxpayer Advocate is concerned about proposals to create prepopulated returns that taxpayers simply sign and submit. Tax liabilities are partly based on factors that the IRS cannot know, including changes to marital status, number of dependents, or cash receipts. Also, taxpayers may fail to furnish a required form such as Form 8962 or attach required information returns. Rather than providing taxpayers with a prepopulated form and expecting taxpayers to understand the complexities of the tax code or make corrections, we believe it is more appropriate to allow taxpayers to fill in those details themselves through prompts or a Q&A format, aided by the improved digital availability of downloadable third-party information returns, and e-file their returns for free.

CONCLUSION AND RECOMMENDATIONS

As evidenced by the overwhelming number of e-filed returns, taxpayers are willing to e-file and desire to receive refunds quickly and accurately. It is in the IRS's best interest to encourage this trend by making the e-file process more straightforward and user-friendly for taxpayers. Opportunity for improvement exists in the context of business taxpayers, who are sometimes discouraged from e-filing information returns and employment tax returns on account of cumbersome technology. Enhancing this capacity while at the same time developing an IRS-run direct e-file option could take a creaky system that is still managing to produce good results and create a comprehensive e-file system that would benefit both taxpayers and the IRS. This transformation would significantly improve the taxpayer experience, remove barriers to tax filing, improve the timeliness of refunds, and further self-assessment and voluntary compliance.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Evaluate the feasibility of accepting imperfect e-filed tax returns and directing them to appropriate treatment streams for further review.
2. Provide taxpayers with access via an online account to Forms W-2 and 1099 as well as IRS prior year payments or credits early in the filing season in a downloadable format that taxpayers can upload to the tax software of their choice.

3. Make all IRS forms and schedules compatible with e-filing.
4. Implement necessary IT upgrades to enable business taxpayers to more easily e-file information and employment tax returns, including amended employment tax returns.
5. Use lessons learned from the congressionally funded e-filing study to begin development of a comprehensive, direct e-file system that encompasses many of the attributes already adopted by other countries.

RESPONSIBLE OFFICIALS

Kenneth Corbin, Commissioner, Wage and Investment Division

Harrison Smith, Co-Director, Enterprise Digitalization and Case Management Office

Nancy Sieger, Chief Information Officer

IRS COMMENTS

The IRS agrees that expanding the individual and business electronic filing process to accept more forms digitally, as well as navigating in a paperless direction through digitalization, will benefit both the taxpayer and the agency. The Inflation Reduction Act (IRA) affords us the funding and opportunity to implement digital initiatives. In the IRS Strategic Plan FY2022-2026, one of the objectives of the agency is to “increase digitalization to streamline processes, improve access to digital data, and lessen our environmental impact.”

The IRS continues to expand the e-file system to improve the taxpayer’s experience, while working to prevent fraudulent tax filings. The IRS is working to add more forms to the e-file platform, building on paperless capabilities. Our development strategy includes soliciting input from internal and external stakeholders and working with the Taxpayer Experience Office (TXO) on sequencing the top priority forms.

We continue to partner with Free File Incorporated (FFI) to offer multiple Guided Free File options targeted to 70% of the population with a qualifying Adjusted Gross Income (AGI) and the Free File Fillable Forms program available to all income levels. IRS Free File is well positioned to deliver for the 2023 filing season and will promote the program via news releases, social media, and other channels. The IRS remains focused on working with FFI and others to continue enhancing and growing the e-file program.

The IRS constantly monitors all business rules in the Modernized Electronic Filing (MeF) system to verify that returns containing erroneous data are in fact rejecting back to the transmitter. In some situations, the taxpayer receives an explanation about what they can do to correct their return and resubmit electronically. For example, during the last filing season we established a business rule identifying when the Form 8962, Premium Tax Credit (PTC), was not included. This afforded taxpayers the opportunity to correct the omission, resubmit the return electronically and prevent a simple mistake from delaying their refunds, and aligns with the previous recommendation to provide this upfront opportunity to correct the error. It also eliminated the need for the IRS to issue downstream correspondence. These business rules are in place to support our commitment to prevent the electronic filing of fraudulent tax returns and promote an improved taxpayer experience.

