



## TAS SYSTEMIC ADVOCACY OBJECTIVES

### INTRODUCTION

IRC § 7803(c)(2)(B)(i) requires the National Taxpayer Advocate to annually submit a report to Congress by June 30 that describes the objectives outlined by the Office of the Taxpayer Advocate for the upcoming fiscal year. This report is known as the Objectives Report to Congress. The following sections present TAS's key goals and planned activities for fiscal year (FY) 2024 in three areas: Systemic Advocacy Objectives, TAS Case Advocacy and Other Business Objectives, and TAS Research Objectives.

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

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

**TAS Research Objectives** focus on understanding how IRS procedures affect taxpayers and how taxpayers react to IRS actions. The objectives of TAS Research are to improve IRS operations and assist the IRS with balancing its compliance and enforcement efforts with taxpayer rights while also reducing taxpayer burden. Five new research projects are scheduled for FY 2024.

## 1. PROTECT TAXPAYER RIGHTS AS THE IRS IMPLEMENTS ITS STRATEGIC OPERATING PLAN

Section 10301 of the Inflation Reduction Act of 2022 (IRA) provided the IRS approximately \$79 billion to modernize technology, improve taxpayer service, enhance enforcement, and cover operational costs between FYs 2022 and 2031.<sup>1</sup> On April 5, 2023, the Treasury Department and the IRS released the IRS IRA Strategic Operating Plan (SOP), a report outlining how the IRS plans to transform tax administration over the next decade.<sup>2</sup> While the planned taxpayer service initiatives are intended to dramatically improve the delivery of services to the taxpayer population in general, TAS will evaluate the anticipated impact of such planned changes on taxpayers, especially the more vulnerable populations with limited access to online services. The enforcement initiatives in the SOP are intended to quickly resolve taxpayer issues and improve tax compliance, particularly among high-income taxpayers, large businesses, and pass-through entities. TAS will evaluate the implementation of such enforcement initiatives to safeguard taxpayer rights and advocate for a fair and equitable distribution of IRS resources that will benefit all taxpayers.

Of the initial supplemental IRA funding, Congress allocated only \$3.2 billion for Taxpayer Services and \$4.8 billion for Business Systems Modernization (BSM). Combined, such allocations amount to only ten percent of the original funding allocation, with the remaining 90 percent allocated for Enforcement (\$45.6 billion) and Operations Support (\$25.3 billion).<sup>3</sup> The SOP includes a discussion on the expected depletion of the IRS Taxpayer Services allocation in less than four years. It also expresses concerns about the adequacy of BSM funding to modernize the agency's antiquated technology.<sup>4</sup> TAS will continue to advocate for adequate funding for Taxpayer Services, BSM, and operational overhead that enables the IRS to meet the needs of all taxpayers.

### Objective 1 for FY 2024 – TAS will evaluate the IRS's implementation of the IRA SOP to maximize protection of taxpayer rights.

- Activity 1: Participate on cross-functional teams implementing the IRS IRA SOP, evaluate planned initiatives, and make administrative recommendations to maximize protection of taxpayer rights and minimize IRS burden imposed on taxpayers.
- Activity 2: Analyze the findings of focus groups conducted at the 2023 IRS Nationwide Tax Forums to understand tax professionals' thoughts, opinions, and concerns on the IRS's plans to implement the IRA funding as outlined by the IRS's SOP and make recommendations based upon our findings.

## 2. PROTECT TAXPAYER PRIVACY AND ENSURE THE IRS DOES NOT DISCLOSE TAXPAYER INFORMATION WITHOUT CONSENT

Tax return preparers, including tax return preparation software providers, cannot use or disclose tax return information to third parties without taxpayer consent.<sup>5</sup> Any unauthorized use or disclosure of such information can result in civil or criminal penalties.<sup>6</sup> Some have raised concerns as to whether tax return preparation software providers shared tax return information with third parties without explicit taxpayer consent.<sup>7</sup>

<sup>1</sup> An Act to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14, Pub. L. No. 117-169, § 10301, 136 Stat. 1818, 1831 (2022) [hereinafter referred to as the "Inflation Reduction Act"]. As part of the Fiscal Responsibility Act of 2023 and related agreements, IRA funding is expected to be reduced by about \$21 billion.

<sup>2</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023).

<sup>3</sup> IRA, Pub. L. No. 117-169, § 10301, 136 Stat. 1818, 1831-1832 (2022).

<sup>4</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan 128, 130 (Apr. 2023).

<sup>5</sup> IRC §§ 6103(c), 6713, 7216; Treas. Reg. § 301.7216-3.

<sup>6</sup> IRC §§ 6713, 7216.

<sup>7</sup> Colin Lecher & Simon Fondrie-Teitler, *Meta Sued for Collecting Financial Information Through Tax Filing Websites*, THE MARKUP (Dec. 2, 2022), <https://themarkup.org/pixel-hunt/2022/12/02/meta-sued-for-collecting-financial-information-through-tax-filing-websites>; Class Action Complaint & Demand for Jury Trial, *Doe v. Meta Platforms, Inc.*, No. 3:22-cv-07557 (N.D. Cal. filed Dec. 1, 2022).

It is critical that the IRS, TAS, and other appropriate oversight organizations protect taxpayer rights by conducting regular reviews to ensure third parties are not receiving tax return information without explicit taxpayer consent.<sup>8</sup> This is especially important due to the limited ability of taxpayers to hold return preparers or the tax return preparation software industry accountable for unauthorized use or disclosure of their tax return information. Specifically, many tax return preparation software products have mandatory arbitration clauses in the “terms of use” boilerplate language, and taxpayers must agree to such terms before using the product. Such arbitration clauses would effectively prevent taxpayers from bringing a civil action against a tax return preparation software company for any unlawful use or disclosure of their tax return information. IRS review of and comment on the providers’ consent language and placement of the consent could help prevent possible IRC §§ 7216 or 6713 violations.

**Objective 2 for FY 2024 – TAS (1) will evaluate how the IRS is protecting taxpayers’ right to confidentiality and preventing unlawful uses and disclosures of their tax return information and (2) will advocate to ensure waivers follow IRS rules and regulations; are clear, concise, and written in plain language; and provide taxpayers an avenue by which they can hold parties accountable if their return information is disclosed to a third party without their consent.**

- Activity 1: Create a team to review any existing IRS processes for ensuring that return preparers and tax return preparation software companies are in full compliance with the rules and regulations governing taxpayer consent for using and disclosing tax return information; if appropriate, TAS will make recommendations as to how the IRS can strengthen this review process.
- Activity 2: Explore what options are available to taxpayers to hold return preparers and tax return preparation software companies accountable for unauthorized uses or disclosures of their information and research any potential legislative changes that may be necessary to protect tax return information; if appropriate, TAS will make legislative recommendations to Congress in the National Taxpayer Advocate’s Annual Report to Congress.
- Activity 3: Review tax return preparation software companies’ consents to share tax return information and recommend changes to the consent statements to better protect taxpayer rights.
- Activity 4: Review and consider the need for legislation, similar to the California Privacy Rights Act, which added the right to correct inaccurate personal information and the right to limit the use and disclosure of sensitive personal information.

### **3. IMPROVE CORRESPONDENCE AUDIT PROCESSES, TAXPAYER PARTICIPATION, AND AGREEMENT AND DEFAULT RATES**

Taxpayers often face significant challenges navigating the correspondence audit process and are limited to calling a representative on a toll-free phone line for assistance. Issues include difficulties understanding the notice, gathering and providing documentation, responding within the stated deadlines, and having limited options to interact with an IRS employee. The IRS correspondence audit process is designed to expend the least amount of examination resources to conduct the largest number of examinations, often resulting in deficient levels of customer service to taxpayers and the use of costly downstream resources for the IRS.<sup>9</sup>

<sup>8</sup> See IRC § 7803(a)(3)(H). “Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect the IRS to investigate and take appropriate action against its employees, return preparers, and others who wrongfully use or disclose taxpayer return information.” *Taxpayer Bill of Rights: The Right to Confidentiality*, TAXPAYER ADVOCATE SERVICE, <https://www.taxpayeradvocate.irs.gov/get-help/taxpayer-rights/>.

<sup>9</sup> See National Taxpayer Advocate 2020 Annual Report to Congress 105-106 (Most Serious Problem: Correspondence Exams: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_07\\_Correspondence.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_07_Correspondence.pdf). See also IRS, Joint Operations Center (JOC), Snapshot Reports: Product Line Detail (week ending Apr. 22, 2023). As of the week ending April 22, 2023, the Wage and Investment (W&I) Exam phone line reflected a fiscal year Level of Service (LOS) of 42.4 percent.

