



TAS RESEARCH OBJECTIVES

TAS conducts a variety of research to detect systemic problems, improve IRS procedures to administer the tax laws, and formulate legislative recommendations with the goal of enhancing the efficiency of tax administration and reducing taxpayer burden. TAS believes it is important for the IRS to leverage technology to enable taxpayers to avail themselves of more robust digital self-service opportunities. However, the IRS must also provide effective traditional services to taxpayers, including access to the IRS through telephone, in-person, mobile, and correspondence channels without long wait times. A significant portion of the funding provided to the IRS through the Inflation Reduction Act (IRA) will provide the funding necessary to offer taxpayers both additional digital services and more responsive traditional services.¹

TAS's fiscal year (FY) 2023 research projects on IRS online accounts and the high non-response rate to correspondence audits may continue into FY 2024.² TAS plans to begin five additional research studies in FY 2024.

1. STUDY IRS INITIATION OF THE TWO-YEAR BAN FOR CLAIMING THE EARNED INCOME TAX, ADDITIONAL CHILD TAX, AND AMERICAN OPPORTUNITY TAX CREDITS TO ENSURE THE PROTECTION OF TAXPAYER RIGHTS

The IRC authorizes the IRS to ban taxpayers from claiming certain refundable credits (the Earned Income Tax Credit (EITC), the Additional Child Tax Credit (ACTC), or the American Opportunity Tax Credit (AOTC)) for two years if it determines that the taxpayer claimed the credit recklessly or with intentional disregard of rules and regulations.³ The IRS is required to establish that the taxpayer claimed these credits intentionally disregarding the required eligibility rules for the indicated credit. TAS has looked at this issue twice in the past, publishing results in the National Taxpayer Advocate's 2013 and 2019 Annual Reports to Congress.⁴

¹ An Act to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14 (commonly referred to as the "Inflation Reduction Act of 2022"), Pub. L. No. 117-169, 136 Stat. 1818 (2022).

² TAS continues to study taxpayer needs and preferences for IRS online account services as well as the authentication requirements that taxpayers believe they can successfully complete to establish these accounts. We also continue to explore why so many taxpayers never respond to IRS correspondence audits and what steps the IRS might take to improve the response rate.

³ IRC §§ 32(k)(1)(B)(ii), 24(g)(1)(B)(ii), and 25A(b)(4)(A)(ii)(II).

⁴ National Taxpayer Advocate 2013 Annual Report to Congress 103-115 (Most Serious Problem: *Earned Income Tax Credit: The IRS Inappropriately Bans Many Taxpayers from Claiming EITC*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2013-ARC_VOL-1_S1-MSP-9.pdf; National Taxpayer Advocate 2019 Annual Report to Congress vol. 2, at 239-256 (Research Studies: *Study of Two-Year Bans on the Earned Income Tax Credit, Child Tax Credit, and American Opportunity Tax Credit*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC19_Volume1_TRRS_02_EITCban.pdf.

Although the IRS's administration of the two-year bans showed some increased adherence with the internal procedures for imposing the ban designed to ensure that it meets the statutory requirements, our most recent review of a sample of two-year ban cases still found significant problems, including:⁵

- In 53 percent of the cases, required managerial approval for imposing the ban was not secured;
- In 82 percent of the cases, the IRS did not adequately explain to the taxpayer why the ban was imposed, as required;
- In 61 percent of the cases in which the auditor was required to speak to the taxpayer before imposing the ban, no such conversation took place; and
- In 54 percent of the cases in which taxpayers submitted documents, it appeared from the documents submitted that the taxpayers believed they qualified for the credit.

This FY 2024 study will again review the IRS's recent imposition of these two-year bans to determine how often the IRS is complying with the requirements necessary to impose the bans.

Objective 1 for FY 2024 – TAS will determine how often the IRS is meeting its procedural guidance for implementing bans preventing a taxpayer from claiming EITC, ACTC, or AOTC for two years and report the results to the National Taxpayer Advocate.

