TRANSPARENCY AND CLARITY: The IRS Lacks Proactive Transparency and Fails to Provide Timely, Accurate, and Clear Information

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

The taxpayer's *right to be informed* is the first of the ten fundamental taxpayer rights in the Taxpayer Bill of Rights. Being proactively transparent – providing information to the public without it being formally requested by citizens[1] – and ensuring information is timely, accurate, and clear are key components of this right, and will help taxpayers to voluntarily comply with their tax filing and payment obligations.[2]

U.S. tax laws and procedures are complex, and compliance was made even more difficult by the COVID-19 pandemic, which created additional burdens for taxpayers, tax professionals, and the IRS itself. The pandemic has highlighted the need for the IRS to proactively release critical information to taxpayers in real-time. Although the pandemic focused our attention on the recent filing season challenges, the National Taxpayer Advocate believes the IRS's lack of proactive transparency and its failure to provide critical information in a manner that is easy for the public to understand and locate were a problem long before the pandemic.

During the past two filing seasons, taxpayers and tax professionals were exasperated by the lack of information on the processing of returns and refunds and correspondence delays. Taxpayers were desperately seeking answers regarding time delays. The IRS made only limited information on delays available, and what was available was vague and did not provide the specifics taxpayers needed, such as when their returns would be processed or when they would receive their refund. Taxpayers faced compounding frustration when trying to locate information on IRS.gov, which is difficult to navigate.

EXPLANATION OF THE PROBLEM

The IRS is not consistently open and transparent and does not provide clear and timely information about what taxpayers *need to know*. Unfortunately, during the past two filing seasons – times in which taxpayers were in desperate need of information – the IRS failed to provide timely updates regarding the status of IRS operations, the challenges it was facing, and what taxpayers could expect during their IRS interactions. This lack of proactive transparency and timely information left taxpayers confused and frustrated, reaching for the phones, searching the internet, or looking to tax professionals for help. Specifically:

- Taxpayers could not access the status details of IRS operations, such as a filing season backlog, delayed refunds, returns pulled for inconsistencies, or amended return processing delays;
- IRS tools and apps do not provide taxpayers the details they need;
- Taxpayers are confused by unclear notices and IRS guidance;
- Taxpayers don't always understand the IRS's reasons for its decisions, as a rationale is not always provided;
- Taxpayers have difficulty locating information and answers to questions on IRS.gov because the site is challenging to navigate; and
- The IRS does not inform taxpayers how it will store, safeguard, and use data that artificial intelligence (AI) will analyze as part of its new online services initiative.

TAS recommends that the IRS take additional steps to be proactively transparent by providing timely, clear-cut, and understandable "need-to-know" taxpayer information, whether it addresses filing season issues or updates general guidance or other administrative matters.

Lack of Proactive Transparency Meant Taxpayers Could Not Access the Status Details of IRS Operations, Such as Annual Filing Season Updates, Delayed Refunds, Returns Pulled for Inconsistencies, or Amended Return Processing Delays

During the 2021 filing season, the IRS experienced significant delays in processing a number of forms submitted by taxpayers, including returns and amended returns. The majority of these delays can be attributed to factors outside the IRS's control (*e.g.*, forced staffing reductions caused by the pandemic, tax law changes that occurred shortly before or during the filing season, and antiquated technology that is ill-equipped to function in the modern age and is incompatible with the demands of today's tax administration). The IRS provided minimal information during Filing Season (FS) 2021 (February 12, 2021, through May 17, 2021) regarding these delays and the expected timeframe to work through them. Its failure to provide taxpayers with real-time information regarding its operations left taxpayers trying to understand what was transpiring. Some of the processing delays lacking transparency included:

- *Returns:* At the end of FS 2021, the IRS's Error Resolution System (ERS) inventory included 10.3 million individual and business returns, compared with 1.6 million individual and business returns at the end of the 2020 filing season – a 544 percent increase, and approximately 16.8 million individual and business paper returns awaited processing, compared with 4.3 million paper returns at the end of FS 2020 – a 291 percent increase.[3]
- *Amended Returns:* At the end of FS 2021, there were 2.7 million unprocessed individual amended tax returns in the IRS's inventory, compared with 600,000 unprocessed individual amended tax returns at the end of FS 2020 – a 350 percent increase.[4]
- *Form 2848:* Since October 3, 2020, the average time the IRS takes to process a Form 2848, Power of Attorney and Declaration of Representative, has fluctuated from five days to over 70 days, and the percentage of "overage" inventory (*i.e.*, unprocessed for over five days) is 80 percent.[5]
- Form 941X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund; Form 1139, Corporation Application for Tentative Refund; Form 1045, Application for Tentative Refund; and Form 8802, Application for United States Residency Certification, all experienced long processing delays.[6]

As mentioned above, the IRS did not, on its website or anywhere else, disclose information regarding these delays during FS 2021. In fact, in regard to the processing of Form 2848, the IRS had previously posted updates on its website, but it has recently removed all information from IRS.gov about delayed processing times.[7]

The IRS Provides Status Updates on Processing Returns and Forms, But the Updates Need to Occur More Regularly and Be Presented in a Clearer, Easier-to-Understand Layout

The IRS did eventually begin providing taxpayers information regarding these processing delays. After much prompting by the National Taxpayer Advocate and outside stakeholders, the IRS created a webpage, "IRS Operations During COVID-19: Mission-critical functions continue" (hereafter called the Operational page), where it posts information about a number of processing issues, such as delays in processing returns and amended returns.[8] This page also includes general information on processing and delays of Forms 1139, 1045, 2848, and 8802, along with a number of other topics.[9]

The current format of the Operational page is broken up into three main categories with multiple subcategories, all of which include narrative discussions on these topics, and some of which provide relevant data. The three main categories are:

- What You Can Expect;
- Other Services; and
- IRS Enforcement and Compliance Operations.