In FY 2022, correspondence audits continued to produce the lowest agreement rate (20.8 percent), the highest no-response rate (41.6 percent), and the highest volume of cases assessed by default (20.4 percent).<sup>10</sup> The IRS has implemented technology to aid taxpayers in the correspondence audit experience such as customer callback, Taxpayer Digital Correspondence, and the introduction of the Documentation Upload Tool – technology tools that allow taxpayers to request a call back rather than waiting on hold and to electronically submit documentation. The IRS, however, continues to refrain from interjecting any additional human interactions that could serve to assist, educate, and engage taxpayers during the correspondence audit process, and taxpayers are not assigned a specific point of contact responsible for their audit. Increased taxpayer engagement could lead to increased audit agreement rates, reduced taxpayer burden, and reduced IRS resources associated with revisiting completed audits. Instead, the volume of unagreed correspondence audit cases remains high and continues to necessitate the use of costly downstream resolution actions that include audit reconsiderations, appeals, and litigation. These cases also frequently require the involvement of additional offices such as the IRS’s Office of Chief Counsel, the Independent Office of Appeals, IRS Collections, and TAS.<sup>11</sup>

The IRS must do more to increase taxpayer correspondence audit participation and minimize the delays and burdens associated with its current processes. High no-response, unagreed, and correspondence audit default rates are particularly concerning because a high percentage of the taxpayers subjected to correspondence audits have total positive incomes below \$50,000.<sup>12</sup> Many of these low-income taxpayers claim the Earned Income Tax Credit and will not receive their credit until the conclusion of the audit. Appropriate correspondence audit customer service is necessary to increase taxpayer participation in the audit process, build trust, and engage taxpayers, particularly low-income taxpayers who frequently lack representation and must rely solely on the IRS for audit assistance.<sup>13</sup>

**Objective 3 for FY 2024 – TAS will work with the IRS to improve taxpayer correspondence audit participation and agreement and default rates.**

- Activity 1: Participate on IRS cross-functional teams designed to analyze IRS procedures and other factors contributing to correspondence audit low response, low agreement, and high default rates.
- Activity 2: Develop strategies from cross-functional team analysis for IRS consideration and implementation.
- Activity 3: Via cross-functional team participation, advocate for increased human interaction, increased education, increased ease and access to taxpayer assistance, and improved service levels on the IRS’s Wage and Investment (W&I) Correspondence Exam assistance telephone line.

10 IRS, Compliance Data Warehouse (CDW), Automated Information Management System Closed Case Data, FY 2022 (Mar. 2023). Correspondence audits include audits closed by campus tax examiners in either the W&I or Small Business/Self-Employed Operating Divisions.

11 See National Taxpayer Advocate 2022 Annual Report to Congress 174, 187 (Most Litigated Issues), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MostLitigatedIssues.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MostLitigatedIssues.pdf). Similar to previous years, in FY 2022, 78 percent of the cases petitioned were the product of an audit or review conducted via correspondence.

12 See National Taxpayer Advocate 2020 Annual Report to Congress 102-118 (Most Serious Problem: *Correspondence Exams: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_07\\_Correspondence.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_07_Correspondence.pdf).

13 *Id.*

#### 4. IMPLEMENT SYSTEMIC FIRST TIME ABATEMENT BUT ALLOW SUBSTITUTION OF REASONABLE CAUSE

The IRS generally offers taxpayers who are subject to failure-to-file, failure-to-pay, or failure-to-deposit penalties an administrative first time abatement (FTA) of those penalties, provided that taxpayers are in compliance and have not utilized FTA within the last three years.<sup>14</sup> This administrative waiver is applied after a manual review generally triggered by a request from the taxpayer for either reasonable cause relief or FTA.<sup>15</sup> The IRS is considering, and TAS supports, systemically applying the FTA as a means of promoting fairness and reducing burdens for both taxpayers and the IRS.

TAS recommends that the IRS apply FTA automatically when it evaluates a given taxpayer for the three covered penalties. The IRS would program its system so that when taxpayers filed their returns, the system would determine eligible taxpayers and grant FTA without the need for taxpayers to request relief. Ineligible taxpayers would receive a penalty and an opportunity to request relief based upon reasonable cause. As things stand now, FTA is generally only granted where taxpayers affirmatively request penalty relief or where the IRS has some other reason to review for FTA eligibility.<sup>16</sup> One of the equitable benefits of a systemic FTA, by contrast, is that it is accessible to everybody, regardless of their level of sophistication. This will result in an equitable application of the administrative waiver. Additionally, because the IRS's computer system would automatically apply the systemic FTA, the IRS can impact the broadest possible range of eligible taxpayers while decreasing personnel costs associated with the program.

The increased reach of systemic FTA is well illustrated by looking to data from tax year 2021. In that year, the IRS granted the FTA to approximately 200,000 taxpayers with respect to the failure-to-file, failure-to-pay, and failure-to-deposit penalties.<sup>17</sup> In comparison, TAS analysis shows that a systemic FTA would have waived penalties for approximately 4.5 million taxpayers.<sup>18</sup> Another way of looking at the data is to consider the number of FTA waivers as a percentage of the total taxpayers assessed failure-to-file, failure-to-pay, and failure-to-deposit penalties. Under the current policy, the IRS abated approximately two percent of these penalties due to FTA, while under a systemic process, TAS estimates that the IRS would abate 50 percent.<sup>19</sup> All of the additional taxpayers who would benefit from systemic FTA are already eligible for FTA; they are simply missing out on relief because they do not know to ask for it. In the upcoming year, TAS will continue to encourage IRS decision-makers to make the policy changes and resource allocations the program needs to move forward.

The IRS applies FTA, when available, prior to considering reasonable cause relief.<sup>20</sup> This ordering rule, which is a matter of IRS policy, is applied despite the circumstance that reasonable cause is established by statute and is intended for situations where the taxpayer exercised ordinary business care and prudence.<sup>21</sup> Even where a taxpayer has reasonable cause, FTA supersedes that relief, thereby eliminating access to FTA for the next

14 Internal Revenue Manual (IRM) 20.1.1.3.3.2.1, First Time Abate (FTA) (Mar. 29, 2023) (providing an administrative waiver from failure-to-file penalties under IRC §§ 6651(a)(1), 6698(a)(1), or 6699(a)(1), failure-to-pay penalties under IRC § 6651(a)(2) and IRC 6651(a)(3), and failure-to-deposit penalty under IRC § 6656). See also IRS, Penalty Relief Due to First Time Abate or Other Administrative Waiver, <https://www.irs.gov/payments/penalty-relief-due-to-first-time-abate-or-other-administrative-waiver#eligible> (last visited May 22, 2023).

15 IRM 20.1.1.3.3.2.1(3), First Time Abate (FTA) (Mar. 29, 2023). IRS personnel can apply FTA unilaterally if they identify taxpayer eligibility on their own initiative.

16 Taxpayers who have requested relief for other reasons may also receive FTA, and if a taxpayer is eligible for FTA relief after all other account discrepancies have been corrected, then the IRS will apply FTA to the remaining penalty. IRM 20.1.1.3.3.2.1(16), First Time Abate (FTA) (Mar. 29, 2023).

17 IRS, CDW, Individual Master File for Tax Year 2021 Returns (Mar. 2023).

18 *Id.*

19 *Id.* The actual number of taxpayers eligible for FTA will vary depending on whether the taxpayer is in payment compliance at the time of the request. Additionally, not all FTA eligibility requirements could be tested.

20 IRM 20.1.1.3.3.2.1(12), First Time Abate (FTA) (Mar. 29, 2023).

21 IRC §§ 6651(a), 6656(a), 6698(a), 6699(a); Treas. Reg. § 301.6651-1(c)(1).

three years.<sup>22</sup> To address this situation, TAS has proposed allowing taxpayers who receive FTA and who also have a good case for reasonable cause relief to apply for reasonable cause in lieu of the FTA, thus preserving FTA eligibility for future years. TAS refers to this mechanism as “reasonable cause substitution.” The IRS is philosophically resistant to such a policy change and has also indicated that it might not be a feasible option due to programming limitations. TAS will continue to pursue communication with the IRS in this area and explore ways of moving forward.

**Objective 4 for FY 2024 – TAS will collaborate with IRS stakeholders to implement systemic FTA in conjunction with recharacterized reasonable cause relief.**

- Activity 1: Provide IRS decision-makers with support via a white paper and follow-up conversations for allocating the requisite information technology funding and moving forward with systemic FTA.
- Activity 2: Conduct a meeting with the IRS Office of Servicewide Penalties aimed at reaching agreement regarding the desirability and feasibility of allowing substituted reasonable cause relief.

**5. REDUCE BURDEN ON TAXPAYERS APPLYING FOR AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER**

The IRS continues to rely on a paper-based system for processing applications for Individual Taxpayer Identification Number (ITIN) applications.<sup>23</sup> Like other paper processing systems at the IRS, processing of paper ITIN applications is subject to backlogs.<sup>24</sup> Backlogs harm taxpayers in a variety of ways, including delayed refunds and disallowance of claimed tax benefits.<sup>25</sup> When the IRS experiences backlogs processing ITIN applications and paper returns, it can delay taxpayer refunds for months. Taxpayers with expired ITINs can experience further delays in processing their tax returns.<sup>26</sup> Because some state agencies calculate benefits based on family size, as reported on a tax return, ITIN delays may impact benefits. If a taxpayer has an eligible dependent but is unable to obtain an ITIN for the dependent, it may result in a reduction of state benefits, increasing taxpayer burden.