- Activity 1: Analyze IRS data to determine the number of two-year bans the IRS imposed.
- Activity 2: Determine how often the IRS imposed bans even though the taxpayer did not participate in the audit or mail to the taxpayer was undeliverable.
- Activity 3: Determine how often the IRS fails to follow its own internal procedures for implementing two-year bans for claiming EITC, ACTC, or AOTC.

2. STUDY TAXPAYERS WHO DO NOT RESPOND TO IRS LETTERS REQUESTING IDENTITY AND RETURN VERIFICATION

In 2021, the IRS estimated that its identity theft filters prevented it from releasing about \$1.6 billion of illegitimate refunds.⁶ While the IRS originally selected 4.1 million returns as suspected to involve identity theft, it subsequently determined that 55 percent were false detections.⁷ Each year, TAS receives numerous inquiries from legitimate taxpayers who never received their refunds because the IRS had suspended processing the return, suspecting it was a product of identity theft. Oftentimes, the taxpayer claims to have not received the IRS letter containing the notification about the suspended refund return and informing the taxpayer to verify their identity and the return before the IRS can complete processing of the return. In other cases, taxpayers' circumstances prevented them from contacting the IRS, and considerable time elapsed before the taxpayers inquired about the refund.

The IRS presumes identity thieves submitted all suspected illegitimate returns if taxpayers do not respond to the suspended refund return notice.⁸ However, when examining the accounts of these suspended refund returns, TAS finds that the taxpayer often files a refund return in the following year, which the IRS allows, suggesting that the frozen return was legitimate. Some taxpayers have indicated to TAS that they never received an IRS notice about suspension of the refund return, while other taxpayers may be afraid to respond

5 National Taxpayer Advocate 2019 Annual Report to Congress vol. 2, at 239-256 (Research Studies: *Study of Two-Year Bans on the Earned Income Tax Credit, Child Tax Credit, and American Opportunity Tax Credit*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC19_Volume1_TRRS_02_EITCban.pdf.

6 All returns where at least 204 days have elapsed since the letter was mailed requesting the taxpayer authenticate his or her identity are presumed illegitimate returns and removed from the Individual Returns Transaction File (IRTF). IRS, Identity Theft (IDT) and Integrity & Verification Operations (IVO) Performance Report (Dec. 2022).

7 IRS, Wage and Investment Business Performance Review First Quarter FY 2023, at 13 (Feb. 2023).

8 All returns where at least 204 days have elapsed since the letter was mailed requesting the taxpayer authenticate his or her identity are presumed illegitimate returns and removed from the IRTF. IRS, IDT and IVO Performance Report (Dec. 2022).

to the IRS or presume the IRS disallowed the refund for some other reason.⁹ The study will attempt to quantify the number of suspended refund returns without a taxpayer response that are legitimate, the amount of legitimate refunds the IRS did not pay out, and why the taxpayer never responded to the IRS notice.

Objective 2 for FY 2024 – TAS will provide a report to the National Taxpayer Advocate estimating the volume and amount of legitimate tax year (TY) 2020¹⁰ refund returns still held by the IRS because of taxpayer non-response with a goal of advocating for the IRS to implement additional procedures to release legitimate refund claims to taxpayers.

- Activity 1: Estimate the number and amount of likely legitimate refund returns the IRS still has suspended.
- Activity 2: Estimate the number and amount of legitimate TY 2020 refund returns the IRS is holding by contacting a sample of these taxpayers to determine if they can successfully show their TY 2020 refund claim was valid.

3. ASSESS THE ACCESSIBILITY OF PARTICIPATION IN TAX PROGRAMS DESIGNED TO IMPROVE THE ECONOMIC CIRCUMSTANCES OF TAXPAYERS AND THEIR CHILDREN AS WELL AS THE BARRIERS TO PARTICIPATION IN THESE PROGRAMS

In conjunction with another taxpayer rights agency, TAS will measure access to programs designed to assist financially struggling taxpayers and their children, such as the EITC or ACTC. The study will explore the types of barriers to access taxpayers faced, whether the barriers are more prevalent among certain demographic groups, and steps the IRS could initiate to reduce or eliminate these barriers. TAS plans to conduct a nationwide survey of affected individuals about their awareness of these tax benefits and their willingness to engage with the IRS to receive these benefits. The survey will also address digital literacy and accessibility, preference of service delivery channels, sources of tax information and assistance relating to tax benefit programs, tax return filing experiences, and dispute resolution with the IRS.