The What You Can Expect category has 11 subcategories that address the IRS's timeframes for opening mail, processing refunds on error-free returns, and processing returns where the IRS identified errors through manual review.

TAS is encouraged by this development, but the data provided is limited, inconsistently updated, and challenging to navigate.[10] To improve this page, TAS has suggested for the upcoming 2022 filing season a summary form with key information showing where the IRS is at in processing returns and other forms. This could be accomplished by including a link that would take the user to a dashboard that provides specific data regarding processing. For example, under What You Can Expect, the taxpayer could click on "Return Processing of Original Returns" to go to an easy-to-read dashboard that would illuminate the IRS's progress in processing returns and issuing refunds.

This dashboard could show:

- The number of current returns received for processing;
- The number of returns that have been worked so far in the current filing season;
- The total number of returns remaining in IRS inventory; and
- When (month and week) taxpayers actually submitted the returns the IRS is currently working.

TAS has been working with the IRS to increase the data available to taxpayers and has recommended the page be updated weekly. This would illustrate the IRS's overall progress in working through its inventory and provide taxpayers with more information about where their returns are at in the processing pipeline. This information would have been invaluable to taxpayers during the last two filing seasons.

TAS urges the IRS to make these adjustments to its Operational page, including a filing season dashboard, by the start of the 2022 filing season so taxpayers can obtain as much information as possible regarding IRS operations in a user-friendly layout throughout the filing season. The implementation of a dashboard would have the added benefit of reducing the number of taxpayer calls to the IRS inquiring about return and refund status.[11] In addition to making more information available to taxpayers, the use of a dashboard will also give external stakeholders and Congress more information by which the IRS's effectiveness can be evaluated, holding it more accountable to both the public it serves and the institution from which it receives funding.

IRS Tools and Apps Do Not Provide Taxpayers the Details They Need

When taxpayers check the status of their refunds on the Where's My Refund? or Where's My Amended Return? tools or the IRS2Go app,[12] they typically receive one of three responses:

- Return received;
- Refund approved; or
- Refund sent.[13]

These tools provide taxpayers important and useful information as long as there are no delays or problems with processing. However, when the processing of taxpayers' returns is delayed, they will receive the message "return received" day after day or week after week. The IRS should provide additional details informing taxpayers of the reasons for the delay, the expected timeframe for resolution, and next steps.

Unfortunately, the IRS cannot provide specifics about a taxpayer's refund for returns going through the review process prior to being posted to IRS systems. It could, however, link to the dashboard in Where's My Refund? or Where's My Amended Return? to provide taxpayers with more details on where the IRS is at in processing returns. Even one simple change to Where's My Refund? could state:

> We have received your return, and it is being processed. We can't provide specific information on the processing of your return because it hasn't yet been posted to our system. However, the following link will provide you with general information on our timeline in processing returns.

The IRS could modify Where's My Refund?, Where's My Amended Return?, and IRS2Go to provide taxpayers with more specific information about where the return has posted to IRS systems and a specific code identifying the delay has been input. If the IRS cannot add such specificity to these tools, it should add the information to a taxpayer's online account. For example, after the IRS posts a return to IRS systems, it uses filters to screen for possible non-identity theft refund fraud. The IRS may select the return for further review if the filters give a score to the return that exceeds a certain threshold.[14] In these situations, Where's My Refund?, Where's My Amended Return?, and IRS2Go could state:

> We are verifying the income and withholdings on your return against documents provided by third parties, such as your employer. Often, this delay is minor, and you don't need to do anything. We apologize for the delay but want to protect your data. We will be sending you a notice that will provide more detail if we need additional information, within XX weeks.

By providing taxpayers with more information on their online account, Where's My Refund?, Where's My Amended Return?, and IRS2Go, the IRS can reduce taxpayers' anxiety about their refund status and provide useful information so they can plan accordingly. Providing taxpayers with more information about the status of their refund will also likely reduce the number of incoming calls to IRS toll-free telephone lines.

Taxpayers Are Confused by Unclear Notices and IRS Guidance

IRS Notices Do Not Adequately Explain Issues or How to Resolve Them

Notices are the primary vehicle by which the IRS provides taxpayers with information. Many notices sent to taxpayers contain critical information about issues, including statutory time periods, reasons the IRS is holding a refund, and what a taxpayer needs to do to resolve an issue. Over the years, the IRS has worked to improve the clarity of its notices, yet some critical notices remain confusing and vague and don't provide taxpayers adequate contact information. The IRS limits the number of characters and words in its notices in an effort to contain costs, in addition to other factors. Although these are legitimate concerns the IRS must consider, it is still essential and quite possible for the IRS to develop clear, concise notices.

Math Error Notices

Over the years, Congress has specified certain circumstances in which the IRS can bypass normal deficiency procedures and make a summary assessment.[15] In these situations, the IRS will send taxpayers a math error notice informing them of an adjustment and providing 60 days from the date of the notice for taxpayers to request an abatement.[16]

If the IRS receives a timely abatement request, it must withdraw the summary assessment. If it decides to pursue the matter, the IRS must do so through an examination that gives rise to normal deficiency procedures and preserves the taxpayer's right to petition the U.S. Tax Court – the only forum in which taxpayers need not pay the tax before filing a petition. If the taxpayer does not timely request abatement, the IRS may begin collecting the tax due, and taxpayers lose their ability to have the merits reviewed by the U.S. Tax Court.