In its SOP, the IRS expressed intentions to modernize the ITIN process and expand services for ITIN holders and international taxpayers but did not provide any details.<sup>27</sup> To prevent unnecessary delays, encourage voluntary compliance, and reward these individuals for doing the right thing by filing U.S. tax returns, the National Taxpayer Advocate recommended the IRS develop and implement a procedure that allows applicants

<sup>22</sup> IRM 20.1.1.3.6.1, RCA and First Time Abate (FTA) Consideration (Mar. 29, 2023).

<sup>23</sup> An ITIN is a unique tax processing number the IRS issues to individuals who need to file a return or have a federal tax reporting obligation but who do not have and are not eligible for a Social Security number from the Social Security Administration. See IRC § 6109; Treas. Reg. § 301.6109-1. All ITIN applications, including renewals, must include a U.S. federal tax return unless the taxpayer meets an exception to the filing requirement. New applicants must apply with a paper tax return if they do not meet one of the narrow exceptions.

<sup>24</sup> See, e.g., National Taxpayer Advocate Fiscal Year 2023 Objectives Report to Congress 23-24 (Systemic Advocacy Objective: *Restore Tax Benefits That Were Disallowed Due to Individual Taxpayer Identification Number Renewal Processing Delays*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23\\_SAO\\_SystAdvObjs.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23_SAO_SystAdvObjs.pdf); National Taxpayer Advocate 2022 Annual Report to Congress 34-44 (Most Serious Problem: *Processing Delays: Paper Backlogs Caused Refund Delays for Millions of Taxpayers*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_01\\_Processing-Delays.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_01_Processing-Delays.pdf).

<sup>25</sup> See National Taxpayer Advocate Fiscal Year 2023 Objectives Report to Congress 23-24 (Systemic Advocacy Objective: *Restore Tax Benefits That Were Disallowed Due to Individual Taxpayer Identification Number Renewal Processing Delays*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23\\_SAO\\_SystAdvObjs.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23_SAO_SystAdvObjs.pdf). When non-citizens seek U.S. citizenship, immigration authorities view compliance with U.S. tax laws favorably. See, e.g., 8 U.S.C. § 1427(a); 8 C.F.R. § 316.10; *Abuhekal v. U.S. Citizenship & Immigr. Servs.*, 2011 WL 2600709, at \*5 (D. Minn. June 30, 2011) (“Timely payment of taxes supports a finding of good moral character.... Conversely, failure to file or make timely payment of taxes may support a finding of a lack of good moral character”) (internal citations omitted).

<sup>26</sup> See Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (Nov. 2021).

<sup>27</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023).

to apply for an ITIN throughout the year and submit alternate proof of a filing requirement other than an annual tax return.<sup>28</sup>

Taxpayers must file Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for or renew an ITIN.<sup>29</sup> The IRS does not offer a way to electronically file (e-file) Form W-7 so taxpayers have no option other than to file on paper. The application must be supported by original documents, such as a birth certificate or passport, or copies of original documents that have been certified by the issuing agency that establish, for example, the taxpayer's alien status and identity, foreign status, and residency.<sup>30</sup> Taxpayers may mail their Form W-7 and required documents directly to the IRS or receive in-person assistance through an Acceptance Agent (AA).<sup>31</sup> Taxpayers may also make an appointment at a designated IRS Taxpayer Assistance Center (TAC), which can verify original documents and submit verified copies of those documents to the IRS ITIN Unit, allowing the immediate return of documents to the taxpayer.<sup>32</sup>

Another important option that allows taxpayers, including those residing outside of the United States, to apply for an ITIN and retain their identification documents is Certifying Acceptance Agents (CAAs). CAAs are AAs authorized to verify original documentation and certified copies of the documentation from the issuing agency for primary and secondary applicants and their dependents.<sup>33</sup> As of May 11, 2023, there are 7,192 AAs and CAAs in the United States and 347 in 46 countries outside the United States, including 120 in Canada.<sup>34</sup> Beginning August 15, 2022, the IRS imposed a moratorium on the Acceptance Agent Program. The moratorium is scheduled to expire in Summer 2023, but the IRS has not provided an exact date.<sup>35</sup> The IRS also plans to launch an online portal for AAs and CAAs to submit applications and complete Form W-7 applications. The availability of a robust network of CAAs will reduce the need for taxpayers who need an ITIN to comply with their U.S. tax obligations to surrender important documents for seven to 11 weeks.<sup>36</sup>

#### **Objective 5 for FY 2024 – TAS will work with the IRS to identify problems and suggest changes to ITIN processing that will reduce delays negatively impacting taxpayers.**

- Activity 1: Collaborate on cross-functional teams with the IRS to modernize the ITIN process and expand services for ITIN holders and international taxpayers as referenced in the IRS's IRA SOP.
- Activity 2: Work with the IRS to develop and implement a procedure prior to the 2024 filing season that allows all applicants to apply for an ITIN throughout the year by submitting proof of a filing requirement.
- Activity 3: Collaborate on cross-functional teams with the IRS in the development and rollout of an online portal for AAs and CAAs to submit applications and complete Form W-7 applications.

28 See Erin M. Collins, Most Taxpayers Needing a New ITIN Are Prohibited From Filing Electronically, Causing Unnecessary Refund Delays, NATIONAL TAXPAYER ADVOCATE BLOG (Feb. 6, 2023), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-most-taxpayers-needing-a-new-itin-are-prohibited-from-filing-electronically-causing-unnecessary-refund-delays/>.

29 Spouses and dependents are not eligible for an ITIN or renewal of an ITIN unless they are claimed for an allowable tax benefit, or they file their own return.

30 IRC § 6109(i)(2); Treas. Reg. § 301.6109-1(d)(3)(iii).

31 Treas. Reg. § 301.6109-1(d)(3)(ii), (iv). See also Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (Nov. 2021).

32 See IRS, IRS Taxpayer Assistance Centers Providing In-Person ITIN Document Review, <https://www.irs.gov/help/tac-locations-where-in-person-document-verification-is-provided> (last visited June 1, 2023).

33 CAAs cannot verify foreign military identification cards. For dependents, CAAs can only verify passports and civil birth certificates; however, they must send the original or certified copies of all other documents directly to the IRS. IRM 3.21.263.4.1, Acceptance Agent (AA) or Certifying Acceptance Agent (CAA) (Jan. 16, 2020). For a list of acceptable supporting identification document(s), see IRM 3.21.263.5.6(4), ITIN Documentation Requirements (Nov. 12, 2021).

34 See IRS, Acceptance Agent Program, <https://www.irs.gov/individuals/international-taxpayers/acceptance-agent-program> (last visited May 11, 2023).

35 See IRS, How to Become an Acceptance Agent for IRS ITIN Numbers, <https://www.irs.gov/individuals/international-taxpayers/how-to-become-an-acceptance-agent-for-irs-itin-numbers> (last visited Apr. 24, 2023).

36 See Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (Nov. 2021). The instructions tell applicants to “[a]llow 7 weeks for the IRS to notify you of your ITIN application status (9 to 11 weeks if you submit the application during peak processing periods (January 15 through April 30) or if you’re filing from overseas).”

## 6. FORMALIZE 45-DAY RESPONSE TIME FROM ALL IRS FUNCTIONS TO RECOMMENDATIONS MADE BY THE TAXPAYER ADVOCACY PANEL

The Taxpayer Advocacy Panel (TAP), an independent Federal Advisory Committee to the IRS, was established in 2002. TAP helps identify tax issues of importance to taxpayers and provides a taxpayer perspective to the IRS on key programs, products, and services. It also serves as a focus group that makes recommendations to the IRS and the National Taxpayer Advocate. Since its inception, TAP has worked with over 700 civilian volunteers who agree to dedicate 200-300 hours a year for three-year terms. The panel's mission is to listen to taxpayers, identify taxpayer issues, and make suggestions to improve IRS services. It operates under the authority of the Federal Advisory Committee Act and is guided by TAS, which provides staff to assist TAP and facilitate consideration of its recommendations. During the first 20 years of TAP's existence, it made more than 2,200 recommendations to improve the IRS's taxpayer service, products, and procedures.<sup>37</sup> Some examples include implementation of customer callback technology on IRS phone lines, creation of the taxpayer online portal, and various improvements to the Volunteer Income Tax Assistance program.

TAP submitted 201 recommendations to the IRS in 2022. Of those submitted, 133 (66 percent) were still awaiting IRS response at the end of the year.<sup>38</sup> Unlike other TAS functions, TAP does not have an established process with the IRS Business Operating Divisions (BODs) for working the recommendations it submits. TAP currently works primarily with W&I; however, as the panel continues to evolve and broaden its work to additional IRS functions, a negotiated Service Level Agreement (SLA) or standard operating procedure for working TAP recommendations is necessary to ensure TAP receives timely and complete IRS responses.

