



## REVIEW OF THE 2023 FILING SEASON

### INTRODUCTION

The last several years were challenging filing seasons. The IRS processing of tax returns was backlogged, taxpayers had to wait months for their refunds, and the IRS struggled to provide service on the phones and in person. During Filing Season (FS) 2023, most taxpayers did not experience any issues, as the IRS's overall operations significantly improved when compared to FS 2022. This was due in no small part to the IRS working through nearly all the backlogged individual original filed returns before starting FS 2023, meaning that for the first time since COVID-19 began, the IRS was not starting the filing season at a deficit with original individual filed returns. However, at the start of the year, it still had a sizable carryover of amended returns, business returns, correspondence, and returns identified with potential errors, all awaiting processing.

As of April 21, 2023, the IRS received 137,144,000 individual income tax returns.<sup>1</sup> Out of these, the IRS processed 134,649,000, or 98 percent, and issued 85,935,000 refunds totaling roughly \$236.62 billion.<sup>2</sup> However, as of April 22, 2023, there were still 2.6 million original individual and business paper income tax returns awaiting processing.<sup>3</sup> In addition, there were 5.9 million individual and business electronic and paper-filed income tax returns that the IRS suspended for various reasons (error resolution cases, processing rejects, unpostable returns, and potential identity theft cases), including returns suspended from the previous filing season.<sup>4</sup>

During FS 2023, the IRS improved not only its processing of original returns but also the performance on its Accounts Management (AM) phone lines compared to recent years, achieving a Level of Service (LOS) of about 85 percent compared to an LOS of about 15 percent in FS 2022.<sup>5</sup> But this improvement came with an expected cost – creating a new paper backlog in amended returns and taxpayer correspondence.

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1 See IRS, Filing Season Statistics for Week Ending April 21, 2023, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-21-2023> (last visited May 31, 2023).

2 *Id.*

3 IRS, Wage and Investment (W&I) Inventory Report (week ending Apr. 22, 2023).

4 *Id.*

5 IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot (week ending Apr. 22, 2023).

In September 2022, Treasury instructed the IRS to achieve a high LOS (85 percent) on the general toll-free phone lines, which the IRS accomplished by reallocating its resources.<sup>6</sup> The IRS instructed AM customer service representatives (CSRs) to primarily focus on answering key phone lines, resulting in them largely abandoning their other tasks of processing amended returns and taxpayer correspondence. Due to the IRS's antiquated information technology (IT) systems, it was unrealistic to expect these employees to work the paper inventory (process amended returns and correspondence) and still achieve a high LOS on IRS phone lines during core working hours. Thus, prioritizing phone duties for AM CSRs resulted in IRS phone lines having a higher LOS and shorter wait times, which was a welcome relief for millions of taxpayers, but it came at the cost of processing delays.

### January 23, 2023 – Opening of the Filing Season

The IRS began accepting tax year (TY) 2022 returns for processing on January 23, 2023, and the filing season closed on April 18, 2023 (April 15 was a Saturday, and the District of Columbia's Emancipation Day holiday was celebrated on April 17). FS 2023 was the most normal filing season since 2019. The IRS processed returns, issued refunds, and answered most calls it received from taxpayers, but there is still room for improvement.

### FILING SEASON PERFORMANCE

Figure 2.1 presents an overview of returns processed and refunds issued during FY 2023 and two of the past four filing seasons. Because the 2020, 2021, and 2022 filing seasons were such an aberration due to the impact of COVID-19, we compare FS 2023 data to FS 2019 data, where available. However, we also look at FY 2022 data and compare it to the FY 2023 data to show the improvement the IRS has made over the last year.

**FIGURE 2.1, Comparing Filing Season Weeks Ending April 19, 2019; April 22, 2022; April 21, 2023<sup>7</sup>**

		2019	2022	2023	Percent Change 2019-2023	Percent Change 2022-2023
Individual Income Tax Returns	Total Receipts	137,233,000	138,942,000	137,144,000	-0.1%	-1.3%
	Total Processed	130,775,000	133,773,000	134,649,000	3.0%	0.7%
E-Filing Receipts	Total E-Filing	126,264,000	133,410,000	132,009,000	4.5%	-1.1%
	Tax Professionals	70,476,000	70,509,000	70,492,000	0.0%	0.0%
	Self-Prepared	55,788,000	62,900,000	61,517,000	10.3%	-2.2%
Total Refunds	Number	95,737,000	88,667,000	85,935,000	-10.2%	-3.1%
	Amount	\$260.9 bil	\$267.0 bil	\$236.6 bil	-9.3%	-11.4%
	Average Refund	\$2,725	\$3,012	\$2,753	1.0%	-8.6%

*Continued on next page.*

<sup>6</sup> Janet L. Yellen, Sec'y of the Treasury, Remarks at the IRS Facility in New Carrollton, Maryland (Sept. 15, 2022), <https://home.treasury.gov/news/press-releases/jy0952>.

<sup>7</sup> IRS, Filing Season Statistics for Week Ending April 21, 2023, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-21-2023> (last visited May 31, 2023); 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 31, 2023); IRS, 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 31, 2023).

		2019	2022	2023	Percent Change 2019-2023	Percent Change 2022-2023
Direct Deposit Refunds	Number	83,249,900	83,891,000	81,799,000	-1.7%	-2.5%
	Amount	\$238.4 bil	\$260.0 bil	\$231.3 bil	-3.0%	-11.0%
	Average Refund	\$2,863	\$3,099	\$2,827	-1.3%	-8.8%
Web Usage	Visits to <a href="https://www.irs.gov">IRS.gov</a>	421.5 mil	609.1 mil	488.1 mil	15.8%	-19.9%

Figure 2.1 shows relatively consistent data from year to year, but FS 2023 brought a couple of noticeable changes. For example, between FS 2022 and FS 2023, the average refund amount for individuals was \$3,012 in 2022 and \$2,753 in 2023. This reduction may be due in part to no stimulus payments during TY 2022; taxpayers who don't itemize but take the standard deduction are not able to deduct their charitable contributions;<sup>8</sup> and certain refundable credits were reduced as part of COVID-19 relief.<sup>9</sup> For example, in TY 2021, there was an increase in the Child and Dependent Care Tax Credit from \$3,000 to \$8,000 for one qualifying individual and from \$6,000 to \$16,000 for two or more qualifying individuals.<sup>10</sup> In TY 2022, the amount of the Child and Dependent Care Tax Credit reverted to the lower amounts. The Child Tax Credit (CTC) was reduced from a maximum of up to \$3,600 for qualifying children under the age of six and \$3,000 for other qualifying children under the age of 18 during TY 2021 to just \$2,000 per qualifying child under the age of 17 in TY 2022.<sup>11</sup> One other notable difference between FS 2023 and the most recent filing seasons, specifically 2020 and 2021, is the continued decrease in the number of taxpayer visits to [IRS.gov](https://www.irs.gov).<sup>12</sup> This continued decline is most likely due to the absence of stimulus payments or other COVID-19 relief provided during TY 2022, meaning taxpayers were not searching [IRS.gov](https://www.irs.gov) for information on how to claim these benefits or when to expect receipt.