Thus, these notices are communicating critical information, such as a period by which the taxpayer must respond or else collection action will commence, and an explanation of the adjustment and how the IRS is correcting it. Unfortunately, math error notices do not clearly articulate what the IRS adjusted and why, and they do not provide key timing information on the top of the notice. This leaves taxpayers confused as to what changes the IRS made to their return and makes it difficult for taxpayers to determine whether they agree or disagree with the changes and what they need to do when. More taxpayers than ever were confused during calendar year (CY) 2021 as the number of math errors had significantly increased. During CY 2021 through November 11, 2021, the IRS issued more than 14 million math error notices, an increase of about 658 percent compared to the comparable date in CY 2020.[17]

Similar to a notice of deficiency, the IRS needs to reformat math error notices highlighting key information and prominently displaying the response date on the top of the notice. Specifically, the IRS could revise the notice by placing at the top of the page what the IRS has adjusted and why, along with the 60-day time period to request abatement. Further, due to the importance of a math error notice, these notices should be sent by certified or registered mail, similar to other comparable notices such as the notice of deficiency.

In some instances, notices do not even specify the exact reason for the correction; rather, they provide a list of possible errors that the IRS may have addressed through its math error authority, leaving the taxpayer to wonder what, if anything, they did wrong and which of the bullets applies to their tax return.

Math Error Example: Changes to your 2020 tax return.

We changed your information because:

- We changed the amount claimed as Recovery Rebate Credit on your tax return. The error was in one or more of the following:
  - The Social Security number (SSN) of one or more individuals claimed as a qualifying dependent was missing or incomplete.
  - The last name of one or more individuals claimed as a qualifying dependent does not match our records.
  - One or more individuals claimed as a qualifying dependent exceeds the age limit.
  - Your adjusted gross income exceeds $75,000 ($150,000 if married filing jointly, $112,500 if head of household).
  - The amount was computed incorrectly.[18]

The following is proposed revised math error notice language:

> **Example:** An item on your return is inconsistent with the IRS's records. We have adjusted your return based upon our records and increased your tax due (or reduced your refund paid). If you disagree with this adjustment, you need to contact us **within 60 days of the date of this notice**. We will then reverse the adjustment we made to your account and provide you an opportunity to support the item claimed on your return. However, if you do not timely contact us, the adjustment to tax will be final, payment will be due, and you will not have an opportunity to contest this adjustment in the U.S. Tax Court.
>
> We adjusted line X of your return in the amount of $XX. Based upon our records, we changed this entry to (provide specifics) … and your tax due has increased from $Y to $Z.

Refund Fraud Notices

When the IRS's refund fraud filters select a return as potentially fraudulent, the IRS sends Letter 4464C, Questionable Refund Hold, and informs the taxpayer it is verifying the income and withholdings on his or her return with information reported under the taxpayer's name and SSN by employers, banks, or other payers. Specifically, Letter 4464C says:

> We selected your return to verify one or more of the following:
> - Income
> - Income tax withholding
> - Tax credits
> - Business income
>
> We'll hold your refund until we finish our review.

Similar to the math error notice, this notice doesn't specifically tell taxpayers what the IRS is reviewing, which leaves taxpayers to wonder why the IRS is holding their return, what information it is verifying, the timeframe, and whether taxpayers can do anything to speed up the process. The following is an example of language that would provide taxpayers more precise information:

> **Example:** During processing of your tax return, our systems noted an inconsistency. Before paying the refund, we are verifying the accuracy of your return, specifically the amount of income (*e.g.*, wages) and withholding. At this time, you do not need to provide any additional information. You should receive a notice providing more details within the next XX days. If we cannot verify that the information on your return is accurate, we will contact you to verify the items on your return, such as income or withholding.[19]

The IRS's revision of notices similar to those discussed above would provide taxpayers a clearer picture of what action the IRS has taken on their account and what steps they need to take to timely address the issue.

Not only are IRS notices confusing, but some of them don't include useful contact information. For example, correspondence audit notices only provide taxpayers a general toll-free number, not a direct phone number to an IRS employee.[20]

Additionally, many IRS notices don't provide taxpayers context as to where the notice places their issue in the maze of tax administration. One way to address this would be including in their online accounts a feature that allows taxpayers to identify exactly where their current issue is on the map of tax administration (*i.e.*, Exam, Collection, or Appeals). This feature could reference or mirror TAS's own interactive Taxpayer Roadmap, which assists taxpayers in pinpointing their location in the tax system.[21] For example, when taxpayers receive a notice, they could enter the notice number into a search engine, and it would say "you are here," providing information regarding their location in the process. This feature would become more useful as the IRS continues to increase the number of notices it posts to taxpayers' online accounts.

Taxpayers Are Confused by Some Incomplete or Inaccurate IRS Guidance

In addition to notices, other information provided to taxpayers such as Frequently Asked Questions (FAQs) are also unclear and vague. For instance, the IRS states in an FAQ that taxpayers can log into the Advance Child Tax Credit (AdvCTC) portal and adjust the number of qualifying children they are claiming. Specifically, FAQ F8 asks,

> What if I will claim a child on my 2021 tax return but did not claim that child on my 2020 tax return?

and provides this answer, in part,

> Later this year, the Child Tax Credit Update Portal (CTCUP) will be updated to allow you to inform us about the qualifying children you will claim on your 2021 tax return so that we can adjust your estimated 2021 Child Tax Credit – and therefore adjust the amount of your monthly advance Child Tax Credit payments.[22]

This FAQ fails to inform taxpayers that if they went from having no qualifying child in 2020 to having one in 2021, they cannot make the adjustment on their AdvCTC profile and will have to wait to claim the credit when filing their 2021 return.[23] This ambiguous FAQ left taxpayers wondering if they would receive AdvCTC for a dependent who became eligible in 2021 and attempting to make the adjustment only to learn they could not.