### **Objective 6 for FY 2024 – TAS will work with the IRS BODs to develop procedures for the IRS in reviewing and responding to TAP recommendations, and if necessary, establish steps to reach an SLA or mutually agreed upon standard operating procedure for considering TAP recommendations.**

- Activity 1: Review and analyze the current SLAs between TAS and BODs for working Case Advocacy Operations Assistance Requests to identify best practices transferable to the recommendation process.
- Activity 2: Review and analyze the processes used by other administrative bodies that work with the IRS, such as the Internal Revenue Service Advisory Council and the Electronic Tax Administration Advisory Committee, to identify best practices.
- Activity 3: Conduct an analysis of the current workflow processes and evaluate their effectiveness and timeliness for functional replies. TAP will look into developing a more effective post-recommendation dialogue process that considers the age, priority status, and number of times a recommendation is transferred between functions.

## 7. ELIMINATE SYSTEMIC ASSESSMENTS AND OFFER A FIRST TIME ABATEMENT WAIVER FOR INTERNATIONAL INFORMATION RETURN PENALTIES

Taxpayers who have certain foreign financial interests and cross-border business activities are subject to a range of U.S. reporting requirements. Many of these requirements come with significant penalty potential when a filing is late, incomplete, or inaccurate, even if the information report itself does not relate to any income. In particular, TAS is concerned about the international information return (IIR) penalty regime contained within Title 26, Subtitle F, Chapter 61, Subchapter A, Part III.<sup>39</sup> The IRS's position regarding these penalties is that

<sup>37</sup> IRS, Pub. 4444, Taxpayer Advocacy Panel 2022 Annual Report 1 (Mar. 2023).

<sup>38</sup> *Id.* at 8.

<sup>39</sup> See, e.g., National Taxpayer Advocate 2020 Annual Report to Congress 119-131 (Most Serious Problem: *International: The IRS's Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_08\\_International.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_08_International.pdf).

they are not subject to deficiency procedures and are immediately assessable, which means that taxpayers do not have access to prepayment judicial review in the U.S. Tax Court. The National Taxpayer Advocate's position, recently corroborated by the U.S. Tax Court in *Farhy v. Commissioner*,<sup>40</sup> is that these penalties neither contain nor cross-reference any language authorizing the IRS to treat them as assessable.<sup>41</sup> Instead, under *Farhy*, collection of these penalties would fall to the U.S. Department of Justice.<sup>42</sup>

Most of these penalties are assessed systemically, at the time the IRS receives a late information return, which causes substantial inequities and inefficiencies in tax administration. As an example, between processing years (PYs) 2014 and 2022, there were an average of 9,800 IRC § 6038 penalties systemically assessed per year.<sup>43</sup> Of those penalties, the mean abatement rate was 69 percent per year, with a minimum rate of 48 percent (as of March 2023) and a maximum rate of 88 percent.<sup>44</sup> These systemic assessments totaled an average of \$354 million per year, of which \$281 million was abated on average – an abatement rate of 80 percent per year by dollars.<sup>45</sup> By contrast, the number of manual assessments averaged only 685 per year from PYs 2014 to 2022, with an average abatement rate of 23 percent per year.<sup>46</sup> In terms of dollars, the average aggregate manual penalty assessment per year was \$36 million, of which 19 percent was abated.<sup>47</sup>

These high abatement rates demonstrate that the systemic regime burdens taxpayers with the need to provide documentation to fight unjustified penalties approximately half the time. However, a more taxpayer-favorable approach is possible. If the IRS stopped systemically assessing these penalties and Congress made them subject to deficiency procedures, taxpayers would have access to full prepayment administrative and judicial review prior to the assessment of the penalties. IIR penalties are abated for a variety of reasons, including that the underlying income tax return received the FTA waiver.<sup>48</sup> Nevertheless, these penalties should be directly eligible for FTA, ideally the systemic FTA, for which the National Taxpayer Advocate has broadly advocated.<sup>49</sup> Offering an IIR-specific FTA waiver would help extend equitable treatment to taxpayers and bring administrative efficiency in this area to the IRS. For example, it would ensure that taxpayers with new IIR reporting obligations do not slip through the cracks simply because their underlying returns were on time and are therefore not eligible for FTA.

40 *Farhy v. Comm'r*, 160 T.C. 6 (2023).

41 The National Taxpayer Advocate and a number of commentators have long held this position. See, e.g., Erin Collins & Garrett Hahn, *Foreign Information Reporting Penalties: Assessable or Not?*, TAX NOTES, July 9, 2018, at 211; Robert S. Horwitz, *Can the IRS Assess or Collect Foreign Information Reporting Penalties?*, TAX NOTES, Jan. 21, 2019, at 301; Frank Agostino & Phillip J. Colasanto, *The IRS's Illegal Assessment of International Penalties*, TAX NOTES, Apr. 8, 2019, at 261; National Taxpayer Advocate 2020 Annual Report to Congress 119-131 (Most Serious Problem: *International: The IRS's Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_08\\_International.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_08_International.pdf).

42 *Farhy v. Comm'r*, 160 T.C. 6 (2023).

43 IRS, CDW, Individual Master File, PY 2014-2022, (Mar. 2023); IRS, CDW, Business Master File, PY 2014-2022, (Mar. 2023).

44 *Id.*

45 *Id.* We note that because of broad penalty relief provided by the IRS with respect to certain late filing penalties for 2019 and 2020 returns in Notice 2022-36, 2022-36 I.R.B. 188, we cannot differentiate which abatements were due to the broad penalty relief for those tax years, but we believe that the initiative contributed to a higher abatement rate for those years and consequently a higher average abatement rate for the period of 2014-2022.

46 IRS, CDW, Individual and Business Master File (Mar. 2023).

47 *Id.*

48 See, e.g., National Taxpayer Advocate 2020 Annual Report to Congress 119-131 (Most Serious Problem: *International: The IRS's Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_08\\_International.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_08_International.pdf).

49 For a more detailed discussion on this topic, see Systemic Advocacy Objective: *Implement Systemic First Time Abate But Allow Substitution of Reasonable Cause*, *supra*.

**Objective 7 for FY 2024 – TAS will advocate to end systemic assessment of international information return penalties and to develop an FTA waiver specific to these penalties.**

- Activity 1: TAS subject matter experts will meet with the IRS to discuss the possibility of ending the systemic assessment regime for Chapter 61 IIR penalties.
- Activity 2: TAS subject matter experts will meet with the IRS Office of Servicewide Penalties to discuss the possibility of developing an FTA waiver for Chapter 61 IIR penalties.

**8. MODERNIZE IRS PAPER PROCESSING PROCEDURES**

Since the 2020 filing season, millions of taxpayers have experienced significant delays waiting for the IRS to process paper-filed tax returns and taxpayer correspondence.<sup>50</sup> The unprecedented paper processing and refund issuance delays caused taxpayers to experience financial hardship and confusion regarding the status of their cases and filings. During the final months of 2022, the IRS made substantial strides in reducing the backlog of paper-filed tax returns. Despite this progress, the IRS still started Filing Season 2023 with significant paper inventories, including an inventory of about 4.9 million pieces of taxpayer correspondence and about 1.5 million amended returns.<sup>51</sup> The IRS ended Filing Season 2023 with a similar inventory of paper taxpayer correspondence (about five million) and about 3.4 million amended returns (an increase of nearly 127 percent).<sup>52</sup>

The IRS relies on outdated manual practices to process paper-filed tax returns, amended returns, and paper correspondence. In its IRA SOP, the IRS indicated plans to “scan and digitalize all incoming paper forms, returns, and communications.”<sup>53</sup> Implementation of scanning technology and digitalization will modernize paper processing procedures and reduce taxpayer burden by decreasing processing times and refund turnaround times. As part of the IRS’s Digital Intake scanning initiative, the IRS began scanning some forms, including Forms 940, 941, and 1040.<sup>54</sup>

**Objective 8 for FY 2024 – TAS will work with the IRS as it implements plans to modernize paper processing procedures to streamline the processing of paper-filed returns and correspondence.**

- Activity 1: Monitor the IRS implementation of scanning technology and digitalization to process paper-filed IRS forms and correspondence and make administrative recommendations, as needed, to minimize taxpayer burden.

50 National Taxpayer Advocate 2022 Annual Report to Congress 34-48 (Most Serious Problem: *Processing Delays: Paper Backlogs Caused Refund Delays for Millions of Taxpayers*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_01\\_Processing-Delays.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_01_Processing-Delays.pdf).

51 IRS, W&I, Status of Unopened Mail and Backlog Inventory (Dec. 30, 2022) (showing data as of Dec. 23, 2022); Email from W&I (Jan. 3, 2023) (on file with TAS).

52 IRS, W&I, Wage and Investment Inventory Report (Apr. 29, 2023) (as of Apr. 22, 2023).

53 IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan 22 (Apr. 2023).

54 The IRS also has two scanning initiatives underway: Digital Intake with Lockbox and Digital Intake with Industry Partners. IRS News Release IR 2023-41, IRS Begins New Digital Initiative; Form 940 Scanning Process Off to Strong Start; Other Forms to Start Soon (Mar. 8, 2023).

