

**MSP
#8****MULTILINGUAL NOTICES: The IRS Undermines Taxpayer Rights
When It Does Not Provide Notices in Foreign Languages****RESPONSIBLE OFFICIALS**

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TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Challenge the IRS's Position and Be Heard*
- *The Right to a Fair and Just Tax System*

PROBLEM

Taxpayers with limited English proficiency (LEP) frequently do not receive notices in their preferred languages, impairing their *right to be informed*. Even when the IRS has a notice already translated into Spanish, taxpayers have no simple way to request it or notate their accounts to reflect their preference. This resulted, for example, in the IRS sending in Spanish only *one out of almost a million* notices related to renewing Individual Taxpayer Identification Numbers (ITINs) during fiscal year (FY) 2019.² Additionally, the IRS website fails to include notices and information about those notices in languages other than English.³

IMPACT ON TAXPAYERS

LEP persons do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.⁴ The United States has an estimated 5.3 million LEP households.⁵ Over 22 percent of Spanish-speaking households and over a quarter of Asian and Pacific island language households are LEP households.⁶ Pursuant to the Civil Rights Act of 1964,⁷ Executive Order 13166 requires all federal agencies to examine their service and develop and implement a system allowing LEP

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are also codified in the Internal Revenue Code (IRC). See IRC § 7803(a)(3).

2 During FY 2019, the IRS issued CP 48, Renew Your ITIN, 969,863 times. Yet, during this same period, the IRS issued CP 748, the Spanish version of this letter, only once. IRS, Servicewide Notice Information Program (SNIP) Database (Sept. 18, 2019).

3 While this piece is focused on IRS notices, a similar problem exists for other IRS communications, including IRS Forms, Publications, and website content.

4 67 Fed. Reg. 41459 (June 18, 2002).

5 U.S. Census Bureau, *2013-2017 American Community Survey 5-Year Estimates* (Dec. 2018), https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_S1602&prodType=table.

6 *Id.* Estimates for 2013-2017 are 3,191,985 Spanish speaking LEP households and 1,084,682 Asian and Pacific Island languages LEP households.

7 "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Pub. L. N. 88-352, 78 Stat. 252 § 601.

persons to meaningfully access those services.⁸ The Department of Justice issued guidance providing four factors to be considered in ensuring meaningful access:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient and costs.⁹

Meeting one's legal tax filing and payment obligations or claiming one of the many federal benefits administered through the tax code is fundamentally important to taxpayers' lives. From objecting during an examination, to claiming appeal rights, to demonstrating a hardship caused by collection, taxpayers must be able to understand what the correct amount of tax should be, why the IRS is taking an action, and what rights they can exercise. Balancing the other factors such as the number of LEP taxpayers, the frequency of taxpayer contacts, and resource requirements, the IRS should provide notices in languages other than English in order to provide meaningful access to IRS services.

Many IRS Notices Providing Statutory Rights or Fulfilling Statutory Directives Are Not Translated Into Languages Other Than English

The IRS only translates some important statutory notices into Spanish and none into languages other than English or Spanish.¹⁰ For example, the statutory notice of deficiency (SNOD), which the law requires the IRS to issue, provides taxpayers with the statutory right to appeal the liability in U.S. Tax Court, the only opportunity the taxpayer has to challenge the liability in court prior to paying it.¹¹ The notice provides a deadline by which the taxpayer must exercise this right and is accompanied by a waiver, which allows a taxpayer to choose to give up the important right of appealing the decision in court. However, of the five most commonly issued versions of this notice, only two are available in Spanish and none are available in any languages other than English or Spanish.¹² The offer in compromise rejection letter, which provides the taxpayer with the statutory right to receive an independent review of the rejection by the IRS Office of Appeals, is only available in English.¹³

8 65 Fed. Reg. 50121 (Aug. 16, 2000).

9 70 Fed. Reg. 6069 (Feb. 4, 2005).