Another example arose when the IRS postponed until January 3, 2022, the filing and payment deadlines for taxpayers affected by Hurricane Ida.[24] The announcement failed to point out that the IRS will no longer accept electronically filed returns after November 20, 2021. Including this critical information in the announcement might have prompted taxpayers to act early to avoid having to file by mail and averting longer processing times for paper returns.[25] In another situation, the IRS failed to provide taxpayers with any guidance on changes that were occurring to their account. Specifically, two private collection agencies (PCAs) that collectively held 1.2 million taxpayer accounts transferred those accounts back to the IRS after their contracts expired.[26] Although the PCAs provided a special letter to approximately 17,000 of the 1.2 million taxpayers with payment arrangements, the IRS failed to directly inform taxpayers of this development, which was a critical omission because payment arrangements organized by the PCAs would be terminated, and taxpayers would need to work directly with the IRS to set up new payment plans.[27] However, to address these concerns, the IRS sent letters to taxpayers in November 2021 who had payment arrangements with PCAs that were ending because of the contract change. These letters provided taxpayers with a designated phone number and mailing address to work directly with the IRS to establish an installment agreement or pursue other resolutions.

It is critical that taxpayers receive timely, complete, and accurate information as they have the *right to be informed*. Thus, it is imperative that the IRS be proactive in including vital information when it becomes clear it was originally omitted. In other words, if the IRS knows something, it needs to say it publicly, timely, accurately, and clearly. Failure to do so may well lead to more complications and problems for taxpayers, requiring additional time and resources by taxpayers, tax professionals, and the IRS to resolve.

It is critical that taxpayers receive timely, complete, and accurate information as they have the *right to be informed*. Thus, it is imperative that the IRS be proactive in including vital information when it becomes clear it was originally omitted.

Taxpayers Don't Always Understand the IRS's Reasons for Its Decisions, as a Rationale Is Not Always Provided

Taxpayers can obtain guidance as to how they should interpret tax laws and regulations and what steps they need to take to comply with their tax filing and payment obligations. As the above example regarding the AdvCTC illustrates, the IRS has heavily relied on issuing FAQs, a fast and efficient means of disseminating guidance to taxpayers on recently enacted tax legislation. In addition to the vague, unclear, and cumbersome nature of some FAQs, the IRS does not offer taxpayers the rationale on how the IRS arrived at its conclusions.

For example, during the first round of the stimulus payments (Economic Impact Payments (EIPs)), questions arose as to whether incarcerated individuals and deceased taxpayers were eligible to receive EIPs. Despite no specific carveout for this situation under the law,[28] in May 2020, the IRS issued FAQs instructing individuals who were incarcerated to return their EIPs.[29] Also, it directed payments made to deceased taxpayers to be returned to the IRS by the decedent's surviving spouse, family, or estate.[30]

These FAQs provided no justification or rationale as to how the IRS reached these conclusions, and in fact, the IRS later changed the guidance regarding incarcerated individuals as a result of the outcome of a lawsuit.[31] Taxpayers would have more confidence in the IRS's guidance if it included – particularly in its FAQs – a discussion regarding the justification and rationale behind its decisions.

Taxpayers Have Difficulty Locating Information and Answers to Questions on IRS.gov Because the Site Is Challenging to Navigate

IRS.gov provides taxpayers with a wealth of information, including:

- Forms, instructions, and publications;
- Press releases;
- FAQs; and
- Discussions on popular topics such as deductions and credits.

The information taxpayers need to answer their questions and comply with their tax filing and payment obligations may be available somewhere on the over 30,000 webpages comprising IRS.gov, but finding the exact information on the website is so challenging that the website's value is reduced, and there are inconsistencies and duplications.[32] Compounding this challenge is the search engine on IRS.gov, which is not useful in pinpointing the information the taxpayer needs because search results are overly broad, wasting hours of taxpayers' time.[33]

The IRS will address a number of these issues as part of its online services initiative developed in response to the Taxpayer First Act.[34] For example, the "Seamless Experience" includes wait time transparency, concierge navigation support, and AI-powered informational webchat, among other things. Specifically, the chatbot feature on IRS.gov would attempt to answer taxpayers' questions or point to useful resources on the website.[35] If the chatbot cannot resolve a taxpayer's issue, contact routing will guide the taxpayer to live support from an IRS employee.[36] Further, the plan's call for wait time transparency is another critical piece of information that will help taxpayers. In addition to including wait times when a taxpayer is on hold with IRS customer service, the IRS could post Levels of Service and wait times on IRS.gov, so taxpayers could consult the website and determine the best time to call.[37]

These enhancements are exciting, but the timetable for implementation extends to the year 2030. In the meantime, the IRS should begin the process of taking steps to make IRS.gov more user-friendly by eliminating duplication, reducing the amount of information on a single page, and enhancing its search engine.[38]

The IRS Does Not Inform Taxpayers How It Will Store, Safeguard, and Use Data That Artificial Intelligence Will Analyze as Part of Its New Online Services Initiative

The IRS's venture into using new AI technology will undoubtedly provide taxpayers with more and improved online customer service options. However, these modern services come with new questions and concerns, such as how the IRS will store, use, and safeguard the data the AI-run programs collect.[39]

To instill trust in how it uses AI, the IRS should:

- Publicly identify the goals and rationales of using AI;
- Organize an internal review to monitor how the IRS is using AI; and
- Prioritize to whom it will be transparent regarding its use of AI. This should include internal administrators, taxpayers, oversight agencies, and Congress.[40]

The degree to which the IRS needs to safeguard information and specify its use may vary depending upon whether the information collected is taxpayer-specific or is of a more general nature, like a taxpayer asking the chatbot, "What qualifies as a charitable deduction?" All data collected may have the potential for misuse, but the risks and concerns may increase if that data is taxpayer-specific.