### Over 5.1 Million Paper Tax Returns Required Manual Processing<sup>13</sup>

The National Taxpayer Advocate has called paper tax returns the IRS's Kryptonite, as they use far more resources than electronically filed returns to process.<sup>14</sup> Although the vast majority of taxpayers file electronically, millions of taxpayers still file their tax returns on paper, some by choice and some by necessity; these paper returns tie up IRS resources because of the manual processing they require. This year, the IRS received 5.1 million paper returns<sup>15</sup> but was far more efficient in processing them, largely because of more staff manually inputting paper returns onto IRS systems, increased use of tools designed to improve the IRS's Error Resolution System, and a decrease in the number of carryover returns from the previous year.

8 See IRS, Pub. 526, Charitable Contributions 1 (Feb. 2022); IRS News Release IR-2021-219, IRS Provides Tax Inflation Adjustments for Tax Year 2022 (Nov. 10, 2022).

9 IRS News Release IR-2022-203, Get Ready Now to File Your 2022 Federal Income Tax Return (Nov. 22, 2022).

10 IRC § 21. The American Rescue Plan Act of 2021 (ARPA) increased the eligible amounts for 2021. ARPA, Pub. L. No. 117-2, § 9631, 135 Stat. 4, 159.

11 ARPA, Pub. L. No. 117-2, § 9611, 135 Stat. 4, 145; see also IRC § 24(h)(A).

12 IRS, Filing Season Statistics for Week Ending April 21, 2023, <https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-april-21-2023> (last visited May 31, 2023); 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 31, 2023); 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 31, 2023); 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 31, 2023); 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 31, 2023).

13 Submission Processing (SP) Program Management/Process Assurance (PMPA) Branch Filing Season Statistics Report (Apr. 22, 2023). The actual number is 5,135,000.

14 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/> (last visited May 16, 2023).

15 SP PMPA Branch Filing Season Statistics Report (Apr. 22, 2023). The actual number is 5,135,000.

**FIGURE 2.2, Status of Inventory Requiring Manual Processing, Comparing Filing Seasons 2023 and 2022<sup>16</sup>**

Filing Season (as of April 22, 2023)	Individual	Business	Not Specified	Total
Paper Returns Awaiting Processing				
Received in Calendar Year 2022	0	0	0	0
Received in Calendar Year 2023	1,200,000	500,000	900,000	2,600,000
<b>Total Paper Returns Awaiting Processing</b>	<b>1,200,000</b>	<b>500,000</b>	<b>900,000</b>	<b>2,600,000</b>
Paper and Electronic Returns – Processing Suspended	4,000,000	1,800,000	0	5,900,000
Amended Returns Inventory	1,700,000	1,700,000	0	3,400,000
<b>Total Unprocessed Returns</b>	<b>6,900,000</b>	<b>4,000,000</b>	<b>900,000</b>	<b>11,900,000</b>
Correspondence/Accounts Management Cases (Excluding Amended Returns)	1,900,000	900,000	2,200,000	5,000,000
<b>Total Inventory Requiring Manual Processing</b>	<b>8,800,000</b>	<b>4,900,000</b>	<b>3,100,000</b>	<b>16,900,000</b>

Filing Season (as of April 22, 2022)	Individual	Business	Not Specified	Total
Paper Returns Awaiting Processing				
Received in Calendar Year 2021	1,600,000	700,000	0	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>
Paper and Electronic Returns – Processing Suspended	5,300,000	1,600,000	0	6,800,000
Amended Returns Inventory	2,600,000	1,100,000	0	3,600,000
<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>
Correspondence/Accounts Management Cases (Excluding Amended Returns)	2,200,000	1,000,000	2,100,000	5,300,000
<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>

This filing season, the IRS allocated more resources to ensure it processed returns and issued refunds timely, which taxpayers noted and appreciated. However, behind the scenes, this reallocation of resources resulted in a backlog of clerical and administrative tasks that must take place after the IRS has processed a return and issued a refund. The IRS still needs to close and file these returns. These back-end actions are necessary for taxpayers and the IRS to have a complete administrative record. This backlog makes it more challenging for Examination and Appeals to obtain administrative files and respond to some taxpayer inquiries.

As for paper returns, there is anticipated good news for future filing seasons. During FS 2023, the IRS scanned about 500,000 returns and forms, primarily Form 940, Employer's Annual Federal Unemployment

<sup>16</sup> IRS, W&I data (weeks ending Apr. 22, 2022, and Apr. 22, 2023). Row totals and column totals may differ because of rounding.



(FUTA) Tax Return; Form 941, Employer's Quarterly Federal Tax Return; and Form 1040, U.S. Individual Income Tax Return, where certain schedules were attached. According to the IRS, the scanning technology was accurate about 95 percent of the time, and the need to manually transcribe the information on the forms and returns was rare. The IRS plans to expand the use of this technology in FS 2024, but there are many factors to consider, and it is unclear as of now to what extent the IRS will use this technology.<sup>17</sup>

### Improved Level of IRS Telephone Service – But at What Cost?

In light of the stinging criticism of the IRS's telephone service over the last three years, the Treasury Department directed the IRS to achieve at least an 85 percent LOS in answering telephone calls this filing season. To achieve this goal, the IRS worked with Treasury, the Office of Personnel Management, and the National Treasury Employees Union to secure Direct-Hire Authority to onboard over 5,000 AM employees to assist with FS 2023.<sup>18</sup> The addition of these CSRs largely succeeded, and wait times were significantly shorter when compared to FS 2022. But adding CSRs to answer the phones during peak call periods meant that CSRs were often idle when call volumes were low. Due to antiquated technology and certain other factors, CSRs assigned to answer the phones currently cannot perform other tasks while waiting for calls to come in. As a result, CSRs were idle 34 percent of the time they were assigned to answer the phones, meaning they were neither assisting taxpayers on the phone nor processing amended tax returns and taxpayer correspondence.<sup>19</sup> Therefore, while the LOS achievement was commendable – and it benefited millions of taxpayers – the IRS could only accomplish it by prioritizing the phones over other IRS operations, resulting in greater delays in the processing of paper correspondence.<sup>20</sup>