## 9. CONTINUE TO PROPOSE SIMPLIFICATION OF THE TAX CODE AND IRS PROCEDURES TO REDUCE TAXPAYER COMPLIANCE BURDEN

The complexity of the U.S. tax laws and IRS procedures burdens taxpayers and negatively impacts voluntary compliance. Due to such complexity, preparing and filing tax returns is time-consuming and often involves costly tax return preparation fees. Individual taxpayers who claim social benefits through the tax system and small businesses face significant burdens trying to follow the rules. The Internal Revenue Code (the Code) has many antiquated provisions that do not reflect modern life with changing family structures and evolving business models. Simplifying the Code and eliminating complexities in the IRS's procedures would reduce taxpayer compliance burdens by making it easier for taxpayers to understand their filing and payment obligations, and it would also make it easier for the IRS to administer the tax laws. Thus, simplification is essential to the integrity of the U.S. tax system and will enhance voluntary compliance.

### Objective 9 for FY 2024 – TAS will continue to propose legislative and administrative changes to reduce taxpayer compliance burdens by making the process of preparing and filing tax returns less complicated.

- Activity 1: Through public-facing communications, such as discussions in the Annual Report to Congress, Objectives Report to Congress, National Taxpayer Advocate blogs, and congressional testimony and speeches, if applicable, recommend that the IRS enhance the online account system to provide taxpayers broader access and the ability to download their wage and income transcript information in time to prepare their tax returns.
- Activity 2: Provide training to Local Taxpayer Advocates on simplification-related legislative proposals in the Purple Book and encourage them to discuss these proposals with congressional members and staff during their outreach events.
- Activity 3: Explore ways to simplify the Earned Income Tax Credit to increase taxpayer compliance and reduce burden and make any necessary administrative and legislative recommendations.
- Activity 4: Monitor the IRS rollout of taxpayer guidance, education, and compliance efforts for Forms 1099-K, Payment Card and Third Party Network Transactions, provided to small businesses for the payment of income received through third-party payment systems, with particular focus on the resulting level of taxpayer confusion, math error notices, and audit notices.

## 10. IMPROVE IRS HIRING, RECRUITMENT, AND TRAINING STRATEGIES

On April 6, 2023, the IRS unveiled its SOP<sup>55</sup> in response to the additional funding provided in the IRA signed into law in August 2022. In this plan, the IRS stated in broad terms that it plans to “implement fast, streamlined hiring processes that address challenges known today” and “use data to match candidates to the right jobs.”<sup>56</sup> It also stated that the IRS seeks to “create hiring and training programs to build a data-savvy workforce... to serve taxpayers and meet mission goals more effectively.”<sup>57</sup> TAS welcomes these efforts and hopes that they will come to fruition soon.

Until it implements this plan, the IRS will continue to experience significant challenges with timely recruiting, hiring, and training employees to effectively carry out its mission. As illustrated in the National Taxpayer Advocate 2022 Annual Report to Congress, Direct-Hire Authority (DHA) has improved the time

<sup>55</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023).

<sup>56</sup> *Id.* at 106.

<sup>57</sup> *Id.* at 114.

it takes to hire new employees, but the timeframes have not improved much for non-DHA position hires.<sup>58</sup> TAS encourages the IRS to continue to request that Congress and the Office of Personnel Management provide the IRS DHA and additional hiring flexibilities. To reduce delays in the hiring process attributable to personnel security and background checks, the IRS has brought on contractors to assist with this effort and has procured WebABIS, which will automate some of the Personnel Security work. They are working with IRS Information Technology on developing a timeline for implementation.<sup>59</sup> Automation should streamline the process and reduce manual workload. Additionally, the IRS needs to reduce employee turnover rates to better improve employee retention rates, especially among younger age employees. Finally, the IRS should invest in IRS University (IRSU) by providing a dedicated operational budget for implementation and operationalization of the program.

**Objective 10 for FY 2024 – TAS will continue to advocate for improvements in IRS hiring, recruitment, employee retention, and employee training processes.**

- Activity 1: Recommend strategies to improve the efficiency and proficiency of hiring actions and recruitment efforts by human resources personnel, including virtual recruitment events.
- Activity 2: Request that the IRSU implementation team better communicate with all operating divisions and functions.
- Activity 3: Explore potential improvements to IRS employee retention strategies to recommend to the IRS.

**11. IMPROVE TAXPAYER ACCESS TO TELEPHONE AND FACE-TO-FACE ASSISTANCE**

Taxpayers and tax professionals rely on the ability to reach an IRS employee for account actions and answers to their inquiries. During 2022, prior and current year processing backlogs caused the demand for telephone and in-person service to remain high while customer service levels remained unacceptably low.<sup>60</sup> Despite its efforts to increase staffing and implement technology to improve the customer experience, the IRS did not staff TACs to meet taxpayers' needs, and only 13 percent of the calls to IRS telephone lines reached live assistance.<sup>61</sup>

TAS has historically recommended the IRS increase TAC office staffing and improve telephone customer service, a goal the IRS sought to achieve during the 2023 filing season.<sup>62</sup> Though the IRS increased staffing and made progress on its commitment to increase telephone service, it must also devote adequate resources

58 National Taxpayer Advocate 2022 Annual Report to Congress 59, 64 (Most Serious Problem: *IRS Hiring and Training: Weaknesses in the Human Capital Office's Hiring, Recruitment, and Training Programs Are Undermining the IRS's Efforts to Achieve Appropriate Staffing to Meet Taxpayer Needs*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_03\\_Recruitment.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_03_Recruitment.pdf).

59 Conversation with Human Capital Office (Apr. 11, 2023) (on file with TAS).

60 National Taxpayer Advocate 2022 Annual Report to Congress 74-87 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Continue to Experience Difficulties and Frustration Obtaining Telephone and Face-to-Face Assistance to Resolve Their Tax Issues and Questions*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_04\\_Telephone.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_04_Telephone.pdf).

61 IRS, JOC, Snapshot Reports: Enterprise Snapshot, Enterprise Total (week ending Sept. 30, 2022). "Enterprise total" refers to all calls across all IRS phone lines; National Taxpayer Advocate 2022 Annual Report to Congress 74-87 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Continue to Experience Difficulties and Frustration Obtaining Telephone and Face-to-Face Assistance to Resolve Their Tax Issues and Questions*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_04\\_Telephone.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_04_Telephone.pdf).

62 National Taxpayer Advocate 2021 Annual Report to Congress 66-75 (Most Serious Problem: *Telephone and In-Person Service: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21\\_MSP\\_03\\_Telephone.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_03_Telephone.pdf); Erin M. Collins, Update on IRS Progress in Working Through Its Backlog of Paper-Filed Tax Returns and Correspondence, NATIONAL TAXPAYER ADVOCATE BLOG (Nov. 10, 2022), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-update-on-irs-progress-in-working-through-its-backlog-of-paper-filed-tax-returns-and-correspondence-part-3/>; see IRS, Pub. 5530, Budget in Brief Fiscal Year 2023, at 11-12 (Mar. 2022). The budget requests additional resources for Taxpayer Services to increase the FY 2023 LOS target to 85 percent.

toward return and correspondence processing.<sup>63</sup> Customer service representatives (CSRs) divide their time between two key roles during the filing season: (1) answering calls and (2) assisting with the processing of amended returns and paper correspondence. They can't do both at the same time so it's essentially a zero-sum game. CSRs answering the telephones aren't processing taxpayer correspondence, and CSRs processing returns or taxpayer correspondence aren't answering the telephones. If the IRS assigns too many CSRs to the telephone lines to increase telephone service, it risks creating a new processing backlog.

The IRS should prioritize working through the carryover of prior year and current year unprocessed amended returns and correspondence. And, with the increase in business amended returns and correspondence, the IRS should reallocate and train more CSRs on business returns and issues. Processing delays directly translate to refund delays and are a big driver of telephone and TAC office demand. Although the IRS should accomplish both – elimination of backlogs and a high percentage of calls answered – a balanced approach is necessary. The IRS should not aim to achieve the highest level of telephone service if it comes at the cost of creating processing backlogs.

Taxpayers can be significantly impacted by IRS processes and the way the IRS uses its resources. In addition to its hiring and technology initiatives, the IRS must also explore opportunities to alter processes that unnecessarily result in increased telephone call volume and TAC office visits. Currently, taxpayers seeking TAC office assistance are required to first call the IRS's struggling TAC appointment line, a process that increases call volume, limits TAC appointments due to telephone service constraints, and creates additional burden for taxpayers. Similarly, taxpayers unable to complete Taxpayer Protection Program (TPP) identity verification online or by telephone (a process implemented to combat identity theft) must authenticate in person at one of the IRS's TAC offices. This process not only adds to TAC office visits but also increases call volume from taxpayers who must first schedule the necessary TAC office appointments by telephone.