The IRS should also disclose which, if any, vendors will design and implement the systems that will use AI and if these systems will share any information with the vendor or any other external entities. It is imperative that the IRS reassure taxpayers that it will use appropriately and fairly the information it collects, as any reasonable doubt would stifle taxpayers' willingness to use these services.[41]

CONCLUSION AND RECOMMENDATIONS

The IRS devotes significant effort to keeping taxpayers informed, but it is not proactively transparent about its operations. Information it provides taxpayers is often unclear and ambiguous, and locating certain information can be challenging. Frequently, taxpayers and tax professionals receive confusing and inaccurate information from the IRS or cannot reach an IRS assistor. Frustrations within the tax and accounting professional community are at an all-time high, and uncertainties are shared by practitioners about the upcoming 2022 tax filing season while many 2019 and 2020 tax returns remain unprocessed. Providing taxpayers with more information that is timely, clear, and easy-to-find will improve taxpayers' understanding of the tax system, how the IRS operates, and what actions the IRS is taking on their accounts. As the IRS addresses some of these issues by leveraging new technologies with an eye toward improving taxpayer interactions with its website and other online services, it needs to articulate what safeguards will be in place to protect this information and ensure the IRS is using that information appropriately.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Create a filing season dashboard and provide weekly information on the filing season, including the total number of returns in inventory, number of returns beyond normal processing times, number of returns in suspense status, and the anticipated timeframes for working through them, while acknowledging that the situation is fluid and timeframes may change along with circumstances.
2. Improve Where's My Refund?, IRS2Go, or online accounts by providing taxpayers specific information about the cause of their refund delay and an estimated date when the IRS might issue their refund.
3. Revise math error notices to identify the exact adjustment the IRS is correcting and the time period for requesting abatement, all in the first paragraph of the notice, and include the date by which a taxpayer must request an abatement at the very top of the notice.
4. Send all math error notices to taxpayers by certified or registered mail.
5. Revise Letter 4464C to include more details about the items the IRS is reviewing and when the IRS will release the refund.
6. Include a roadmap feature on taxpayers' online accounts that will show where a taxpayer's return is in the tax administration process (*i.e.*, Collection or Exam).
7. When extending filing deadlines, ensure taxpayers have the option to e-file their returns.
8. Develop internal procedures for how the IRS will store, use, and safeguard data collected by AI-run programs and publicly provide this information on its website.

Legislative Recommendation to Congress

The National Taxpayer Advocate recommends that Congress:

1. Amend IRC § 6213(b)(1) to require:
   - That all math error notices include an explanation of the specific error being alleged;
   - That all math error notices include a statement that the taxpayer has 60 days from the date of the notice to request that the summary assessment be abated; and
   - That all such notices will be sent either by certified or registered mail.

RESPONSIBLE OFFICIALS

Douglas O'Donnell, Deputy Commissioner, Services and Enforcement
Jeffrey Tribiano, Deputy Commissioner, Operations Support

IRS COMMENTS

At a time when the IRS has faced consequential resource challenges, it has also been called upon to take on new, significant responsibilities. We are aware of and appreciate the frustration felt by taxpayers, tax professionals and IRS employees caused by the high volume of unprocessed returns, the limited information available to taxpayers regarding the status of their returns, the refund delays and the difficulty reaching IRS employees. Our employees have experienced similar frustrations as their ability to provide quality service and timely responses during the pandemic has been significantly hampered by staffing and resource shortages, the initial closures of numerous facilities to protect the health and safety of everyone, and legislative changes during the filing season.

During the pandemic, the IRS faced unprecedented volumes of inventory and phone calls coupled with extraordinary challenges in managing socially distanced and remote work when evacuation orders effectively prevented the IRS from returning to the office in pre-pandemic numbers. In addition to the ongoing pandemic-related challenges, there have been legislative changes that would have significantly increased filings of amended returns and created further backlogs, if proactive steps had not been taken by the IRS to adjust accounts and issue refunds directly to taxpayers.

To assist with the 2022 filing season, IRS is taking steps to ensure taxpayers have access to the necessary information about any 2021 advance payments received to file an accurate return. In January 2022, the IRS' Online Account will provide the amount of payments received for the third Economic Impact Payment and the summary information for the 2021 Advance Child Tax Credit. Summary information for the 2021 Advance Child Tax Credit will also be available in the Child Tax Credit Update Portal.

The pandemic created economic hardships for many Americans, making it paramount for the IRS to implement three rounds of stimulus payments – the largest economic rescue package in history, totaling over $830 billion – and issue tax refunds. The IRS processes most refund returns without any further action or intervention required by taxpayers or the IRS and issues the vast majority of refunds within 21 days of filing. Taxpayers can check their refund status on the Where's My Refund? (WMR) online application, an easy-to-use tracker that provides three basic statuses at the top of the screen – return received, refund approved, or refund sent. WMR can also provide responses with more detailed explanations about math errors and adjustments to taxpayers based on their account data. We agree with the NTA recommendations to provide taxpayers with more detailed account information in situations that warrant it.

The IRS plans to integrate refund status information into Online Account applications. These plans are in addition to the existing WMR tool, which will remain available outside of Online Account and can serve taxpayers without the need to create an account, which requires more stringent authentication. The IRS is beginning a research effort in early 2022 to further review specific taxpayer needs and expectations regarding online reporting of refund status. The IRS will use the outcomes of this research to help inform updates to WMR and the Where's My Amended Return? application. The IRS is scheduled to deploy additional features that will allow taxpayers to select their preferences to opt in/out of receiving certain notices by paper or electronically and opt in for email notifications to receive alerts when a new notice has been delivered to their Online Account. There are currently eleven notices available on the Notices and Letters tab within Online Account, and the IRS will continue to expand the number and types of notices available for viewing through their Online Account as funding permits.