Figure 2.3 shows the CSR LOS and Average Speed of Answer (ASA) for FS 2023 on some of the IRS's busiest phone lines.<sup>21</sup>

**FIGURE 2.3, Key IRS Phone Lines LOS and ASA, 2022 and 2023 Filing Seasons**

	2022	2022	2023	2023
	Level of Service	Average Speed of Answer (Minutes)	Level of Service	Average Speed of Answer (Minutes)
Refund Hotline 800-829-1954	6%	39 minutes	96%	1 minute
Individual Income Tax Services 800-829-1040	14%	26 minutes	91%	2 minutes
Installment Agreement/Balance Due	25%	45 minutes	46%	24 minutes
Taxpayer Assistance Center Appointment Line 844-545-5640	14%	20 minutes	72%	5 minutes
Business & Specialty 800-829-4933	26%	30 minutes	83%	6 minutes

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17 Email from Project Director, Enterprise Digitalization (May 25, 2023) (on file with TAS).

18 U.S. DEPT OF THE TREASURY, *Filing Season 2023 Report Card: IRS Delivered Significantly Improved Customer Service* (Apr. 17, 2023), <https://home.treasury.gov/news/press-releases/jy1421>.

19 IRS, Ready Agent Hours Report (Jan. 1-Apr. 22, 2023).

20 From December 2022 through the filing season, the inventory of amended tax returns more than doubled from 1.5 million to 3.4 million, and the inventory of taxpayer responses to IRS notices and other AM cases awaiting processing went up from 4.9 million to 5.0 million. IRS, W&I data (weeks ending Dec. 23, 2022; Apr. 22, 2023).

21 IRS, JOC, Snapshot Reports: Product Line Detail (weeks ending Apr. 23, 2022; Apr. 22, 2023). ASA is the time it takes a taxpayer to reach a live customer service representative, including the time needed to respond to any automated prompts.

	2022	2022	2023	2023
	Level of Service	Average Speed of Answer (Minutes)	Level of Service	Average Speed of Answer (Minutes)
Taxpayer Protection Program 800-830-5084	4%	47 minutes	47%	16 minutes
Practitioner Priority Service® 866-860-4259	22%	24 minutes	89%	3 minutes

In addition to improving its LOS, the IRS has continued to modernize its phone lines by providing callback options on 43 applications of its toll-free phone lines.<sup>22</sup> After about 15 minutes on hold, this option lets taxpayers provide the system their callback number, hang up, and move on with other activities while awaiting a call back once an assistor becomes available.<sup>23</sup> Because the IRS answered a large number of calls in under 15 minutes, the callback feature was often unnecessary. In January 2023, the IRS switched to a more advanced callback system with the capability of more dynamic features such as text alerts or notifications to taxpayers that the IRS is returning their call.<sup>24</sup> The IRS is planning a second callback expansion to 69 additional toll-free applications (for a total of 112) by August 2023.

Despite these improvements, some lines still suffer from a low LOS. The Installment Agreement/Balance Due line received 2.6 million calls during the filing season, of which the IRS answered only 1.2 million, resulting in an LOS of only 46 percent.<sup>25</sup> This low LOS is surprising since the IRS just introduced a voicebot feature on this line to assist taxpayers with their collection issues.<sup>26</sup> One would suspect the utilization of this bot would free up CSRs to assist more taxpayers on this line and improve its overall LOS. This is a vital line for taxpayers, as the assistors answer questions about balances owed and help taxpayers make payment arrangements. Taxpayers who cannot reach the IRS through this line risk becoming subjects of enforced collection actions, such as bank and wage levies and liens.

The way the IRS calculates and presents LOS data on its phone lines is complex and confusing and does not necessarily reflect the overall experience of taxpayers seeking telephone assistance. The IRS should change its telephone service measure of LOS to better reflect the taxpayer's experience. The IRS should consider measuring whether taxpayers received the information requested, whether they needed to speak with multiple IRS employees, and whether the IRS provided additional information such as links to materials or videos.

When the IRS reports a benchmark LOS, one might assume it reflects the percentage of its calls that IRS telephone assistors answer. That is not the case. First, the benchmark measure reflects only calls directed to the IRS's AM telephone lines. Of the total 31.9 million calls the IRS received, 24.6 million (77 percent)

22 IRS, W&I Business Performance Review (BPR) Q1 Fiscal Year (FY) 2023, at 7 (Feb. 23, 2023). An application is when a taxpayer calls a toll-free line and is presented with multiple options from which he or she can select.

23 IRS, Servicewide Electronic Research Program (SERP), Customer Callback FAQs and Talking Points (Nov. 8, 2022).

24 IRS, W&I BPR Q1 FY 2023, at 7 (Feb. 23, 2023).

25 IRS, JOC, Snapshot Reports: Product Line Detail Snapshot (week ending Apr. 22, 2023).

26 Darren Guillot, IRS Small Bus./Self-Employed Deputy Comm'r, Using Voice and Chat Bots to Improve the Collection Taxpayer Experience (Sept. 29, 2022), <https://www.irs.gov/about-irs/using-voice-and-chat-bots-to-improve-the-collection-taxpayer-experience>.

came in on or were routed to the AM lines.<sup>27</sup> Thus, the benchmark measure does not tell us anything about the experience, how the IRS handled the remaining 7.2 million calls outside of AM (such as the compliance phone lines), or whether the taxpayer received an answer to their question.<sup>28</sup>

Second, the denominator in the IRS's LOS computation is derived from calls routed to telephone assistants rather than from *all* calls to that phone line. Callers to the AM lines are greeted by a phone tree. Depending on the options a taxpayer selects, the phone system determines whether to direct the caller to a live assistant or one of its automated offerings. Automation is not a deliberate caller-selected option. Only 31 percent of the 24.6 million calls answered by the AM lines (about 7.7 million) were routed to assistants, while the remaining taxpayer calls were routed to automation or reflected taxpayer hang-ups.<sup>29</sup> While the IRS is reporting a benchmark LOS of 85 percent, as shown in Figure 2.4, *IRS employees answered only 31 percent of the incoming calls on the AM lines.*<sup>30</sup> As part of its transformation initiatives, the IRS should focus on measures that more appropriately determine the service received by the taxpayer and the experience they had while working through their issues. LOS is not the appropriate measure for determining the taxpayer telephone experience and how the IRS should strive toward providing quality service in assisting taxpayers with their questions and issues. The IRS needs to revisit its measurement to determine if taxpayers are receiving the service they deserve.