The IRS should provide taxpayers with options. Electronic appointment scheduling, alternative TPP verification options, expanded virtual appointment services, and extended TAC office hours would reduce telephone calls and TAC office volume while significantly improving the taxpayer experience.

### **Objective 11 for FY 2024 – TAS will work with the IRS to improve taxpayer access to telephone and in-person assistance.**

- Activity 1: Monitor telephone service and amended return and correspondence inventories with an emphasis on business returns and issues.
- Activity 2: Promote expanded TAC hours of operation and provide staffing support to Taxpayer Experience Day and Community Assistance Visit events.
- Activity 3: Support Low Income Taxpayer Clinic participation, TAS assistance as needed, or other TPP identity verification actions that will promote higher levels of TPP telephone service and increased taxpayer service location options.

<sup>63</sup> IRS, JOC, Snapshot Reports: Enterprise Snapshot, Accounts Management (AM) (planning period, week ending Apr. 22, 2023). The Weekly Enterprise AM report reflected an LOS of 85.23 percent.

## 12. INCREASE ACCESSIBILITY AND IMPROVE FUNCTIONALITY OF DIGITAL SERVICES FOR INDIVIDUAL AND BUSINESS TAXPAYERS AND TAX PROFESSIONALS

When taxpayers can quickly communicate with the IRS to resolve issues and receive answers to their questions simply and securely, it has a positive effect on the taxpayer experience, which in turn raises taxpayers' overall satisfaction and trust in the IRS. TAS held focus groups during the 2022 IRS Tax Forums to gather ideas from tax professionals about taxpayers' needs and preferences for online services. Participants expressed feeling frustrated, exasperated, disappointed, and angry with their inability to effectively communicate with the IRS.<sup>64</sup> A 2022 TAS research report compared online accounts and the digital services available on [IRS.gov](https://www.irs.gov) to more than 41 state taxing authority websites and the Canadian, Australian, and United Kingdom's taxing authority websites.<sup>65</sup> The report identified three areas where the IRS website lacks features commonly found on other taxing authority websites: 1) full online filing options; 2) the ability to receive and respond to most notices online; and 3) robust in-person and digital contact options.<sup>66</sup> In addition to serving the needs of taxpayers, tools that enable taxpayers to digitally communicate and transmit documents will reduce demand for phone service and paper processing – two service channels in which the IRS has struggled to provide quality service.<sup>67</sup>

### **Online Account for Individuals**

Since the IRS introduced Online Account in 2016, user volume has grown slowly, as has functionality. Online Account allows individual taxpayers to view basic account information and arrange payments, and 19 notices are currently available for taxpayers to view and download.<sup>68</sup> The IRS plans to add six additional notices before the end of July 2023.<sup>69</sup> About 20 million unique users accessed their Online Account in 2022. The IRS prioritized offering payment options in the development of Online Account, and taxpayers made 6.25 million payments worth \$42.8 billion through Online Account in 2022.<sup>70</sup>

Online Account lacks one-stop access to digital services and capabilities, essential to improving the taxpayer self-service experience and access. The IRS “has prioritized 72 additional notices” for inclusion into Online Account in FY 2024.<sup>71</sup>

### **Tax Pro Account for Tax Professionals**

The IRS introduced Tax Pro Account in 2021 for use by tax professionals. It allows tax professionals to perform limited functions, such as initiating a representation authorization and viewing a client transcript. These limited features have limited user growth; there have only been 10,835 completed power of attorney requests since the tool launched in July 2021.<sup>72</sup> Practitioners want to request, receive, and terminate a power

64 National Taxpayer Advocate 2022 Annual Report to Congress 222-242 (Research Report: A Review of Online Accounts and Web Services Offered by U.S. State and Foreign Country Taxing Authorities), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_CA\\_Online-Accounts.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_CA_Online-Accounts.pdf).

65 *Id.*

66 *Id.*

67 National Taxpayer Advocate 2022 Annual Report to Congress 90-103 (Most Serious Problem: Online Access for Taxpayers and Tax Professionals: Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_05\\_Online-Access.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_05_Online-Access.pdf).

68 IRS response to TAS information request (May 2, 2023).

69 *Id.*

70 IRS response to TAS information request (Nov. 1, 2022).

71 National Taxpayer Advocate 2022 Annual Report to Congress 90-103 (Most Serious Problem: Online Access for Taxpayers and Tax Professionals: Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_05\\_Online-Access.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_05_Online-Access.pdf); IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan 52 (Apr. 2023).

72 IRS response to TAS information request (May 2, 2023) (as of Apr. 22, 2023).

of attorney through Tax Pro Account without the need for their client to establish their own online account.<sup>73</sup> Tax professionals should have the ability to access each of their client's accounts in one location for ease of assisting clients with IRS issues, as requested by participants in the Tax Forum focus groups.<sup>74</sup> Because practitioners are key to a successful tax administration, the IRS should move quickly in this space.

### ***Business Online Account***

The IRS expects to launch an early version of Business Online Account (BOLA) during 2023; however, it will only have basic functionality that will allow business taxpayers to make and view tax payments, view tax balance(s) due, and manage business information on a profile page.<sup>75</sup> The IRS SOP describes numerous features, including several TAS has recommended, that could be available in the near future (2024-2026), such as reminders explaining tax credits and deductions for which a taxpayer may be eligible, chatbot and callback features, refund tracking, and real-time alerts about return errors with the ability to fix the errors online.<sup>76</sup> These features would make BOLA a highly useful tool to attract new users.

### ***In-Person Identity Proofing***

The IRS must ensure the security of taxpayer data when offering access to sensitive taxpayer data. Taxpayers can have difficulty completing the identity proofing process required for Online Account access for many reasons, including having unacceptable documents or being former victims of identity theft. The IRS SOP described success as “credentialing service providers for identity-proofing expanded, more services made available to authenticated taxpayers, and access expanded for certain types of taxpayers, such as ITIN [Individual Taxpayer Identification Number] holders and international taxpayers” but did not provide specific dates for implementation.<sup>77</sup> The IRS must maintain the security of taxpayer information but also strive to improve the taxpayer experience for those who need additional assistance accessing online tools. The IRS is launching an in-person innovation study to offer alternatives for in-person identity proofing and obtaining credentials for future access to IRS online applications that require secure access.<sup>78</sup>

## **Objective 12 for FY 2024 – TAS will work with the IRS to improve access to digital tools for individual and business taxpayers and tax professionals.**

- Activity 1: Provide recommendations for the development, rollout, and education supporting digital services or products relating to individual and business taxpayers and tax professionals.
- Activity 2: Recommend TAS be recognized as an interested business partner during the development, implementation, education, and upgrades of taxpayer-facing digital services and products and be granted an opportunity to provide input throughout each process.
- Activity 3: Provide recommendations for the development of an in-person identity proofing process for taxpayers to obtain credentials for future access to IRS online applications that require identity proofing.

73 National Taxpayer Advocate 2022 Annual Report to Congress 222-242 (Research Report: A Review of Online Accounts and Web Services Offered by U.S. State and Foreign Country Taxing Authorities), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_CA\\_Online-Accounts.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_CA_Online-Accounts.pdf).

74 *Id.*

75 IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan 27 (Apr. 2023); IRS response to TAS information request (May 2, 2023).

76 IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan 27 (Apr. 2023).

77 *Id.* at 44.

78 IRS, Authentication, Authorization, and Access Executive Government Board (Apr. 27, 2023).

### 13. IMPROVE TAX RETURN PROCESSING BY ELIMINATING BARRIERS TO E-FILEING

Taxpayers who file paper returns are subject to return processing delays, longer refund delivery times, and potential transcription errors made by IRS employees as they manually enter return information into IRS systems. Transcription errors can also trigger unwarranted compliance actions, which lead to unnecessary correspondence and increased work for both the taxpayer and the IRS. During FY 2024, TAS will continue working with the IRS to remove obstacles to electronic filing (e-filing) and improve the frequency with which individuals and businesses e-file.

E-file rates by individual and business taxpayers are generally high. During PY 2022, over 90 percent of individual taxpayers e-filed;<sup>79</sup> over 13 million individual paper returns were filed in 2022.<sup>80</sup> Almost 70 percent of businesses e-filed.<sup>81</sup> The IRS's administrative efficiency and the well-being of taxpayers require that the IRS successfully implement strategies to increase these e-filing rates. Taxpayers choose to paper file for a variety of reasons. For example, security concerns may lead some taxpayers to paper file. The IRS can allay those fears by educating taxpayers on how the IRS protects their data while also explaining the benefits of e-filing. Expanding software into languages beyond English will improve accessibility to taxpayers not comfortable with the English language. The IRS may also need to provide additional training and support to make e-file a comfortable option for taxpayers who have minimal digital literacy skills. High-quality e-file options that address the needs of all taxpayers will streamline the filing process, encourage compliance, and help prevent the future paper return backlogs that bedevil the IRS.