The sample population will include first-time filers claiming the credits and likely eligible non-filers. Another part of the survey group will be taxpayers who have claimed the EITC, ACTC, or another credit designed to assist financially disadvantaged taxpayers who were recently audited or had credits disallowed subject to math error processes or who were required to file on paper because someone else claimed the children. TAS is particularly interested in the experiences of these taxpayers in navigating the IRS's audit, fraud, and error detection systems and the impact of these systems on their willingness to file future returns as well as attitudes toward the IRS and the benefits it administers.

Objective 3 for FY 2024 – TAS will conduct and report the findings of a survey along with additional qualitative data from subsequent focus groups to IRS stakeholders that assess the accessibility of tax credits designed to improve the financial circumstances of taxpayers, particularly those with children, and identify the barriers that increase the difficulty or even prevent taxpayers from claiming these credits.

- Activity 1: Survey taxpayers claiming these credits to measure the accessibility of these credits, barriers to claiming these credits, and their experiences dealing with the IRS about their eligibility for these credits.
- Activity 2: Survey non-filers likely eligible for these credits to assess their barriers to claiming these credits.

⁹ Comments from TAS's Focus Groups at the 2022 IRS Nationwide Tax Forums, *Responding to IRS Notices* (Oct. 2022) (on file with TAS).

¹⁰ TY 2020 is the most recent tax year where the IRS has archived suspected identity theft returns.

- Activity 3: Conduct focus groups or interviews with taxpayers regarding their experiences with claiming various tax credits designed for economically disadvantaged taxpayers.

4. REVIEW THE TELEPHONE OPERATIONS, METRICS, AND GOALS OF ENTITIES WITH LARGE INCOMING CALL OPERATIONS TO BETTER EVALUATE IRS TELEPHONE SERVICES AVAILABLE TO TAXPAYERS

The IRS provided very low levels of telephone service to taxpayers in FYs 2021 and 2022, with the IRS calculating its Level of Service (LOS) for these years at about 19 percent and 17 percent, respectively.¹¹ However, the 2023 filing season saw a marked increase in IRS telephone service, with its Accounts Management lines achieving an LOS of over 85 percent.¹² Average wait times decreased from 21 minutes in FY 2021 and 26 minutes in FY 2022¹³ to only slightly over three minutes in the 2023 filing season.¹⁴

However, the question remains as to what constitutes good telephone service for taxpayers. Even though the IRS achieved an 85 percent LOS on its Accounts Management lines during the 2023 filing season, live assistants answered only 31 percent of the telephone calls.¹⁵ Moreover, questions exist about how the IRS should calculate its LOS. For instance, it generally excludes calls answered by automation and calls where the taxpayer hangs up in the call tree before the system routes him or her to a customer service representative.¹⁶ The IRS's typically reported LOS metric only includes calls from certain lines, while calls to compliance lines are excluded from its measure. For the 2023 filing season, the IRS LOS including all of its lines was only 72 percent. Overall, through the week ending April 22 in the 2023 filing season, about 8.5 million hang-up calls occurred.¹⁷ It is unknown if the taxpayer was unable to complete the call for some reason or if the taxpayer became frustrated either by the call tree or because he or she was routed to automation and decided to terminate the call.

This review proposes to research the telephone service provided by entities with large incoming call operations, including the metrics used and the results expected to ensure quality customer service. TAS will use this information to better evaluate the effectiveness of the IRS's toll-free telephone services and recommend changes to its telephone operations, including what metrics it should use to evaluate its telephone operations and the goals for these measures.

Objective 4 for FY 2024 – TAS will review the operations, metrics, and results of other large incoming call telephone service providers through both direct and indirect means to develop recommended metrics and goals for IRS consideration.