**FIGURE 2.4, IRS Telephone Results, Filing Seasons 2019, 2022, and 2023, Comparing Weeks Ending April 20, 2019; April 23, 2022; April 22, 2023<sup>31</sup>**

	2019	2022	2023	Percent Change Between 2019 and 2023	Percent Change Between 2022 and 2023
<b>Enterprise Total</b>					
Calls Received	40,796,555	72,811,503	31,871,203	-22%	-56%
Calls Answered by CSRs	10,082,963	7,453,961	11,002,546	9%	48%
Percent of Calls Answered by CSRs	25%	10%	35%	40%	237%
CSR Level of Service	59%	18%	72%	23%	293%
Time on Hold (in Minutes)	13	29	8	-40%	-73%

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27 IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Total, Accounts Management, and Consolidated Automated Collection Service data (weeks ending Apr. 20, 2019; Apr. 23, 2022; Apr. 22, 2023); IRS, JOC, Snapshot Reports: Product Line Detail for Form 1040 data (weeks ending Apr. 20, 2019; Apr. 23, 2022; Apr. 22, 2023). 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 LOS 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). The Percent Change column is computed based on actual numbers, not rounded numbers. All numbers in Figure 2.3 are rounded; however, the percentage change is calculated on the actual numbers.

28 IRS, JOC, Snapshot Reports: Enterprise Snapshot (week ending Apr. 22, 2023).

29 *Id.*

30 *Id.*

31 IRS, JOC, Snapshot Reports: Enterprise Snapshot for Enterprise Total, Accounts Management, and Consolidated Automated Collection Service data (weeks ending Apr. 20, 2019, Apr. 23, 2022; Apr. 22, 2023); IRS, JOC, Snapshot Reports: Product Line Detail for Form 1040 data (weeks ending Apr. 20, 2019, Apr. 23, 2022; Apr. 22, 2023). Percent Change column computed based on actual numbers and not rounded numbers.

	2019	2022	2023	Percent Change Between 2019 and 2023	Percent Change Between 2022 and 2023
<b>Accounts Management</b>					
Calls Received	34,382,805	60,036,799	24,630,593	-28%	-59%
Calls Answered by CSRs	8,059,818	4,641,053	7,671,193	-5%	65%
Percent of Calls Answered by CSRs	23%	8%	31%	33%	303%
CSR Level of Service	67%	15%	85%	27%	451%
Time on Hold (in Minutes)	9	28	3	-64%	-88%
<b>Form 1040 Line</b>					
Calls Received	7,316,757	15,317,600	5,380,423	-26%	-65%
Calls Answered by CSRs	1,903,012	1,161,185	1,806,896	-5%	56%
Percent of Calls Answered by CSRs	26%	8%	34%	29%	343%
CSR Level of Service	67%	14%	91%	38%	554%
Time on Hold (in Minutes)	9	26	2	-82%	-94%
<b>Consolidated Automated Collection System Lines</b>					
Calls Received	3,741,588	5,038,973	3,185,939	-15%	-37%
Calls Answered by CSRs	1,098,111	1,641,744	1,544,789	41%	-6%
Percent of Calls Answered by CSRs	29%	33%	48%	65%	49%
CSR Level of Service	33%	34%	51%	54%	48%
Time on Hold (in Minutes)	41	36	20	-52%	-45%

Figure 2.4 provides a more complete picture of the taxpayer experience when calling the IRS. In most cases, the percent of calls answered by CSRs is far less when compared to the IRS's calculation of CSR LOS – but even that has improved compared to past years. Both Figures 2.3 and 2.4 provide useful information and should be considered when evaluating the IRS's overall success in providing customer service to taxpayers on its phone lines. One undisputable and consistent improvement in Figure 2.4 shows how long taxpayers waited on hold, in one case falling from 28 minutes in FS 2022 to three minutes in FS 2023.

### Delays in Processing Taxpayer Correspondence and Amended Returns

The significant improvements achieved on the phone lines came at a cost, namely delays in processing amended returns and taxpayer correspondence. The IRS sent millions of notices to taxpayers during FS 2023, including math error notices,<sup>32</sup> and notices requesting a taxpayer authenticate his or her identity (where IRS security filters flagged a return as potentially filed by an identity thief). Many of these notices asked taxpayers to substantiate an item claimed on their return or request abatement of a math error assessment if they do not agree. During FS 2023, the IRS was behind in processing responses to IRS correspondence. Figure 2.5 shows

<sup>32</sup> See, e.g., IRS, Math Error Report for Calendar Year (CY) 2023 (cycle 16).



the accumulation of taxpayer correspondence and amended returns still awaiting processing because CSRs were primarily devoted to answer incoming calls on IRS phone lines.

**FIGURE 2.5, Filing Season 2023, IRS Processing of Taxpayer Correspondence<sup>33</sup>**

Correspondence and Amended Return Processing	Individual	Business	Other	Total
Accounts Management Adjustment and Correspondence Cases	551,000	750,000	n/a	<b>1.3 mil</b>
Amended Returns	1.7 mil	1.7 mil	n/a	<b>3.4 mil</b>
Internal Account Maintenance (includes Employer Identification Number applications, refund inquiries, Identity Theft Victim Assistance forms, tax preparer authorizations, and other written taxpayer correspondence)	1.3 mil	155,000	2.2 mil	<b>3.7 mil</b>
<b>Total</b>	<b>3.6 mil</b>	<b>2.6 mil</b>	<b>2.2 mil</b>	<b>8.4 mil</b>

In situations where the IRS needs a taxpayer response to move forward, but the IRS has not yet processed that response, its automated processes could take adverse action, such as moving forward with collection actions or not releasing the refund claimed on the return. Another example of when delays in processing correspondence impact taxpayers is when the IRS holds a taxpayer refund because a dependent's taxpayer identification number (TIN) has been determined to be invalid. The taxpayer responds to the notice by timely sending in documents to verify the dependent's TIN, but the IRS doesn't process the taxpayer's response for weeks or months, further delaying the issuance of the taxpayer's refund. Therefore, to prevent harm to taxpayers, it is critical that the IRS devote more resources to processing amended returns and correspondence during the remainder of 2023.

### Identity Verification

The IRS evaluates all tax returns claiming refunds through a variety of filters, models, and rules that flag returns for potential identity theft or refund fraud. When the filters detect possible identity theft or refund fraud, the IRS will suspend the return and hold the refund until it can authenticate the taxpayer's identity or verify the information on the return.