10 IRS response to TAS information request (June 28, 2019).

11 IRC §§ 6212(a), 6213(a).

12 The five English versions are Letter 3219, Notice of Deficiency; Notice CP 3219A, Automated Under Reporter (AUR) Statutory Notice of Deficiency; Letter 3219B, Business Master File (BMF) AUR Statutory Notice of Deficiency - 90 Day Letter; Letter 3219C, Statutory Notice of Deficiency; and Notice CP 3219N, Automated Substitute for Return (ASFR) 90-Day Letter. The two Spanish versions are Letter 3219(SP), Notice of Deficiency (Spanish) and Notice CP 3219N(SP), Automated Substitute for Return (ASFR) 90-Day Letter (Spanish). See IRS Product Catalog Information and SNIP for copies of these letters. See also National Taxpayer Advocate 2018 Annual Report to Congress 198, 201-202 (Most Serious Problem: *Statutory Notices of Deficiency: The IRS Fails to Clearly Convey Critical Information in Statutory Notices of Deficiency, Making It Difficult for Taxpayers to Understand and Exercise Their Rights, Thereby Diminishing Customer Service Quality, Eroding Voluntary Compliance, and Impeding Case Resolution*).

13 See Letter 238, Offer in Compromise Rejection Letter, in the Automated Offer in Compromise system. See also IRC § 7122(e).

Even When Notices Are Available in Spanish, the IRS Does Not Track Taxpayers Who Want to Receive Notices in Spanish or Provide Simple Options for These Taxpayers to Request Spanish Notices

Although the IRS has an LEP indicator on its electronic account system, the Integrated Data Retrieval System, it is unclear how this indicator is placed on taxpayers' accounts and whether it has any effect.¹⁴ Currently, the IRS has programmed its Individual Master File (IMF) so Spanish notices are only received if the taxpayer has filed a Form 1040PR, which is used by residents of Puerto Rico in certain limited situations.¹⁵ Given only about 104,000 Form 1040PRs were filed in FY 2019, this programming severely limits the eligible Spanish-speaking LEP taxpayers who might automatically receive Spanish notices.¹⁶ If a taxpayer who previously filed a Form 1040PR subsequently files a Form 1040 in a later year, then the taxpayer will no longer receive Spanish notices.

While IRS employees can manually generate some notices in Spanish upon request, a taxpayer will only receive these notices if he or she knows to request one each time a notice is issued.¹⁷ Furthermore, even when taxpayers know to call the IRS and request the Spanish version of the notice they received, it may be too late. Often the important statutory letters carry strict deadlines for providing information or requesting an appeal, and by the time the taxpayer receives the new notice, he or she may have forfeited his or her rights. Additionally, some notices for which the IRS has Spanish versions cannot be manually generated.¹⁸

Taxpayers who file the Spanish version of Form W-7, Application for Individual Taxpayer Identification Number (ITIN), will receive notices related to the Form W-7 in Spanish, but they will not automatically receive other notices in Spanish unless they also file a Form 1040PR.¹⁹ This occurs because the IRS does not transmit language preference from the ITIN Real Time System to the IMF, even though it transmits other information such as the name and address components of an ITIN application. Figure 1.8.1 demonstrates how the IRS handles Spanish notices for taxpayers in the different situations discussed.

14 IRS response to TAS information request (June 28, 2019) states, "Since there is no requirement to input a [LEP indicator] TC 971 AC 192, it would not appear in the Compliance Data Warehouse or any other data source."

15 Form 1040PR, U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico) (2018) is used by Puerto Rico residents to report self-employment income and claim the additional child tax credit. In addition to filing a Form 1040PR, a taxpayer must also have a collection location code indicating the Philadelphia Service Center, which handles international returns, and have a universal location code indicating Puerto Rico in order to receive Spanish notices. IRS response to TAS information request (June 28, 2019). See Form 1040PR, U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico) (2018).