The business e-file rate continues to increase, and the electronic filing of employment tax returns remain a priority. Education efforts are ongoing to remove some of the perceived barriers to filing business returns electronically. Employment tax returns continue to experience organic growth of approximately 2-3% yearly. Absent any legislative mandate requirement to e-file employment tax returns, companies have the choice to mail the return. The lack of mandate is affecting the growth of e-file rate for employment tax returns, which currently stands around 50%. This equates to us receiving over 14 million paper employment tax returns each quarter.

To overcome difficulties our customers encounter when using the Filing Information Returns Electronically (FIRE) system, the IRS Information Returns Modernization (IR Mod) Program is launching a user friendly Online 1099 portal geared towards small business taxpayers. In January 2024, the IR Mod platform will expand the Online 1099 portal to support additional information returns (IR) currently processed through FIRE and will eventually support all information returns in later releases.

TAXPAYER ADVOCATE SERVICE COMMENTS

TAS agrees with the IRS regarding the importance of e-filing. Moving from paper returns to e-filing reduces processing time, removes the possibility of transcription errors, facilitates taxpayer refunds, and preserves IRS resources. Individual e-file rates are excellent, and business e-file rates are good. Nevertheless, these rates still have room for improvement and the taxpayer experience could still be enhanced.

TAS applauds the IRS for its current efforts and future plans for improving e-filing access. Providing the maximum amount of feedback, consistent with fraud protections, when MeF rules are violated gives good-faith taxpayers an opportunity to correct inadvertent errors and contributes to quality tax administration. In addition to providing taxpayers information in cases such as a missing Form 8962, the IRS should also consider accepting imperfect e-filed tax returns and directing them to appropriate treatment streams for further review. Where information returns are concerned, the IRS initiative to launch the Online 1099 portal, which will one day be expanded to support all information returns, holds great promise.

To improve the tax return e-filing experience, the IRS should work toward providing taxpayers with access to their Form W-2 and 1099 information early in the filing season via their Online Account as well as IRS prior year payments in a downloadable format that taxpayers can upload to the tax software of their choice. TAS also suggests that the IRS include all information from the Form W-2, including state and local tax information to use in preparing state or local returns, to improve the experience for the taxpayer and ease the filing process. As a longer-term strategy, the IRS should take what it learns from the congressionally funded e-filing study and begin development of a comprehensive, direct e-file system that encompasses many of the attributes already adopted by other countries. TAS credits the IRS for its current efforts to improve e-filing and urges continued long-term initiatives that will enhance the e-file experience for both individuals and businesses while generating a continued rise in e-file rates that will benefit both taxpayers and the IRS.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Evaluate the feasibility of accepting imperfect e-filed tax returns and directing them to appropriate treatment streams for further review.
2. Provide taxpayers with access via an online account to Forms W-2 and 1099 as well as IRS prior year payments or credits early in the filing season in a downloadable format that taxpayers can upload to the tax software of their choice.
3. Make all IRS forms and schedules compatible with e-filing.
4. Implement necessary IT upgrades to enable business taxpayers to more easily e-file information and employment tax returns, including amended employment tax returns.
5. Use lessons learned from the congressionally funded e-filing study to begin development of a comprehensive, direct e-file system that encompasses many of the attributes already adopted by other countries.