### Identity Theft Refund Fraud

The IRS Taxpayer Protection Program (TPP) suspends return processing when returns are selected for potential identity theft. The IRS will send taxpayers one notice requesting that they authenticate their identity by contacting the TPP toll-free telephone number, using an online application on [IRS.gov](https://www.irs.gov), or visiting a Taxpayer Assistance Center (TAC) before processing the return.<sup>34</sup> As of April 20, 2023, TPP selected over 2.3 million suspicious tax returns, down 18.2 percent from the 2.8 million suspicious returns selected during FS 2022 through April 21, 2022.<sup>35</sup> Taxpayers successfully authenticated their identities for 603,087 returns, an increase of 69 percent compared to 357,471 at this time last year.<sup>36</sup> Over the years, the filters have struggled with high false detection rates, and that challenge continued in 2023. For calendar year (CY) 2022,

<sup>33</sup> IRS, W&I Inventory Report (week ending Apr. 22, 2023).

<sup>34</sup> Internal Revenue Manual (IRM) 25.25.6.1.7, Taxpayer Protection Program Overview (Oct. 1, 2022).

<sup>35</sup> The IRS released an additional 262,380 returns in 2023 and 532,625 returns in 2022 due to receipt of additional Information Return Processing data. IRS, TPP Combined Report 3 (Apr. 24, 2023); IRS, TPP Combined Report 3 (Apr. 25, 2022).

<sup>36</sup> *Id.* The IRS has worked with Low Income Taxpayer Clinics to implement an authentication program where the clinics can authenticate a taxpayer's identity and then send that information directly to the IRS, thereby speeding up the authentication process.

the identity theft false detection rate was 47 percent, with 2.5 million returns remaining unresolved.<sup>37</sup> Thus, it is likely some returns the IRS is holding are correct taxpayer returns awaiting payment of their refunds. However, beyond sending the initial notice, the IRS makes no further attempts to contact the taxpayer. So, if taxpayers were expecting a refund but have not yet received it, they should contact the IRS to ensure the return is not being held for possible identity theft.

Unfortunately, when taxpayers are directed to the TPP phone line, reaching an assistor will likely not be as easy as it has been on other lines; the LOS for the TPP phone line in 2023 did not reach the LOS other phone lines achieved. However, taxpayers were far more successful getting through to a TPP representative than they were during FS 2022. Specifically, the TPP phone line LOS significantly increased to 47 percent through April 22, 2023, compared to an abysmal four percent during the 2022 filing season and 21 percent in the 2021 filing season.<sup>38</sup> The TPP phone assistants answered over 862,902 taxpayer calls compared to 163,437 during last year's filing season.<sup>39</sup> This is a significant improvement, but the IRS was essentially not answering any calls on this phone line during the last filing season so there was truly nowhere to go but up. And during FS 2023, more than half of taxpayers who tried to reach an assistor were still unsuccessful. Since the TPP phone line wasn't included in the Treasury Department's goal of reaching an 85 percent LOS for the main phone line, the IRS did not prioritize these calls. Clearly, this is an area the IRS needs to improve.<sup>40</sup>

### ***Non-Identity Theft Refund Fraud***

For non-identity theft refund fraud, returns selected by fraud filters will have their refunds frozen until the IRS can verify the income and withholding reported on the return. For FS 2023 through April 19, 2023, the refund fraud filters selected over 608,000 potential fraudulent tax returns, down 61 percent from approximately 1.6 million potential fraudulent returns selected during the same period last year.<sup>41</sup> Out of the 608,077 selected returns, over 197,000 (33 percent) have been verified for release. However, the IRS identity theft and fraud detection programs have a history of high false detection rates. Specifically, in CY 2022, the refund fraud filters had a false detection rate of 66 percent.<sup>42</sup> Taxpayers whose returns are valid but caught in these filters experience prolonged refund delays, possibly creating a financial hardship for the taxpayer. Delays in processing taxpayer correspondence may lengthen the delay in some circumstances.

### **Identity Theft Victim Assistance**

When the IRS unknowingly processes identity theft returns and issues the associated refunds, the true taxpayer will often discover months after filing that someone else has filed a false return using their identity. Tax-related identity theft has a significant impact on its victims and the IRS; taxpayers in this situation rarely receive their refunds until the IRS resolves their cases. Not only do victims of identity theft have to deal with the IRS, but they also have to address the issue with the Social Security Administration, their bank, credit card companies, etc. Identity theft is an emotional and distressing experience for a taxpayer, and the IRS needs to improve the rate at which it processes these cases.

37 IRS, Identity Theft (IDT) and Integrity & Verification Operations (IVO) Performance Report, End of Year (EOY) False Detection Rate (FDR) 9 (Dec. 31, 2022); IRS, TPP Combined Report 3 (Dec. 27, 2022).

38 IRS, JOC, Weekly TPP Snapshot Report (week ending Apr. 22, 2023).

39 *Id.*

40 See IRS, SERP Alert 23A0124, TPP In-Person Identity Verification Pilot (May 16, 2023). Beginning May 22, the IRS will make available a new In-Person Identity Verification Pilot process to taxpayers selected for the TPP. The In-Person Identity Verification option will provide taxpayers the opportunity to visit a United Parcel Service kiosk location to complete their identity verification and create an ID.me online account for [IRS.gov](https://www.irs.gov).

41 IRS, IDT and IVO Performance Report 3, 8-9 (Apr. 26, 2023); IRS, IDT and IVO Performance Report 3, 8-9 (Apr. 27, 2022).

42 IRS, IDT and IVO Performance Report, EOY FDR 5 (Dec. 31, 2022).

Since the COVID-19 pandemic, the number of identity theft victim assistance cases has increased, and this increase in inventory has surpassed closures, causing a backlog of these cases.<sup>43</sup> Figure 2.6 illustrates the extent of this backlog.

**FIGURE 2.6, Identity Theft Victim Assistance Combined Inventory, CYs and Filing Seasons (through April) 2021-2023**<sup>44</sup>

	2021	2021 (through April)	2022	2022 (through April)	2023 (through April)	Percent Change 2022-2023 (through April)
Beginning Inventory	131,381	131,381	318,738	318,738	426,336	34%
Receipts	325,622	115,002	306,863	72,048	84,634	17%
Closures	138,265	37,350	201,010	72,888	45,979	-37%
Ending Inventory	318,738	209,033	426,336	317,898	464,991	46%

The IRS has acknowledged the increase in the amount of time it takes to resolve these cases. Due to extenuating circumstances caused by the pandemic, identity theft inventories have increased, and as of the end of April 30, 2023, it is taking the IRS on average about 436 days to resolve identity theft cases.<sup>45</sup> This means these taxpayers are waiting on average 15 months to receive their tax refunds. There are other non-tax issues caused by identity theft that may take even longer to resolve. The pandemic undoubtedly played a big role in delays, but policy decisions have also contributed to the problem. To achieve the 85 percent LOS set out by the Treasury Department, the IRS reassigned AM employees who typically work identity theft cases to answer AM's phone lines, causing harm to taxpayers who were victims of identity theft.<sup>46</sup> The IRS needs to devote more resources, increase education and awareness, and prioritize assistance to this vulnerable taxpayer population.