The IRS is currently working with the Taxpayer Advocate Service to develop a plan to provide more current data and post meaningful updates on IRS.gov and through internal reporting channels to support the efforts of our employees and provide the National Taxpayer Advocate critical information to assist customers. The IRS is committed to continuing to improve internal and external reporting.

TAXPAYER ADVOCATE SERVICE COMMENTS

The National Taxpayer Advocate understands the wide-ranging challenges the IRS has encountered since the beginning of the pandemic, and TAS recognizes that the IRS has provided voluminous amounts of information to taxpayers, tax professionals, and the public as a whole. Despite these efforts, however, IRS transparency both during and before the pandemic is often limited, and information provided to taxpayers is unclear and difficult to access.

As another challenging filing season approaches, the IRS needs to act swiftly to identify areas where it can provide taxpayers with more information about the status and timing of returns and other key forms. One specific action the IRS could take that would provide more transparency would be the creation of a dashboard that would include processing return status and other critical filing season information. The IRS has taken a step in this direction by creating an Operational page on its website, but to maximize its usefulness, it must provide more specific and updated information regarding the IRS's processing efforts. The National Taxpayer Advocate is pleased that the IRS is working with TAS to determine what type of information can be posted on its Operational page and how best to present this information. With the filing season quickly approaching, the time to act and make this dashboard a reality is now.

Additionally, the updates most commonly received by taxpayers on the IRS's Where's My Refund? tool (*i.e.*, return received, refund approved, or refund sent) are helpful but in too many cases lack specificity and lead to taxpayers picking up the phone to obtain more information on their refund status, thereby bogging down an already overwhelmed phone system. Moving forward, the IRS should identify opportunities where it can provide more specific information on its Where's My Refund? tool on the reasons for refund delays, such as a taxpayer's return being selected by one of the IRS's refund fraud filters because information on the return is inconsistent with IRS records. The National Taxpayer Advocate is hopeful that a 2022 IRS-planned research initiative to explore the types of information taxpayers want from the Where's My Refund? tool will yield beneficial information on how the tool can be modified to meet these needs. TAS is also encouraged that the IRS is exploring how to further utilize taxpayers' online accounts to provide more information regarding their tax information and the status of their returns or refunds. But these long-term enhancements must be coupled with immediate opportunities to provide taxpayers with more information now, such as providing more detailed and updated information on the IRS's Operational page. It is TAS's understanding that the IRS already possesses the necessary information to provide taxpayers with more specific and timely information regarding the processing of their returns and other important forms.

To be a transparent organization, the IRS must provide timely, clear, and accurate information that is easily accessible, and it must reevaluate the usefulness of IRS.gov to ensure it provides taxpayers the information they need in a user-friendly format. This includes removing duplication and inconsistencies while making enhancements, such as an improved search feature. Additionally, as the IRS moves forward with incorporating new features on its platforms, such as robochats that use AI, it needs to specify how AI data will be stored, safeguarded, and used. Failure to publicly state how it will protect this information may raise concerns for taxpayers, ultimately causing them to be reluctant to use these new services.

The IRS has encountered extraordinary challenges since the beginning of the pandemic. However, it needs to take steps to embrace proactive and timely transparency while ensuring it is providing taxpayers with clear and accurate information they can use to better understand their interactions with the IRS and how to comply with their tax obligations. The IRS mission statement says the IRS is to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all. Transparency is key to fulfilling the IRS mission.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Create a filing season dashboard and provide weekly information on the filing season, including the total number of returns in inventory, number of returns beyond normal processing times, number of returns in suspense status, and the anticipated timeframes for working through them, while acknowledging that the situation is fluid and timeframes may change along with circumstances.
2. Improve Where's My Refund?, IRS2Go, or online accounts by providing taxpayers specific information about the cause of their refund delay and an estimated date when the IRS might issue their refund.
3. Revise math error notices to identify the exact adjustment the IRS is correcting and the time period for requesting abatement, all in the first paragraph of the notice, and include the date by which a taxpayer must request an abatement at the very top of the notice.
4. Send all math error notices to taxpayers by certified or registered mail.
5. Revise Letter 4464C to include more details about the items the IRS is reviewing and when the IRS will release the refund.
6. Include a roadmap feature on taxpayers' online accounts that will show where a taxpayer's return is in the tax administration process (*i.e.*, Collection or Exam).
7. When extending filing deadlines, ensure taxpayers have the option to e-file their returns.
8. Develop internal procedures for how the IRS will store, use, and safeguard data collected by AI-run programs and publicly provide this information on its website.

Legislative Recommendation to Congress

The National Taxpayer Advocate recommends that Congress:

1. Amend IRC § 6213(b)(1) to require:
   - That all math error notices include an explanation of the specific error being alleged;
   - That all math error notices include a statement that the taxpayer has 60 days from the date of the notice to request that the summary assessment be abated; and
   - That all such notices will be sent either by certified or registered mail.