Endnotes

- 1 IRS, Pub. 17, Your Federal Income Tax (For Individuals) (Dec. 2021); IRS, Pub. 501, Dependents, Standard Deduction, and Filing Information (Jan. 2021).
- 2 IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 3 Michelle Singletary, *Tax Season is Hell. We Should All Be Able to E-File for Free*, WASHINGTON POST (Apr. 20, 2022), <https://www.washingtonpost.com/business/2022/04/20/tax-season-frustration/>.
- 4 IRS response to TAS information request (Oct. 12, 2022); IRS response to TAS fact check (Nov. 17, 2022).
- 5 IRS response to TAS fact check (Nov. 17, 2022).
- 6 For a detailed discussion of these obstacles, see *The Biggest Short-Term Opportunity to Improve E-Filing Exists in the Business Returns Space*, *infra*.
- 7 For a detailed discussion of these possibilities, see *The Way Forward*, *infra*.
- 8 IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 9 *Id.*
- 10 National Taxpayer Advocate 2021 Annual Report to Congress 37-50 (Most Serious Problem: *Processing and Refund Delays: Excessive Processing and Refund Delays Harm Taxpayers*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_01_Processing-Delays.pdf; 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*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_08_Efiling.pdf.
- 11 IRS response to TAS information request (Oct. 12, 2022).
- 12 *Id.*; IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 13 IRS response to TAS information request (Oct. 12, 2022); IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 14 Michelle Singletary, *Tax Season is Hell. We Should All Be Able to E-File for Free*, WASHINGTON POST (Apr. 20, 2022), <https://www.washingtonpost.com/business/2022/04/20/tax-season-frustration/> (see comments).
- 15 *Id.* Due to the complexities of the U.S. tax code, U.S. tax returns are not simple when compared to most returns of other countries. See also National Taxpayer Advocate 2022 Annual Report to Congress (Most Serious Problem: *Complexity of the Tax Code: The Complexity of the Tax Code Burdens Taxpayers and the IRS Alike*), *supra*.
- 16 IRS, Compliance Data Warehouse (CDW) Electronic Tax Administration Research and Analysis System (ETARAS). The ETARAS_MEF1544 database was searched for entries with the date of submission into the Modernized e-File (MeF) between January 1, 2022, and September 29, 2022.
- 17 *Id.*
- 18 Tax returns that could not be e-filed generally resulted in paper filing unless taxpayers chose not to persist. For example, they may have been seeking to file fraudulent returns.
- 19 The numbers of triggered MeF rules are not equal to the number of rejected e-file returns since a rejected return may have triggered multiple MeF rules. IRS response to TAS information request (Oct. 12, 2022).
- 20 The IRS utilizes MeF rules for several reasons, including to combat identity theft and refund fraud.
- 21 National Taxpayer Advocate 2021 Annual Report to Congress 141 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_08_Efiling.pdf.