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

Each year, millions of taxpayers turn to the IRS's Where's My Refund? and Where's My Amended Return? tools to check the status of their refunds using the most up-to-date information available. Figure 2.7 shows the extent to which taxpayers rely on this critical tool.

**FIGURE 2.7, Where's My Refund? Visits, Filing Seasons 2019, 2022, and 2023**<sup>47</sup>

Tool	Visits for January 1 Through April 19, 2019	Visits for January 1 Through April 22, 2022	Visits for January 1 Through April 21, 2023	Percent Change 2019-2023	Percent Change 2022-2023
Where's My Refund?	317,417,000	334,399,000	230,193,000	-27.5%	-31.2%

<sup>43</sup> IRS, Global ID Theft Report (Apr. 2023).

<sup>44</sup> *Id.*

<sup>45</sup> IRS, Correspondence Imaging System, FY 2023 Cycle Time Report (IDT Total).

<sup>46</sup> Janet L. Yellen, Sec'y of the Treasury, Remarks at the IRS Facility in New Carrollton, Maryland (Sept. 15, 2022), [home.treasury.gov/news/press-releases/jy0952](https://home.treasury.gov/news/press-releases/jy0952).

<sup>47</sup> IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 19, 2019, and April 17, 2020; IRS, 2023 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 22, 2022, and April 21, 2023.

As shown in Figure 2.7, taxpayers attempted to check the status of their refunds using the Where's My Refund? tool over 230 million times during FS 2023, but for many, Where's My Refund? may not have provided them the information they sought, as it only tells taxpayers:

- The return has been received;
- The return has been processed; or
- The refund has been issued.

Taxpayers whose returns the IRS is reviewing for possible errors or identity theft will not receive any information from Where's My Refund? regarding these processes and possible delays. The tool does not answer the question – rather it will continue to say the return has been received, but no additional information is available. During the filing season, Where's My Amended Return? received over 4.4 million visits but suffered from similar limitations, as it does not explain or provide details on delays in processing.<sup>48</sup> The IRS's goal is to enhance the type of information that the Where's My Refund? and Where's My Amended Return? tools provide, and it stated in its Inflation Reduction Act Strategic Operating Plan it will use Inflation Reduction Act funding to make enhancements to these tools in an effort to provide taxpayers more real-time updates.<sup>49</sup> These types of real-time updates are the basic types of service taxpayers need and desire.

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

The IRS provides face-to-face assistance to taxpayers across the country, the District of Columbia, and Puerto Rico at TACs. Over the past decade, the IRS had reduced the number of TACs from 401 in 2011 to 363 in 2023.<sup>50</sup> Some TACs were not fully staffed. As of April 17, 2023, the IRS staffed 363 TACs, but due to attrition and resource limitations, it did not staff 26 TACs on a full-time basis.<sup>51</sup> Over the past year, the IRS has reopened 16 TACs that were closed since the beginning of the pandemic, and the IRS opened four new TACs in Puerto Rico and one in Mississippi.<sup>52</sup> All staffed TACs offer appointments and the ability to walk in, in certain circumstances. In addition to servicing taxpayers in a face-to-face environment, the IRS has begun assisting taxpayers virtually by using video communications (virtual service delivery (VSD)), allowing taxpayers to interact with IRS employees in real-time, as it has established several VSD partner sites.<sup>53</sup> Between January 1 and April 18, 2023, 14 VSD partner sites assisted 86 taxpayers.<sup>54</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 one Saturday a month during filing season.<sup>55</sup> About 2,100 IRS and TAS employees volunteered to work at 82 TAC locations that participated in the IRS's "Taxpayer Experience Days."<sup>56</sup> Although a welcome relief for many taxpayers in some cities, taxpayers experienced difficulties due to the high volume of participants and the IRS's inability to timely service these taxpayers, leaving some frustrated. To improve the experience, the IRS must work out multiple logistics as it learns lessons from the problems that occurred during these events. The good news is these Taxpayer Experience Days allowed taxpayers to seek assistance from IRS employees or meet with a TAS Case Advocate without having to schedule an appointment.

48 IRS, JOC, Where's My Amended Return Web Demand Report (week ending Apr. 22, 2023).

49 IRS, Pub. 3744, Inflation Reduction Act Strategic Operating Plan 42 (Apr. 2023).

50 IRS, W&I Inventory Report (week ending Apr. 15, 2023).

51 *Id.*

52 The reopened TAC locations are Casper, WY; Binghamton, NY; West Nyack, NY; Overland Park, KS; Longview, TX; Santa Fe, NM; Queensbury, NY; Charlottesville, VA; La Crosse, WI; Cranberry Township, PA; Colorado Springs, CO; Joplin, MO; Jackson, TN; Augusta, ME; Bellingham, WA; and Trenton, NJ. The new TAC location is Greenville, MS.

53 Partner sites are non-IRS offices where taxpayers can walk in and access equipment to communicate with the IRS virtually.

54 IRS response to TAS information request (May 11, 2023).

55 See IRS, IRS Face-to-Face Saturday Help, <https://www.irs.gov/help/irs-face-to-face-saturday-help> (last visited May 31, 2023).