One of the IRA initiatives is to prioritize digitalization technology to allow taxpayers to transmit documents and IRS forms that are currently ineligible for e-filing. Investment in this technology will enable more taxpayers to e-file. TAS will continue to monitor this progress and provide recommendations during the execution of this initiative to expand e-file access to taxpayers, regardless of the forms they are attaching.<sup>82</sup>

Many individual taxpayers use commercial tax return preparation software. Overall, this software is effective, but it does occasionally carry hidden costs and varying functionality, depending on the product of choice. The IRS should continue working with the Free File Alliance to ensure that eligible taxpayers have the option of high-quality commercial tax return preparation software for free and to increase public awareness of this program through search engine optimization and improved IRS publicity.<sup>83</sup> One step that would help taxpayers e-file more smoothly would be to provide them with downloadable copies of their tax information that they can upload to the software product of their choosing.

Where e-filing rates are concerned, the biggest opportunity for improvement exists with respect to businesses. Just over 30 percent of all business returns are still paper-filed, along with 42 percent of all employment tax returns.<sup>84</sup> The reasons for these lower e-file rates vary; some taxpayers simply are in the habit of paper filing these returns, and others object to the additional costs required to e-file, which for employment tax returns can only be done through a payroll provider.<sup>85</sup> If the IRS enabled employment tax returns to be e-filed

79 These numbers reflect the e-file rates for PY 2022. IRS, Filing Season Statistics Weekly Report (week ending Dec. 31, 2022).

80 IRS, Filing Season Statistics Weekly Report (week ending Nov. 26, 2022).

81 IRS, Filing Season Statistics Weekly Report (week ending Dec. 31, 2022).

82 See National Taxpayer Advocate 2022 Annual Report to Congress 104, 108 (Most Serious Problem: *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*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_06\\_FilingDelays.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_06_FilingDelays.pdf).

83 See Memorandum from Staff of the Permanent Subcomm. on Investigations, to the Senate Comm. on Homeland Sec. and Governmental Affairs (June 9, 2020), [https://www.carper.senate.gov/wp-content/uploads/archives/PSI%20Staff%20Memo\\_Free%20File.pdf](https://www.carper.senate.gov/wp-content/uploads/archives/PSI%20Staff%20Memo_Free%20File.pdf) (last visited May 23, 2023).

84 IRS, Filing Season Statistics Weekly Report (week ending Dec. 31, 2022).

85 See National Taxpayer Advocate 2022 Annual Report to Congress 104-115 (Most Serious Problem: *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*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_06\\_FilingDelays.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_06_FilingDelays.pdf).

directly with the agency, as is the case for Forms 1099, the e-file rates for these types of returns would likely improve.

As mandated by the IRA, the IRS recently released its report on the feasibility of establishing an agency-run, free, direct e-file tool.<sup>86</sup> The report identifies taxpayer interest in the establishment of such a system but acknowledges operational challenges and complexities that it would have to overcome. These obstacles, however, are not insignificant, and considering the IRS's aggressive SOP,<sup>87</sup> applying the necessary resources in 2024 may require prioritization over other necessary improvements and modernization efforts. The IRS will need to address the impact of its direct file tool's inability to file state tax returns and potential negative consequences to state tax authorities. Additionally, it will need to build configuration-driven software; update the software to keep pace with tax law changes; and ensure taxpayer information is private, secure, and protected from fraud. The IRS will also need to devote substantial customer service and support for its e-file tool.<sup>88</sup> While the feasibility of a free, direct e-file tool is still open to question, TAS will work with the IRS to provide comment and recommendations.

### **Objective 13 for FY 2024 – TAS will collaborate with the IRS to identify and implement strategies for increasing e-file rates for individual and business taxpayers.**

- Activity 1: Meet with the IRS to discuss the feasibility of providing taxpayers with access via an online account to their tax information in a downloadable format that taxpayers can upload to the tax return software of their choice. Explore and consider the benefits and burdens of a legislative recommendation to move up the March 15 information e-filing deadline that would allow the IRS to include Form 1099 information in a taxpayer's online account earlier in the filing season.
- Activity 2: Form a working group with the IRS to develop strategies for removing barriers, both behavioral and systemic, that contribute to the decision of many business and individual taxpayers to paper file.
- Activity 3: Meet with representatives of the Free File Alliance to better understand the offerings and make recommendations to the IRS about how to improve the Free File webpage on [IRS.gov](https://www.irs.gov) so that taxpayers have access to high-quality information about their free tax return filing options.
- Activity 4: Work with the IRS as it continues to explore building an agency-run, free, direct e-file tool for taxpayers and provide comments.

## **14. IMPROVE IRS TRANSPARENCY**

Transparency, including providing taxpayers with accessible information, is key to a fair and effective tax system that relies on voluntary compliance through self-assessment. Taxpayers, tax professionals, and Congress are entitled to clear communication, timely information, and increased access to IRS operations, procedures, and legal and administrative positions to build trust and voluntary compliance.

Several recent situations affecting the IRS have reinforced the importance of transparency to taxpayers: (1) a commitment of increased funding to the IRS through the IRA;<sup>89</sup> (2) delays in issuing refunds for tax years 2021 and 2022 due to a backlog in processing returns; and (3) backlogs in processing other forms and correspondence. Although the IRS provides taxpayers with some easily accessible information, there is room for improvement. For example, on April 6, 2023, the IRS issued the IRA SOP,<sup>90</sup> which provides a useful roadmap as to how the IRS plans to use IRA funds, but the report is light on details. The IRS needs

<sup>86</sup> IRA, Pub. L. No. 117-169, § 10301(1)(B), 136 Stat. 1818, 1832 (2022).

<sup>87</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023).

<sup>88</sup> IRS, Pub. 5788, IRS Report to Congress: Inflation Reduction Act § 10301(1)(B) IRS-Run Direct E-File Tax Return System 20 (May 2023).

<sup>89</sup> IRA, Pub. L. No. 117-169, § 10301(1)(B), 136 Stat. 1818, 1832 (2022).

<sup>90</sup> IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023).

to provide regular updates about what enhancements to services, technology, and other operations it will make, when it will implement them, and how it will measure their success. One key aspect of demonstrating transparency is the IRS providing stakeholders an opportunity to work with it on its transformation and to comment throughout this process.

During the past two years, the IRS has provided taxpayers scant information regarding the status of its backlogs and its progress in working through them. During this time, the National Taxpayer Advocate recommended and the IRS agreed to create a dashboard providing information to taxpayers about its overall status in working through these backlogs – especially the backlog in processing returns.<sup>91</sup> The IRS does provide information about processing of returns on its website, but this information is not in an easy-to-read format, and taxpayers must visit multiple sections of the webpage to get a complete picture of where the IRS stands in processing tax returns. TAS will continue to advocate for the IRS to provide taxpayers with more specifics regarding the processing of their returns and any refunds and the status of IRS processing of returns, forms, and correspondence more generally.

**Objective 14 for FY 2024 – TAS will continue to advocate for the IRS to be fully transparent and provide specific details as to how it uses the additional funds appropriated through the IRA, the level of detail it provides to taxpayers regarding delays on its Where's My Refund? tool, and the status of processing of returns, forms, collection notices, correspondence, and other relevant data.**

- Activity 1: Encourage the IRS to make all plans transparent to the public, including specific deadlines as to when it will meet objectives, metrics that will allow for the evaluation of outcomes, and regular updates on its objectives and milestones.
- Activity 2: Regularly review the information provided to the public on the IRS's processing of returns, forms, and correspondence to ensure this information is accurate, complete, and available on [IRS.gov](https://www.irs.gov). Additionally, TAS will continue to encourage the IRS to give taxpayers more details on the processing of returns and any refunds.
- Activity 3: Use internal meetings, blogs, and Reports to Congress to encourage the IRS to provide taxpayers information that is accessible and set forth in an easy-to-understand format.

**15. IDENTIFY DATA TO SUPPORT MINIMUM COMPETENCY STANDARDS FOR PAID RETURN PREPARERS OF FEDERAL TAX RETURNS**

Taxpayers and the tax system depend heavily on the ability of return preparers to prepare accurate tax returns.<sup>92</sup> Taxpayers are ill-equipped to navigate the complicated tax laws and must seek the assistance of return preparers to prepare and file their tax returns. For example, 54 percent of tax year (TY) 2021 individual income tax returns were prepared by a return preparer through March 2023.<sup>93</sup>

Anyone can hold themselves out to be a return preparer. Return preparers without professional credentials are not required to pass any competency tests or take any educational courses on tax return preparation, and they are not subject to any ethical rules. Low-income and elderly taxpayers are particularly vulnerable to harm caused by incompetent or unscrupulous non-credentialed paid return preparers. For example, of the 2020 individual income tax returns with Schedule EIC (Form 1040), Earned Income Credit, prepared by a

91 National Taxpayer Advocate 2021 Annual Report to Congress, TAS Recommendations and IRS Responses, MSP #4, <https://www.taxpayeradvocate.irs.gov/news/directory-entry/2021-msp-04-transparency-and-clarity/>.

92 National Taxpayer Advocate 2022 Annual Report to Congress 128-140 (Most Serious Problem: Return Preparer Oversight: Taxpayers Are Harmed by the Absence of Minimum Competency Standards for Return Preparers), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_08\\_RtnPrepOversight.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_08_RtnPrepOversight.pdf).