Most Serious Problem #6: E-File and Free File

- 22 Based on TAS research, it appears that there is no e-file lockout based on MeF triggers, and taxpayers can attempt to e-file as many times as they wish before either successfully correcting the problematic errors or giving up and paper filing.
- 23 Michelle Singletary, *Tax Season is Hell. We Should All Be Able to E-File for Free*, WASHINGTON POST (Apr. 20, 2022), <https://www.washingtonpost.com/business/2022/04/20/tax-season-frustration/>. See also National Taxpayer Advocate 2022 Annual Report to Congress (Most Serious Problem: Complexity of the Tax Code: The Complexity of the Tax Code Burdens Taxpayers and the IRS Alike), *supra*.
- 24 National Taxpayer Advocate 2021 Annual Report to Congress 141 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_08_Efiling.pdf.
- 25 See, e.g., Justin Elliot and Paul Kiel, *Inside TurboTax's 20-Year Fight to Stop Americans From Filing Their Taxes for Free*, PROPUBLICA (Oct. 17, 2019), <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>.
- 26 Lauren Loricchio, *Bill-Funded Study Could Inch IRS Closer to Direct Free Filing*, TAX NOTES FEDERAL, Vol. 176 (Aug. 22, 2022).
- 27 Justin Elliot and Paul Kiel, *Inside TurboTax's 20-Year Fight to Stop Americans From Filing Their Taxes for Free*, PROPUBLICA (Oct. 17, 2019), <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>; Memorandum of Understanding (MOU) between IRS Commissioner and Manager, Free File Alliance (Oct. 30, 2022), <https://www.irs.gov/pub/irs-utl/2002-free-online-electronic-tax-filing-agreement.pdf>. Under the current agreement, 70 percent of taxpayers are eligible based on adjusted gross income. See also IRS.gov, About the Free File Alliance, <https://www.irs.gov/e-file-providers/about-the-free-file-alliance> (last visited Nov. 21, 2022).
- 28 For TY 2021, the threshold was \$73,000. IRS, IRS Free File: Do your taxes for free, <https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free> (last visited Sept. 20, 2022).
- 29 *Id.*
- 30 IRS, IRS Free File Online Options, <https://apps.irs.gov/app/freeFile> (last visited Sept. 20, 2022). According to the IRS, companies offering Free File have to follow the Eighth MOU. Companies develop and update their software based on customer feedback to provide the best customer experience. See IRS response to TAS fact check (Nov. 17, 2022).
- 31 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2020-40-009, *Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation* 33 (2020), <https://www.tigta.gov/reports/audit/complexity-and-insufficient-oversight-free-file-program-result-low-taxpayer>.
- 32 IRS, Free File Fillable Forms: Program Limitations and Available Forms, <https://www.irs.gov/e-file-providers/free-file-fillable-forms-program-limitations-and-available-forms> (last visited Sept. 20, 2022).
- 33 IRS response to TAS information request (Oct. 12, 2022); IRS response to TAS fact check (Nov. 17, 2022).
- 34 TIGTA, Ref. No. 2020-40-009, *Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation* (2020).
- 35 Justin Elliot and Paul Kiel, *IRS Reforms Free File Program, Drops Agreement Not to Compete with Turbo Tax*, PROPUBLICA (Dec. 31, 2019), <https://www.propublica.org/article/irs-reforms-free-file-program-drops-agreement-not-to-compete-with-turbotax>. Specifically, the 2019 Addendum to the Free File (Eighth) MOU states, "The following sentence in Article 2 of the MOU is hereby stricken from the MOU: 'In recognition of this commitment, the federal government has pledged not to enter the tax return software and e-file services marketplace.'"
- 36 Inflation Reduction Act, H.R. 5376, 117th Cong. § 2, Pub. L. No. 117-169, § 10301(1)(B).
- 37 Lauren Loricchio, *Bill-Funded Study Could Inch IRS Closer to Direct Free Filing*, TAX NOTES FEDERAL, Vol. 176 (Aug. 22, 2022).
- 38 See *The Way Forward* for a more in-depth discussion of potential strategies, *infra*.
- 39 IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 40 IRS response to TAS information request (Oct. 12, 2022); IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).
- 41 IRS, Filing Information Returns Electronically (FIRE), <https://www.irs.gov/e-file-providers/filing-information-returns-electronically-fire> (last visited Sept. 20, 2022).
- 42 IRS, Pub. 3415, ETAAC Report to Congress 21-22 (June 2022).
- 43 TFA, Pub. L. No. 116-25, § 2301, 133 Stat. 981, 1012 (2019). See also IRS, Filing Information Returns Electronically (FIRE) (Sept. 20, 2022), <https://www.irs.gov/e-file-providers/filing-information-returns-electronically-fire>.
- 44 TFA, Pub. L. No. 116-25, § 2102, 133 Stat. 981, 1010 (2019). See also Jonathan Curry, *IRS Needs Funding to Make 'Critically Important' 1099 Portal Work*, TAX NOTES FEDERAL, Vol. 176 (Aug. 22, 2022); IRS, Pub. 3415, ETAAC Report to Congress 22 (June 2022); IRS response to TAS information request (Oct. 12, 2022). The IRS has not determined a sunset date for FIRE, and FIRE will still be available for some time after the new system goes live. IRS response to TAS fact check (Nov. 17, 2022).
- 45 IRS, Pub. 3415, ETAAC Report to Congress 10 (June 2022); IRS response to TAS information request (Oct. 12, 2022).
- 46 IRS response to TAS information request (Oct. 12, 2022).
- 47 Starting in TY 2022, the filing threshold for Form 1099 has lowered. Going forward, taxpayers are generally required to issue and file Forms 1099 for all payees receiving at least \$600, even in only a single transaction. This will likely lead to a significantly higher volume of Forms 1099 for 2022 and beyond. IRS, About Form 1099-MISC, Miscellaneous Income, <https://www.irs.gov/forms-pubs/about-form-1099-misc> (last visited Nov. 8, 2022); Jim Probasco, *Earn Side Income? Know This New Tax Rule*, INVESTOPEDIA (Jan. 7, 2022), <https://www.investopedia.com/new-tax-ruling-side-income-5215172>.
- 48 IRS response to TAS information request (Sept. 22, 2021).
- 49 *Id.*
- 50 IRS, Pub. 3415, ETAAC Report to Congress 22 (June 2022).
- 51 Inflation Reduction Act, H.R. 5376, Pub. L. No. 117-169, § 10301(1)(B).
- 52 Lauren Loricchio, *Bill-Funded Study Could Inch IRS Closer to Direct Free Filing*, 176 TAX NOTES FEDERAL 1305 (Aug. 22, 2022).
- 53 Justin Elliot and Paul Kiel, *Inflation Reduction Act Will Require the IRS to Study Free Tax Filing Options*, PROPUBLICA (Aug. 16, 2022), <https://www.propublica.org/article/files-taxes-free-inflation-reduction-act>.