56 IRS response to TAS information request (May 11, 2023).

In 2023, the IRS continued its policy of requiring taxpayers to schedule an appointment to receive assistance at any of its TACs, in most circumstances.<sup>57</sup> To schedule an appointment, taxpayers are instructed to call the TAC Appointment line, where an assistor determines the taxpayer's need and directs the taxpayer to resources where they may find answers to their questions.<sup>58</sup> If the taxpayer cannot resolve their issue, the assistor will assist them with making an appointment at a TAC for face-to-face assistance with an IRS employee. This filing season, there were 572,000 scheduled appointments for face-to-face assistance at TACs, a decrease of 28.4 percent compared to FS 2019.<sup>59</sup>

**FIGURE 2.8, Face-to-Face Assistance, Filing Seasons 2019, 2022, and 2023<sup>60</sup>**

	January 1 Through April 19, 2019	January 1 Through April 22, 2022	January 1 Through April 21, 2023	Percent Change 2019-2023	Percent Change 2022-2023
Total Field Assistance Face-to-Face Contacts	799,000	434,000	572,000	-28.4%	31.8%
Walk-in Exceptions (No Scheduled Appointment)	87,000	6,000	4,700	-94.6%	-21.7%

In limited instances, the IRS deviated from its appointment policy and let taxpayers receive assistance from a TAC without an appointment, *e.g.*, if the taxpayer was experiencing a hardship or if the TAC was able to accept walk-in appointments without disrupting scheduled appointments. This filing season, 4,700 taxpayers were assisted at TACs without an appointment because of openings in the day's calendar or as staffing permitted, down 94.6 percent from the 2019 filing season.<sup>61</sup> The appointment-only approach can negatively affect taxpayers who need assistance urgently and cannot wait to obtain an appointment.<sup>62</sup> TAS is pleased that the IRS's guidance to employees includes managerial discretion to assist taxpayers without appointments in certain circumstances and recommends TACs be staffed to provide walk-in assistance and by appointment.<sup>63</sup> However, serving taxpayers without appointments remains the exception to the rule, limiting taxpayer access to obtain in-person assistance from the IRS.

Before 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>64</sup> Taxpayers may make WebSD appointments to meet virtually with an IRS assistor to discuss such issues as math error notices and refund inquiries. From January 1, 2023, through April 18, 2023, about 4,500 WebSD appointments were scheduled as part of this pilot program, and about 3,500 appointments were completed during this timeframe.<sup>65</sup> While TAS is pleased the IRS has undertaken this pilot, it should increase availability

57 IRS News Release IR-2019-67, IRS.gov: Best Place to Get Last-Minute Tax Tips and Resources (Apr. 9, 2019).

58 IRM 21.1.1.3, Customer Service Representative (CSR) Duties (Mar. 11, 2021).

59 IRS, 2022 Weekly Individual Filing Season Report (Apr. 22, 2022).

60 IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 19, 2019, and April 17, 2020; IRS, 2023 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 22, 2022, and April 21, 2023.

61 IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 19, 2019, and April 17, 2020; IRS, 2023 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 22, 2022, and April 21, 2023.

62 IRS, W&I BPR 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 must explain the need, and a TAC employee must recognize the taxpayer should receive service.

63 IRM 21.3.4.2.4.2, TAC Appointment Exception Procedures (June 27, 2022).

64 IRS, SERP Alert 22A0077, Web Service Delivery (WebSD) Virtual TAC (Mar. 9, 2022).

65 IRS response to TAS information request (May 11, 2023).



to meet the needs of a broader segment of taxpayers, giving taxpayers another option through which they can interact with the IRS and get the assistance they need.

### Volunteer Tax Return Preparation Services Available to Taxpayers

This filing season, volunteers once again stepped up to provide essential tax return preparation assistance at virtual, over-the-phone, and in-person sites via the Volunteer Income Tax Assistance (VITA) and the Tax Counseling for the Elderly (TCE) programs.<sup>66</sup> VITA offers free tax return preparation assistance to people who generally make \$60,000 or less annually, people with disabilities, and limited English-speaking taxpayers who need assistance in preparing their own tax returns. TCE provides free tax help for individuals aged 60 and older.<sup>67</sup> Many taxpayers depend on the services offered by these two programs to meet their income tax return filing requirements and claim refundable credits such as the Earned Income Tax Credit or CTC.

VITA certified more volunteers to assist taxpayers in preparing and filing their returns in FS 2023 than in FS 2022. Specifically, in mid-January 2023, more than 66,000 VITA and TCE volunteers completed online training and were certified for the upcoming filing season<sup>68</sup>. This is a 127.6 percent increase in volunteers over 2022.

**FIGURE 2.9, Individual Returns Filed by Volunteers, 2019 to 2023 Filing Seasons<sup>69</sup>**

	Filing Season 2019 (January 1 Through April 19, 2019)	Filing Season 2022 (January 1 Through April 22, 2022)	Filing Season 2023 (January 1 Through April 21, 2023)	Percent Change 2019-2023	Percent Change 2022-2023
Total Individual Returns Prepared by Volunteers	3,440,000	2,095,000	2,432,000	-29.3%	16.1%

The National Taxpayer Advocate recognizes and thanks those individuals who volunteered their time and knowledge this year, as these volunteers assisted taxpayers who filed approximately 2,432,000 returns and provided taxpayers the ability to e-file their returns and speed up the payment of their refunds.<sup>70</sup> VITA and TCE volunteers are essential in helping low-income taxpayers and the elderly comply with their tax obligations. Millions of taxpayers depend on the generosity and knowledge of the VITA and TCE volunteers, and we should be grateful for their service.

### IRS Free File Alliance

The Free File Alliance is a nonprofit coalition of industry-leading tax software companies that have partnered with the IRS to help millions of Americans prepare and e-file their federal returns for free.<sup>71</sup> It is available to taxpayers with an adjusted gross income (AGI) of \$73,000 or less; taxpayers whose income exceeds that

66 IRS, Pub. 5450, VITA/TCE Site Operations. Some VITA sites used an Intake Only Site model that allowed taxpayers to drop off their documents and sign a consent form. Then the communications would take place via phone or computer.

67 IRS, Free Tax Return Preparation for Qualifying Taxpayers, <https://www.irs.gov/individuals/free-tax-return-preparation-for-qualifying-taxpayers> (last visited May 31, 2023); TAS, VITA and TCE, <https://www.taxpayeradvocate.irs.gov/get-help/filing-returns/vita-and-tce/> (last updated Feb. 2, 2023).

68 IRS, W&I BPR Q1 FY 2023 (Feb. 2023).

69 IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 19, 2019, and April 17, 2020; IRS, 2023 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 22, 2022, and April 21, 2023.

70 IRS, 2023 Weekly Individual Filing Season Report (week ending Apr. 21, 2023).

71 Free File Alliance, <https://freefilealliance.org/fag> (last visited May 31, 2023). "May I file my state income tax return for free? Some participating Free File Alliance companies offer free state tax return preparation and e-filing services through partnerships with participating state programs. Other companies charge a fee for state tax return preparation and e-filing."

threshold may choose to complete their tax return using Free File Fillable Forms on [IRS.gov](https://www.irs.gov).<sup>72</sup> The number of taxpayers that have used this software is similar to the number of taxpayers that avail themselves of VITA and TCE. But the software is underutilized and has not achieved widespread adoption. The IRS needs to do more to advertise the Free File Alliance products and services available to taxpayers and ensure that it is easy for taxpayers to locate on [IRS.gov](https://www.irs.gov).