Endnotes

1 *See* Ruijer, H.J.M. (Erna), *Proactive Transparency and Government Communication in the USA and the Netherlands* (2013).
2 *See* Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in TBOR are also codified in the IRC. *See* IRC § 7803(a)(3). It has been long recognized that transparency is fundamental to establishing a legitimate organization that holds the public's confidence and trust. Organisation for Economic Co-operation and Development, *Trust in Government*, https://www.oecd.org/gov/trust-in-government.htm. Congress has affirmed this core principle over the years, most notably by passing the Freedom of Information Act that applies to all federal agencies including the IRS. IRS, Privacy Disclosure, Freedom of Information Act, https://www.irs.gov/privacy-disclosure/irs-freedom-of-information. Years later, with the development of technology, particularly the internet, Congress reaffirmed its commitment to transparency by passing the Electronic Freedom of Information Act (eFOIA). H.R. 3802, *The Electronic Freedom of Information Act Amendments of 1996*, https://www.congress.gov/bill/104th-congress/house-bill/3802. With certain exceptions, both of these laws require that information be made available to the public. See National Taxpayer Advocate 2018 Annual Report to Congress 34-51 (Most Serious Problem: *Transparency of the Office of Chief Counsel*: *Counsel Is Keeping More of Its Analysis Secret, Just When Taxpayers Need Guidance More Than Ever*).
3 Data provided by Wage and Investment (W&I) on June 23, 2021 (on file with TAS). For a more detailed discussion about filing season delays, see National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 1-23 (*Review of the 2021 Filing Season*) and Most Serious Problem: *Filing Season Delays*: *Millions of Taxpayers Experienced Difficulties and Challenges in the 2021 Filing Season*, *infra*. *See also* Internal Revenue Manual (IRM) 3.12.2.1.1, Program Scope and Objectives (Nov. 27, 2020). ERS is the function that manually reviews returns for errors before the return posts to IRS systems. ERS is an online computer application used by tax examiners to correct errors identified on tax returns.
4 Data provided by W&I on June 23, 2021 (on file with TAS). Though taxpayers can submit amended returns electronically, like paper returns, they require an employee to input the data on the amended return into IRS systems, thereby significantly extending processing times. To address this backlog, the IRS revised the IRM to extend the time for processing amended returns from 16 weeks to 20 weeks. IRM 21.5.3.3.1, Locating Amended Returns (Form 1040-X) (June 22, 2021).
5 Accounts Management, CAF/TDC Daily Dashboard, Cycle Time (Oct. 2, 2021).
6 Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, § 2301, 134 Stat. 28, 347-51 (2020) (Employee Retention Credit for Employers Subject to Closure Due to COVID-19). Congress created the Employee Retention Credit that businesses could claim on Form 941X when meeting all specific eligibility requirements. This was designed to impact businesses affected by closures during the COVID-19 pandemic.
7 The Centralized Authorization File (CAF) units records and tracks Forms 2848. Taxpayers appoint representatives by completing and signing Form 2848 and giving it to their representatives who will mail, fax, or submit the form electronically to an IRS function or a CAF unit.
8 *See* IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue (last visited Dec. 17, 2021). This page addressed how long taxpayers may have to wait for Form 1040 return processing; the status of Form 941 processing; updates on submitting a missing form or document to the IRS; and Individual Taxpayer Identification Number application processing timeframes.
9 Most Serious Problem: *Correspondence Audits*: *Low-Income Taxpayers Encounter Communication Barriers That Hinder Audit Resolution, Leading to Increased Burdens and Downstream Consequences for Taxpayers, IRS, TAS, and the Tax Court*, *infra.*
10 *See* IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue (last visited Dec. 17, 2021).
11 *See* Most Serious Problem: *Telephone and In-Person Service*: *Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications*, *supra.*
12 IRS response to TAS fact check (Dec. 9, 2021). The IRS2Go app provides refund status from Where's My Refund? – just in a mobile-friendly format.
13 *See* IRS, What to Expect for Refunds This Year, https://www.irs.gov/refunds/what-to-expect-for-refunds-this-year (last visited Dec. 17, 2021).
14 *See* National Taxpayer Advocate 2019 Annual Report to Congress 34 (Most Serious Problem: *Processing Delays*: *Refund Fraud Filters Continue to Delay Taxpayer Refunds for Legitimately Filed Returns, Potentially Causing Financial Hardship*).
15 IRC § 6213(b) and (g).
16 IRM 3.12.3-2, Taxpayer Notice Codes (Nov. 27, 2020). Math error authority was initially designed to allow the IRS to assess a tax liability by quickly resolving simple mathematical or clerical mistakes on a return. Congress granted the IRS the ability to make changes to a tax return for a limited number of situations, which is called math error authority. Unlike an examination where the IRS requests information from the taxpayer, the IRS makes a change to one or more line items on the tax return without involving the taxpayer. Initially, Congress reserved this authority for the simplest mathematical errors, such as 1+1=3. It later expanded the authority to include situations where the taxpayer made a clerical error (*e.g.*, inconsistent entries on the face of the return), and this authority was expanded once again to include omissions of certain information like required Taxpayer Identification Numbers or Social Security numbers that don't match the ones in the Social Security Administration's database.
17 IRS Math Error for Recovery Rebate Credit (RRC) Cycle 45 (Nov. 11, 2021).
18 IRS Notice CP 11, Math Error on Return - Balance Due 3.
19 National Taxpayer Advocate Fiscal Year 2021 Objectives Report to Congress 143 (*IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2019 Annual Report to Congress*). The IRS has revised its refund fraud notices, specifically the Letter 4464C, Initial Contact Notice, instructing taxpayers to review their returns to verify the income and withholding reported is accurate. More revisions are needed to provide taxpayers clearer and more concise information about why their refund is being held.
20 *See* Most Serious Problem: *Correspondence Audits*: *Low-Income Taxpayers Encounter Communication Barriers That Hinder Audit Resolution, Leading to Increased Burdens and Downstream Consequences for Taxpayers, IRS, TAS, and the Tax Court*, *infra.*
21 *See* National Taxpayer Advocate Interactive Taxpayer Roadmap, https://www.taxpayeradvocate.irs.gov/get-help/roadmap/.
22 IRS, 2021 Child Tax Credit and Advance Child Tax Credit payments – Topic F: Updating Your Child Tax Credit Information During 2021 (rev. June 24, 2021), https://www.irs.gov/credits-deductions/2021-child-tax-credit-and-advance-child-tax-credit-payments-topic-f-updating-your-child-tax-credit-information-during-2021.
23 IRS response to TAS fact check (Dec. 9, 2021). The IRS has since updated this FAQ and provided more clarification.

