



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).