93 IRS, CDW, Individual Returns Transaction File Table (IRTF) TY 2021 (Mar. 2023).

paid return preparer, 79 percent were prepared by non-credentialed paid return preparers.<sup>94</sup> Further, of those prepared returns with Schedule EIC that were subject to audit, over 92 percent of the total audit adjustments (in dollars) occurred on returns prepared by non-credentialed paid return preparers.<sup>95</sup> To protect taxpayers from the harm caused by untrained or unscrupulous paid return preparers, it is crucial that Congress provide the IRS the authority to impose minimum competency standards on paid return preparers.

**Objective 15 for FY 2024 – TAS will continue to advocate for the need to provide the IRS authority to impose minimum competency standards on paid return preparers of federal tax returns.**

- Activity 1: Meet with congressional members and staff throughout the year, including at TAS’s Congressional Affairs Program conference, to discuss the Purple Book legislative recommendation authorizing the IRS to establish minimum competency standards for paid return preparers.
- Activity 2: Conduct research to identify additional statistical data supporting the need for minimum competency standards for paid return preparers.

**16. IMPROVE THE STAFFING AND CULTURE OF THE IRS INDEPENDENT OFFICE OF APPEALS**

A review by the IRS Independent Office of Appeals (Appeals) represents taxpayers’ last, and often best, chance to settle their cases administratively within the IRS. However, case delays, inflexible policies, inexperienced Appeals Officers (AOs), and a perceived lack of independence are hampering this process.<sup>96</sup> A timely appeal in a fair and unbiased forum, carrying the perception and reality of independence, is an essential aspect of taxpayer rights and quality tax administration. During FY 2024, TAS will continue working with Appeals as it attempts to address its staffing and training issues and better safeguard its independence.

Appeals has struggled with increasing cycle times<sup>97</sup> for years: from FY 2017 to FY 2022, cycle times have increased 103 percent, and this trend was already occurring before the COVID-19 pandemic exacerbated existing inefficiencies.<sup>98</sup> Appeals’ overall staffing fell by approximately 40 percent from FY 2010 to FY 2017, which has left remaining personnel overwhelmed with heavy caseloads and, at the same time, cost Appeals substantial expertise.<sup>99</sup> A case arriving at Appeals sits for approximately 48 days before Appeals even assigns it to an AO; during that interim period, taxpayers have no point of contact who can update them about the status of their cases.<sup>100</sup> Appeals has been working hard to reverse these trends, and they do seem to be slowing, but it will take a significant effort to bring staffing levels back up and cycle times back down, as well as to provide training and experience for their new employees.

While Appeals can address these issues over time, it can and should deal more directly and expeditiously with those policies that cause taxpayers to question the office’s objectivity. Appeals must be free from interference or influence from other parts of the IRS, including examination and collection functions. Appeals must have the authority, real and perceived, to make independent decisions without fear of retribution or retaliation and must be transparent with taxpayers about the basis for those decisions.

94 IRS, CDW, IRTF TYs 2018-2021; IRS, CDW, Preparer Tax Identification Number Table TYs 2018-2021; IRS, CDW, Audit Information Management System Table TYs 2018-2021 (Sept. 2022).

95 *Id.*

96 National Taxpayer Advocate 2022 Annual Report to Congress 141-156 (Most Serious Problem: *Appeals: Staffing Challenges and Institutional Culture Remain Barriers to Quality Taxpayer Service Within the IRS Independent Office of Appeals*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_09\\_Appeals.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_09_Appeals.pdf).

97 “Cycle time” refers to the amount of time between Appeals opening and closing a case.

98 IRS response to TAS information request (Aug. 24, 2022); IRS response to TAS request for fact check (Nov. 25, 2022).

99 Government Accountability Office (GAO), GAO-18-6549, *Tax Administration: Opportunities Exist to Improve Monitoring and Transparency of Appeal Resolution Timeliness* 22 (2018), <https://www.gao.gov/assets/gao-18-659.pdf>.

100 IRS response to TAS information request (Aug. 24, 2022).

Currently, at the conclusion of some cases, Appeals will draft an Appeals Case Memorandum (ACM), which sets forth the reasoning for and implications of the settlement.<sup>101</sup> Appeals sends the ACM to Compliance, and on some occasions, Appeals will hold a post-settlement conference with Compliance as well.<sup>102</sup> Appeals does not give taxpayers access to the ACM or the post-settlement conference, even though they specifically address the taxpayer's own case. TAS will keep pressing Appeals to provide taxpayers with the ACMs whenever they are drafted and to invite taxpayers to post-settlement conferences, even if in the capacity of an observer.

In addition to providing taxpayers with clear and concise explanations of Appeals decisions, Appeals should work with the IRS to help ensure that tools, such as coordination of issues and the designation of cases for litigation, are used in only the most essential of situations. As a practical matter, these mechanisms limit the discretion of assigned AOs and can be extremely frustrating for taxpayers and practitioners. Rather than receiving the unbiased and objective case review they seek, taxpayers are left with the impression that their cases are being controlled, and sometimes decided by, the same institution with which they have already disagreed. This perceived lack of independence also arises when AOs invite Counsel and Compliance to participate in large-case Appeals conferences. Appeals can facilitate this participation, even against the wishes of taxpayers. In FY 2024, TAS will continue to urge Appeals to revise this practice to better fulfill its role as an independent decision-maker.

### **Objective 16 for FY 2024 – TAS will advocate for improvements and increased independence within Appeals.**

- Activity 1: TAS-Appeals liaisons will hold a meeting with Appeals to advocate for providing taxpayers with the ACMs whenever they are drafted and inviting taxpayers to post-settlement conferences, even if in the capacity of an observer.
- Activity 2: TAS-Appeals liaisons will hold a meeting with Appeals to reiterate to Appeals the negative impact on independence of including Counsel and Compliance in Appeals conferences without taxpayer consent.
- Activity 3: TAS-Appeals liaisons will hold a meeting with Appeals to encourage Appeals to collect and analyze data, such as settlement percentages and cycle times, that it can use to create fair and transparent Appeals policies and to ensure that these policies are consistently applied.
- Activity 4: TAS subject matter experts will offer to review Appeals' IRMs and training materials to assess potential recommendations for improving Appeals' independence.
- Activity 5: TAS-Appeals liaisons will hold a meeting with Appeals to encourage Appeals to provide service to the taxpayer in a reasonable timeframe and to give TAS cases priority.

## **17. REDUCE COMPLIANCE BARRIERS FOR OVERSEAS TAXPAYERS**

Overseas taxpayers face numerous and significant challenges complying with their U.S. tax obligations.<sup>103</sup> This population of taxpayers includes U.S. citizens and resident aliens residing abroad in addition to foreign individuals and businesses with U.S.-source income or operations. The challenges these taxpayers face include difficulty understanding applicable tax laws, meeting their filing and payment obligations, accessing online resources, and interacting with the IRS. For example, overseas taxpayers face barriers in obtaining Taxpayer Identification Numbers, electronically filing tax and information returns, and receiving mailed correspondence from the IRS. Moreover, there is only one telephone line for taxpayers abroad, and it is not toll-free. To protect taxpayer rights and improve voluntary compliance for this population, it is essential that the IRS

<sup>101</sup> IRM 8.6.2.2, Introduction to Appeals Case Memos (ACMs) (Aug. 17, 2017).

<sup>102</sup> IRM 8.1.10.4.1.4, Post-Settlement Conferences (June 21, 2012).

<sup>103</sup> National Taxpayer Advocate 2022 Annual Report to Congress 157-173 (Most Serious Problem: *Overseas Taxpayers: Taxpayers Outside of the United States Face Significant Barriers to Meeting Their U.S. Tax Obligations*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22\\_MSP\\_10\\_Overseas.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/01/ARC22_MSP_10_Overseas.pdf).

improve customer service options for international taxpayers, reduce barriers for them to meet their filing and payment obligations, and minimize the burdens imposed on this population by enforcement procedures.

**Objective 17 for FY 2024 – TAS will identify compliance barriers for overseas taxpayers and make administrative recommendations to minimize the burdens imposed on this population.**

- Activity 1: Review content on [IRS.gov](https://www.irs.gov) directed at U.S. taxpayers residing or doing business overseas and provide specific suggestions to the IRS about how to improve that content, including filing and paying taxes from abroad; dealing with foreign tax issues such as the foreign tax credit, foreign earned income exclusion, and reporting requirements for foreign financial accounts and foreign assets; utilizing online accounts or other tools; and resolving tax disputes to make content more transparent and useful to taxpayers living abroad.
- Activity 2: Meet with representatives and stakeholders for international taxpayers to better understand the challenges they face in complying with their U.S. tax obligations and make administrative recommendations to reduce such compliance burdens.
- Activity 3: Review Internal Revenue Manual provisions and IRS correspondence products to identify circumstances where the IRS should revise its procedures to provide international taxpayers additional time to respond.