- Activity 1: Review public information available for several large incoming call services, particularly focusing on their operations, metrics, and results.
- Activity 2: Contact entities with large incoming call telephone services to obtain unpublished details of their operations, metrics, and results.
- Activity 3: Review IRS operations, metrics, and results of their toll-free telephone service.
- Activity 4: Compare and contrast the operations, metrics, and results of IRS toll-free telephone operations to those of other large entities with large incoming call services.

¹¹ IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot for Enterprise Accounts Management FY 2021 and 2022.

¹² IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Accounts Management (week ending Apr. 22, 2023).

¹³ IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Accounts Management (FYs 2021 and 2022).

¹⁴ IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Accounts Management (week ending Apr. 22, 2023).

¹⁵ *Id.*

¹⁶ IRS, JOC, FY 2022 Snapshot & ELS Reporting Guidelines (Oct. 2021).

¹⁷ IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Total (week ending Apr. 22, 2023).

5. ANALYZE PAST COLLECTION DATA TO DETERMINE THE CIRCUMSTANCES UNDER WHICH THE IRS SHOULD GENERALLY NOT INITIATE ENFORCEMENT ACTION ON A DELINQUENT TAX LIABILITY

During FY 2022, the IRS issued thousands of levies and filed thousands of Notices of Federal Tax Liens (NFTLs).¹⁸ The number of these enforced collection actions was even higher in FY 2019 before the pandemic delayed many collection actions.¹⁹ Enforced collection actions can certainly be necessary to bring certain taxpayers into paying compliance; however, the IRS has also issued levies solely to get unresponsive taxpayers to contact the IRS, and it may file NFTLs even when the taxpayer has no substantive assets. Taxpayers are often fearful of opening letters from the IRS and may not be aware that they need to respond to IRS collection notices. The IRS should consider alternative options and attempt to contact taxpayers by telephone, email, or text before initiating enforced collection actions. Furthermore, although it is certainly important for taxpayers to contact the IRS to resolve their tax delinquencies, initiating enforcement actions against taxpayers when systemic data indicates the likelihood that the taxpayers' expenses exceed their income and no assets are detected is burdensome to taxpayers, third parties, and the IRS.

As part of its efforts to transform its operations, the IRS is planning to implement targeted treatments based on the specific circumstances of the taxpayer. To this end, TAS will explore characteristics of taxpayer delinquencies that indicate the IRS should generally refrain from taking enforcement actions that may cause a significant burden to taxpayers and/or result in unproductive work for the IRS.

Objective 5 – TAS will explore past IRS collection data and outcomes to recommend guidelines to the IRS for determining under what circumstances it should generally not initiate enforcement actions such as issuing a levy or filing a lien.

- Activity 1: Determine the proceeds generated from previous IRS levies and whether levies issued to taxpayers with certain systemically detectable financial situations (*e.g.*, likely allowable living expenses exceeding income) are often unproductive.
- Activity 2: Determine the proceeds generated from previous IRS liens and whether liens issued to taxpayers with certain systemically detectable financial situations (*e.g.*, a lack of significant assets) are often unproductive.²⁰

18 IRS, Collection Activity Report 5000-24, Levy and Seizure Report (Oct. 2019). During FY 2022, IRS collection personnel issued 273,286 levies and filed 157,323 NFTLs; IRS, Collection Activity Report 5000-25, Liens Report (Oct. 2019).

19 During FY 2019, IRS collection personnel issued 782,735 levies and filed 543,604 NFTLs. IRS, Collection Activity Report 5000-24, Levy and Seizure Report (Oct. 2022); IRS, Collection Activity Report 5000-25, Liens Report (Oct. 2022).

20 Previous studies have reached different conclusions on the effectiveness of filing liens. *See, e.g.*, IRS, Pub. 1500, IRS Research Bulletin 12-29 (June 2016) (featuring papers from the Sixth Annual Joint Research Conference on Tax Administration); National Taxpayer Advocate 2012 Annual Report to Congress vol. 2, at 107-130 (*Investigating the Impact of Liens on Taxpayer Liabilities and Payment Behavior*), <https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/Research-Studies-Investigating-the-Impact-of-Liens-on-Taxpayer-Liabilities-and-Payment-Behavior.pdf>.