16 TAS Research used Compliance Data Warehouse (CDW), Individual Returns Transaction File, F1040 Table.

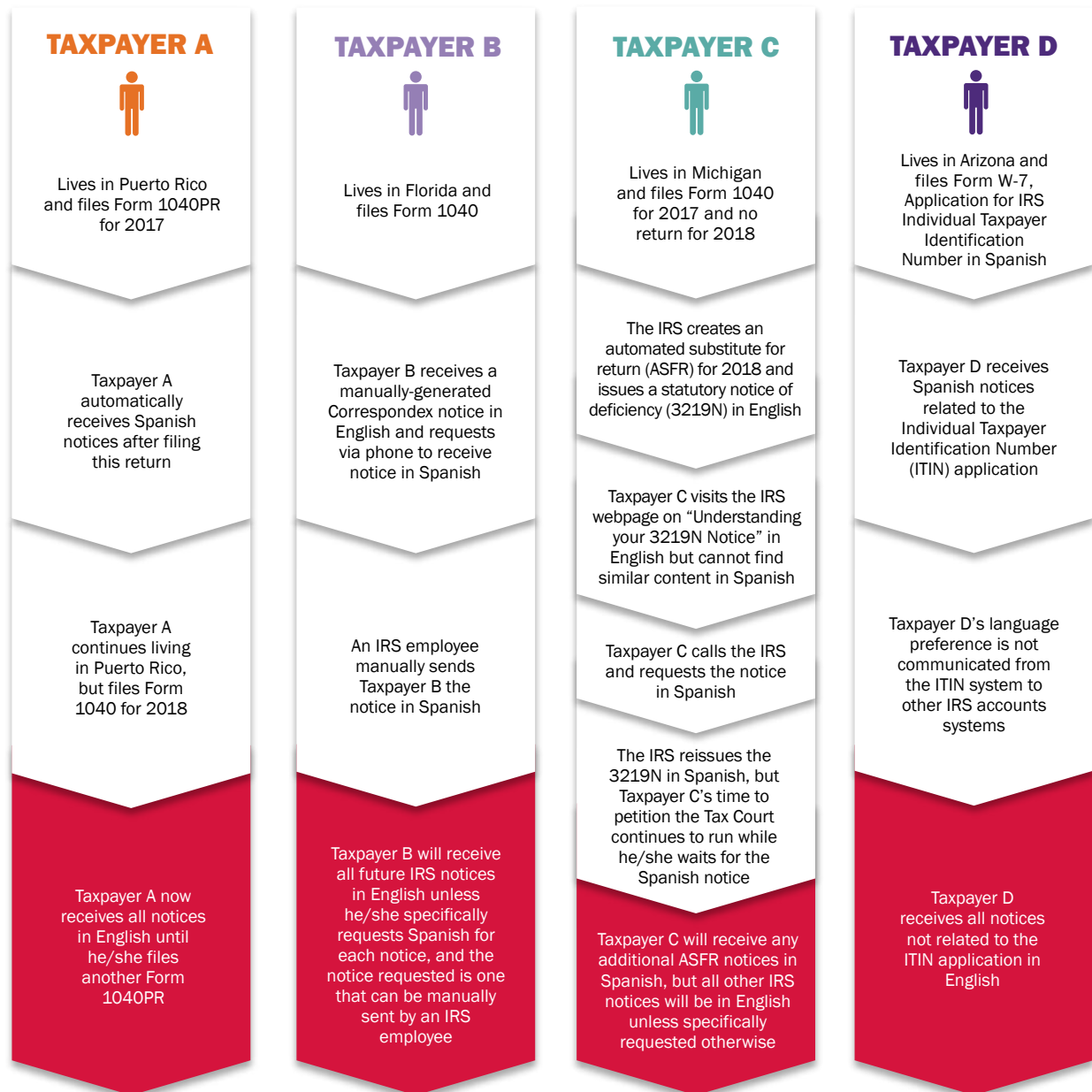
17 For example, the Automated Collection System (ACS) can accommodate taxpayers' requests to manually generate a notice in Spanish. See Internal Revenue Manual (IRM) Exhibit 5.19.5-5, ACS History Codes Reference IRM 5.19.5.4 (Nov. 21, 2019).