- 54 Briefing Book, *What other countries use return-free filing?* TAX POLICY CENTER, <https://www.taxpolicycenter.org/briefing-book/what-other-countries-use-return-free-filing> (last visited Sept. 19, 2022).
- 55 For a comprehensive discussion of this topic, see National Taxpayer Advocate 2018 Annual Report to Congress vol. 2, at 1-38 (*A Conceptual Analysis of Pay-As-You-Earn (PAYE) Withholding Systems as a Mechanism for Simplifying and Improving U.S. Tax Administration*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume2_01_PAYE.pdf.
- 56 Briefing Book, *What other countries use return-free filing?* TAX POLICY CENTER, <https://www.taxpolicycenter.org/briefing-book/what-other-countries-use-return-free-filing> (last visited Sept. 19, 2022).
- 57 PWC, Finland: *Individual – Tax Administration*, Worldwide Tax Summaries, <https://taxsummaries.pwc.com/finland/individual/tax-administration> (last visited Sept. 19, 2022).
- 58 Australian Tax Office (ATO), *Lodge Your Tax Return Online with myTax*, <https://www.ato.gov.au/Individuals/Your-tax-return/How-to-lodge-your-tax-return/Lodge-your-tax-return-online-with-myTax/> (last visited Sept. 19, 2022); ATO, *Lodge a Non-lodgment Advice*, <https://www.ato.gov.au/individuals/your-tax-return/how-to-lodge-your-tax-return/lodge-a-non-lodgment-advice/> (last visited Sept. 19, 2022).
- 59 National Taxpayer Advocate 2018 Annual Report to Congress vol. 2, at 18 (*A Conceptual Analysis of Pay-As-You-Earn (PAYE) Withholding Systems as a Mechanism for Simplifying and Improving U.S. Tax Administration*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume2_01_PAYE.pdf.
- 60 For a discussion of the United Kingdom’s shift from tax-based benefits to payments-based benefits as a factor in improving tax administration, see National Taxpayer Advocate 2018 Annual Report to Congress vol. 2, at 32-33 (*A Conceptual Analysis of Pay-As-You-Earn (PAYE) Withholding Systems as a Mechanism for Simplifying and Improving U.S. Tax Administration*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_Volume2_01_PAYE.pdf.
- 61 Lauren Loricchio, *Bill-Funded Study Could Inch IRS Closer to Direct Free Filing*, TAX NOTES FEDERAL, Vol. 176 (Aug. 22, 2022); IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206, Title II, Subtitle A, § 2004, 112 Stat. 726 (1998).
- 62 Tax Filing Simplification Act, S. 4508, 117th Congress (2022).