**FIGURE 2.10, Individual Returns E-Filed Using Free File, 2019, 2022, and 2023 Filing Seasons<sup>73</sup>**

	Filing Season 2019 (January 1 Through April 19, 2019)	Filing Season 2022 (January 1 Through April 22, 2022)	Filing Season 2023 (January 1 Through April 21, 2023)	Percent Change 2019-2023	Percent Change 2022-2023
E-Filed Using Free File	2,681,000	2,954,000	2,651,000	-1.1%	-10.3%

### **Taxpayers Didn't Always Receive Timely and Clear Guidance From the IRS to Help Them Resolve Tax Reporting Ambiguities<sup>74</sup>**

To increase the efficiency and simplicity of the filing season, the IRS must issue clear guidance written in plain language and provide education to taxpayers in a proactive and timely manner. Timely guidance is key to eliminating confusion and frustration for taxpayers and tax professionals, earning the trust of the American people, and providing quality service. Two examples illustrating the IRS's failure to provide taxpayers with timely and clear guidance on critical issues during FS 2023 include:

1. *Federal tax treatment of special state tax refunds or payments to residents of more than 20 states.* States, such as California, believed that its Middle-Class Tax Relief benefits may be taxable and issued recipients of these payments a Form 1099-MISC. The failure of the IRS to work with the states and resolve this issue before the filing season placed taxpayers in a precarious position and left them wondering what, if anything, they needed to do to fully comply with the federal tax laws. TAS recommends the IRS work with the states to prevent similar issues for state payments made during 2023.
2. *Form 1099-K reporting requirements.* Despite nearly two years of lead time, the IRS failed to provide useful guidance implementing the requirement that third-party payment entities issue Forms 1099-K to report payments totaling more than \$600.<sup>75</sup> On December 23, 2022, largely because of the lack of guidance, the IRS effectively pulled the plug. It issued a notice that created a "transition period" of one year, postponing implementation of the \$600 reporting threshold for third-party settlement organizations until the 2024 filing season.<sup>76</sup>

<sup>72</sup> See IRS, Free File Fillable Forms, <https://www.irs.gov/e-file-providers/free-file-fillable-forms> (last visited May 31, 2023).

<sup>73</sup> IRS, 2020 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 19, 2019, and April 17, 2020; IRS, 2023 Weekly Individual Filing Season Report, Cumulative Statistics Comparing April 22, 2022, and April 21, 2023.

<sup>74</sup> Erin M. Collins, The IRS Must Be Proactive in Issuing Timely and Clear Guidance to Resolve Tax Reporting Ambiguities, NATIONAL TAXPAYER ADVOCATE BLOG (Feb. 9, 2023), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-the-irs-must-be-proactive-in-issuing-timely-and-clear-guidance/>.

<sup>75</sup> ARPA, Pub. L. No. 117-2, § 9674, 135 Stat. 4, 185.

<sup>76</sup> See IRS Notice 2023-10, 2023-3 I.R.B. 403, Revised Timeline Regarding Implementation of Amended Section 6050W(e).

Ensuring it issues timely guidance to resolve legal ambiguities and making voluntary tax reporting as easy as possible should be high on the IRS's priority list. The IRS's failure to proactively address issues is harmful to taxpayers and creates rework for the IRS that timely guidance would have avoided. Delayed or inadequate guidance may also cause an increase in telephone calls, filing of amended returns, or IRS adjustments, all disrupting the filing season and causing unnecessary taxpayer burdens.<sup>77</sup>

### **The IRS Is Still Working Through Hundreds of Thousands of Claimed Employee Retention Credits**

The Employee Retention Credit (ERC) is a refundable tax credit for businesses that continued to pay employees while shut down due to the COVID-19 pandemic or that had significant declines in gross receipts from March 13, 2020, to September 30, 2021.<sup>78</sup> Qualified Recovery Startup businesses are eligible for the credit from July 1, 2021, through December 31, 2021.<sup>79</sup> Business taxpayers who claimed ERC on their original or amended 2020 and/or 2021 employment tax returns are experiencing significant delays in receiving their refunds. Contributing to this backlog is the challenge that due to insufficient IT programming, the IRS must manually process claims received on IRS Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund. In addition, the IRS is focusing on potential fraudulent or aggressive claims and has received an influx of filings caused largely by "ERC schemes" promoted on the radio and online. These filings are causing delays as the IRS verifies the claims. As of May 24, 2023, the IRS's backlog of ERC claims was estimated at 800,000.<sup>80</sup> Now that the IRS has completed FS 2023, it plans on devoting resources to work through the ERC backlog and make sure eligible businesses receive the credits to which they are entitled while preventing fraudulent claims.<sup>81</sup>

## **CONCLUSION**

Although the IRS has made significant progress in processing returns and answering calls to its toll-free lines, backlogs still persist in amended returns, returns suspended as a result of a possible error, and taxpayer correspondence. Taxpayer correspondence will continue to come into the IRS, and millions of returns will come in toward the end of 2023, as many taxpayers filed for extensions. Thus, it is imperative that the IRS focus a large number of its resources during the rest of 2023 to get caught up with its current backlog, timely process all returns, pay out pending refunds, and prevent carryover of unprocessed returns into 2024 while still providing taxpayer service through its toll-free lines and walk-in centers. The IRS needs to eliminate the word "backlog" from its vocabulary in 2024 by modernizing the processing and scanning of paper returns, focusing on suspended returns, issuing all pending refunds before the close of the year, and starting FS 2024 fresh.

77 IRS News Release IR-2023-77, Early Filers Who Reported Certain State Tax Refunds as Taxable Should Consider Filing Amended Returns (Apr. 11, 2023).

78 IRC § 3134.

79 *Id.*

80 See IRS Operations: Status of Mission-Critical Functions (as of May 24, 2023), <https://www.irs.gov/newsroom/irs-operations-status-of-mission-critical-functions>; see also Doug Sword, *Employee Retention Credit Backlog Under 1 Million, Werfel Says*, 179 TAX NOTES FED. 854 (May 1, 2023).

81 Press Release, Sen. Mark Warner, *Under Questioning from Warner, IRS Commissioner Commits to Doubling Processing for Business Tax Credits*, (Apr. 19, 2023), <https://www.warner.senate.gov/public/index.cfm/2023/4/under-questioning-from-warner-irs-commissioner-commits-to-doubling-processing-for-business-tax-credits>.