18 IRS response to TAS subsequent information request (Sept. 25, 2019).

19 Taxpayers who are ineligible for a Social Security number but who have a tax filing obligation must apply for an ITIN using Form W-7(SP), Application for IRS Individual Taxpayer Identification Number (Spanish Version), Solicitud de Número de Identificación Personal del Contribuyente del Servicio de Impuestos Internos.

FIGURE 1.8.1²⁰

Examples of How the IRS Currently Handles Spanish Notices for Taxpayers With Limited English Proficiency



Even when the IRS has notices available in Spanish, it does not track taxpayers who want to receive notices in Spanish or provide simple options for these taxpayers to request Spanish notices.

²⁰ IRS response to TAS subsequent information request (Sept. 25, 2019).

The Percentage of Spanish Notices Sent to Taxpayers Is Substantially Lower Than the Estimated Percentage of Limited English Proficiency Spanish Taxpayers

Given the IRS has not programmed its LEP markers for use,²¹ TAS Research used the latest U.S. Census Five-Year Estimates data to estimate a benchmark for the percentage of all U.S. taxpayers who are Spanish-speaking, working age, and LEP taxpayers.²² TAS Research used IRS data to generate the numbers of all IRS notices and letters issued in English and Spanish for FYs 2017 to 2019.²³ From these numbers, TAS contrasted the percentage of the relevant U.S. population who are LEP Spanish-speaking, working age taxpayers (almost four percent)²⁴ with the percentage of the notices and letters sent in Spanish (about a third of one percent). Given that the population of LEP Spanish-speaking taxpayers identified by TAS does not include taxpayers who speak English well but who would prefer to receive their notices in Spanish, the actual population of taxpayers who would choose Spanish notices if given a choice is likely higher than four percent. Figure 1.8.2 shows that the actual percentage of Spanish notices is substantially lower than TAS's conservative benchmark of four percent.

FIGURE 1.8.2, Total Notices and Letters and Spanish Notices and Letters, FYs 2017–2019²⁵

	FY 2019		FY 2018		FY 2017	
	Count	% of All Letters	Count	% of All Letters	Count	% of All Letters
All Notice and Letter Volumes Less Spanish Notice and Letter Volumes	146,483,794	99.67%	153,347,519	99.67%	157,093,912	99.63%
Spanish Notice and Letter Volumes	486,831	0.33%	503,473	0.33%	587,739	0.37%
Total	146,970,625		153,850,992		157,681,651	

TAS Research further examined specific notices and letters that provided important statutory rights or fulfilled a statutory directive from Congress for taxpayers. Figure 1.8.3 shows the results for these four notice/letter groups, with the share of Spanish notices and letters at less than one percent, in contrast to TAS's conservative benchmark of approximately four percent for the relevant population of Spanish-speaking LEP taxpayers.

21 IRS response to TAS fact check (Oct. 25, 2019).

22 The relevant Spanish speaking, working-age taxpayers are described as Spanish speaking persons who speak English not well or not at all and are employed out of the total number of persons age 18 and over. TAS Research used the U.S. Census Bureau, *Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over*, B16004, and U.S. Census, *Employment Status*, S2301, for 2013-2017.

23 TAS Research used data information from IRS systems, SNIP and CDW Notice Delivery System Database (NDS).

24 The estimate was derived using the Spanish Population age 18 & over, who speak English "not well" or "not at all," the Spanish employment ratio, the U.S. Population age 18 & over, and U.S. employment ratio, which produced 3.8 percent. U.S. Census 2013-2017 American Community Survey 5-Year Estimates Tables, B16004 and S2301.