24 *See* IRS, IR-2021-230, All of Mississippi Now Qualifies for Expanded Hurricane Ida Relief; Sept. 15, Oct. 15 Deadlines, Other Dates Extended to Jan. 3 (Nov. 17, 2021), https://www.irs.gov/newsroom/irs-all-of-mississippi-now-qualifies-for-expanded-hurricane-ida-relief-sept-15-oct-15-deadlines-other-dates-extended-to-jan-3.
25 IRS QuickAlerts for Tax Professionals, 1040 Modernized e-File (MeF) Production Shutdown (Nov. 3, 2021) (advising "Shutdown begins on Saturday, November 20, 2021, at 11:59 p.m. Eastern time, to prepare the system for the upcoming Tax Year 2021 Filing Season."). On December 22, 2021, the IRS again postponed the date to February 15, 2022, to accommodate electronic filings. *See* IRS, IR-2021-254: Hurricane Ida Tax Relief Extended to February 15 for Part or All of Six Qualifying States, https://www.irs.gov/newsroom/hurricane-ida-tax-relief-extended-to-february-15-for-part-or-all-of-six-qualifying-states (last visited Dec. 31, 2021).
26 *See* Erin Collins, The IRS and Private Collection Agencies: Four Contracts Lapsed and Three New Ones Are in Place: What Does That Mean for Taxpayers?, National Taxpayer Advocate Blog (Oct. 14, 2021), https://www.taxpayeradvocate.irs.gov/news/nta-blog-the-irs-and-private-collection-agencies/; Erin Collins, Four Contracts Lapsed and Three New Ones Are in Place: What Does That Mean for Taxpayers? Part II: Help Is on the Way for Taxpayers Whose Payment Arrangements With Private Collection Agencies Were Terminated, National Taxpayer Advocate Blog (Nov. 3, 2021), https://www.taxpayeradvocate.irs.gov/news/nta-blog-private-collection-agencies-part-2/.
27 IRS response to TAS fact check (Dec. 9, 2021).
28 CARES Act, Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335-40 (2020) (adding IRC § 6248, 2020 Recovery Rebates for Individuals).
29 As a result of litigation (*Scholl v. Mnuchin, et al.*, 494 F. Supp. 3d 661 (N.D. Cal. 2020)), the IRS later revised its guidance instructing incarcerated individuals not to return their EIPs. *See* IRS, Questions and Answers About the Second Economic Impact Payment, https://www.irs.gov/coronavirus/second-eip-faqs/ (last visited Dec. 17, 2021).
30 IRS, Returning an Economic Impact Payment, https://www.irs.gov/newsroom/returning-an-economic-impact-payment (last visited Dec. 17, 2021).
31 The IRS's conclusion regarding incarcerated taxpayers was challenged in *Scholl v. Mnuchin, et al.*, 494 F. Supp. 3d 661 (N.D. Cal. 2020). The judge entered a permanent injunction stopping the government misconduct, ruling that the policy of excluding incarcerated people from stimulus benefits was "arbitrary and capricious."
32 IRS response to TAS information request (Nov. 15, 2021). At the beginning of FY 2022, there were 30,351 published pages on IRS.gov. This number will vary over time for a number of reasons, including new pages added as a result of changes in tax policy and legislative programs. Also, existing pages will be unpublished when content ages out, when redundant information is consolidated, or when low-usage material is removed during routine site cleanup.
33 *Consumer Technographics, Digital Experience and Engagement with Government Agencies*, Forrester Research 7 (June 2018). When asked if IRS.gov is easily searchable, 12 percent of Millennials agreed, 17 percent of Generation Xers agreed, and 11 percent of Baby Boomers agreed. *See also* IRS response to TAS fact check (Dec. 9, 2021); National Taxpayer Advocate 2018 Annual Report to Congress 60 (Most Serious Problem: *Navigating the IRS*: *Taxpayers Have Difficulty Navigating the IRS, Reaching the Right Personnel to Resolve Their Tax Issues, and Holding IRS Employees Accountable*). Despite these improvements, some of the overarching problems identified in the Forrester report remain. Regarding the IRS.gov search engine, the IRS has plans to update it by the end of CY 2021.
34 *See, e.g.*, Taxpayer First Act, Pub. L. No. 116-25, 133 Stat. 981 (2019).
35 IRS, Taxpayer First Act Annual Report to Congress 47 (Jan. 2021).
36 *Id.*
37 *Id.* at 46.
38 Maya Benari, *Building a Large-Scale Design System for the U.S. Government (Case Study)*, Smashing Magazine (Oct. 9, 2017), https://www.smashingmagazine.com/2017/10/large-scale-design-system-us-government/.
39 In the simplest terms, this technology collects and analyzes data and makes decisions that humans would normally make. *See* Admin. Conf. of the U.S. (ACUS), Statement #20, Agency Use of Artificial Intelligence, Adopted December 16, 2020, https://www.acus.gov/sites/default/files/documents/Statement%2020%20Agency%20Use%20of%20Artificial%20Intelligence.pdf. *See, e.g.*, ACUS, Statement #20, Agency Use of Artificial Intelligence, 86 Fed. Reg. 6616 (Jan. 22, 2021).
40 *See* ACUS, Statement #20, Agency Use of Artificial Intelligence, Adopted December 16, 2020, https://www.acus.gov/sites/default/files/documents/Statement%2020%20Agency%20Use%20of%20Artificial%20Intelligence.pdf. *See, e.g.*, ACUS, Statement #20, Agency Use of Artificial Intelligence, 86 Fed. Reg. 6616 (Jan. 22, 2021).
41 *Id.*