25 TAS Research used data information from IRS systems, SNIP Annual Correspondex (C-Letter) Volumes by Letter number and Center for FYs 2017-2019 and Annual Notice Volumes by CP number and Center for FYs 2017-2019; and CDW NDS, NDS NOTICE Table for FYs 2017-2019.

FIGURE 1.8.3, Selected Notices and Letters in English and Spanish, FYs 2017-2019²⁶

	FY 2019		FY 2018		FY 2017	
	Count	% of CP11 & CP711	Count	% of CP11 & CP711	Count	% of CP11 & CP711
CP11 – English Error on Return – Balance Due	488,078	99.30%	613,093	99.40%	580,746	99.30%
CP711 – Spanish Error on Return – Balance Due	3,668	0.70%	3,485	0.60%	4,092	0.70%
Total	491,746		616,578		584,838	
	Count	% of CP105C & CP105(C-SP)	Count	% of CP105C & CP105(C-SP)	Count	% of CP105C & CP105(C-SP)
Letter 105C – English Claim Disallowed	305,061	99.90%	350,211	99.93%	375,592	99.90%
Letter 105(C-SP) – Spanish Claim Disallowed	226	0.10%	259	0.07%	342	0.10%
Total	305,287		350,470		375,934	
	Count	% of CP106C & CP106(C-SP)	Count	% of CP106C & CP106(C-SP)	Count	% of CP106C & CP106(C-SP)
Letter 106C – English Claim Partially Disallowed	57,375	99.90%	50,281	99.77%	56,657	99.80%
Letter 106(C-SP) – Spanish Claim Partially Disallowed	46	0.10%	114	0.23%	88	0.20%
Total	57,421		50,395		56,745	
	Count	% of Letter 845C & 845(C-SP)	Count	% of Letter 845C & 845(C-SP)	Count	% of Letter 845C & 845(C-SP)
Letter 854C – English Penalty Waiver or Abatement Disallowed/ Appeals Procedure Explained	74,067	99.90%	79,292	99.88%	104,201	99.90%
Letter 854(C-SP) – Spanish Penalty Waiver or Abatement Disallowed/ Appeals Procedure Explained	63	0.10%	93	0.12%	89	0.10%
Total	74,130		79,385		104,290	

These numbers demonstrate that in terms of important notices, the IRS is only meeting the needs of very few of the Spanish-speaking LEP population and none of the LEP population speaking other languages.

26 TAS Research used data information from IRS systems, SNIP Annual Correspondence (C-Letter) Volumes by Letter number and Center for FYs 2017-2019 and Annual Notice Volumes by CP number and Center for FYs 2017-2019.

The IRS Could Do More to Identify Taxpayers Who Should Receive Notices in Spanish

If the IRS began using its existing LEP indicator to generate notices in Spanish, it could place a simple checkbox on Form 1040 to allow taxpayers to indicate their preference for receiving notices in Spanish. In response to TAS's information request, the IRS stated: "At this time the check box option has not been considered, therefore, there are no technological barriers identified."²⁷ The IRS could also create a checkbox on its online accounts system to allow taxpayers to record a preference for Spanish notices. Additionally, the IRS could transmit the language preference automatically from the ITIN Real Time System and prompt the LEP indicator to be placed on a taxpayer's account. This could prevent situations such as what has been occurring with the CP 48, Renew Your ITIN, notice. Despite the prevalence of Spanish-speaking taxpayers within the ITIN population, in FY 2019, only *one out of almost a million* copies of the ITIN renewal notice sent to taxpayers was sent in Spanish.²⁸

The IRS could also consider other factors that would lead to marking a taxpayer's account with a preference for another language. The Social Security Administration (SSA) considers several criteria to determine whether an individual should receive a notice in Spanish:

- The application shows the claimant was born in a country or territory where Spanish is the predominant language (*e.g.*, Mexico, Puerto Rico);
- The claimant has a Hispanic surname;
- The claimant lives in a known Spanish-speaking area (*e.g.*, "Little Havana" or "East Los Angeles");
- The interview is conducted in Spanish or with the assistance of a Spanish translator;
- The claimant has difficulty speaking English but is fluent in Spanish;
- The claimant requests notification in Spanish; or
- The claimant meets none of the criteria, but there are circumstances which indicate that Spanish notices would be helpful, and the claimant would like to receive them.²⁹

If one of these criteria is met, the SSA tells those individuals they may receive Spanish notices and asks them if they want to receive them.³⁰ In addition, the SSA manual states: "If an individual files a Request for Hearing (HA-501-U5), or Request for Review of Hearing Decision/Order (HA-520-U5), and meets any of the criteria listed above, state whether the individual wants to receive Spanish notices in the section of the form that gives the reason for filing a hearing or a review."³¹ The IRS could adopt similar criteria to proactively identify taxpayers who may need to receive their notices in Spanish and allow taxpayers to easily communicate this when filling out certain forms.

The IRS Website Fails to Include Notices and Related Information About Those Notices in Languages Other Than English

The IRS is increasingly relying on its website to inform taxpayers, and to its credit, it has created individual pages to help taxpayers understand the specific notice that they have received. For example, the IRS has a page titled, *Understanding Your CP 3219N Notice*, which explains the CP 3219N, one

27 IRS response to TAS information request (June 28, 2019).

28 During FY 2019, the IRS issued CP 48, Renew Your ITIN, 969,863 times. Yet, during this same period, the IRS issued CP 748, the Spanish version of this letter, only once. IRS SNIP Database (Sept. 18, 2019).

29 SSA, Program Operations Manual System (POMS) NL 00801.025 Spanish Language Notices (2007).

30 *Id.*

31 *Id.*

of the IRS's statutory notices of deficiency that provides the taxpayer with his or her only opportunity to challenge the liability in U.S. Tax Court prior to paying it if he or she timely files a petition.³² The webpage has seven sections: What the notice is about; What you need to do; If you want to file a petition with the Tax Court; You may want to...; Helpful Information; Frequently asked questions; and Tips for next year.³³ Although the IRS has a Spanish translation of Notice 3219N, it does not have a similar webpage in Spanish for taxpayers. The Spanish webpage for notices provides only general information about understanding any IRS notice or letter, and when one searches by notice number, the results are in English.³⁴

The IRS touts that with its Spanish website and at least five other non-English websites, “potentially 85 percent of the U.S. LEP population can be serviced through the online channel.”³⁵ However, this service is inadequate when LEP taxpayers do not have similar access to the explanations and instructions for key notices that provide taxpayer rights. Eighty-nine percent of Spanish LEP taxpayers report having internet access at home,³⁶ and IRS research indicates that one of the most frequently cited activities that Spanish LEP taxpayers reported as being likely to use on the IRS website was responding to a notice.³⁷

Although translating every page into another language may be onerous, the IRS could create some general explanations in each of the top five foreign languages that would apply to different groups of notices. For example, instead of having an individual foreign language page for every SNOD or every single Collection Due Process (CDP) letter, the IRS could at minimum create some standard language for how to petition Tax Court after receiving a SNOD or when a taxpayer must request a CDP hearing. While the IRS has a webpage, *Understanding a federal tax lien*, translated into at least five languages other than English, there is no cross-reference to the notices that taxpayers receive, such as the Notice of Federal Tax Lien, and there is no mention of CDP hearing rights on this page.³⁸ The IRS could translate the page *Letters and Notices Offering an Appeal Opportunity*, which provides a brief description of each notice that provides appeal rights, and link to this page from the main notice page for each of the five foreign languages.³⁹

The majority of our discussion has been focused on Spanish because it is by far the most frequent primary language for LEP taxpayers and the only language the IRS has chosen for translating its notices. However, by only translating notices in Spanish, the IRS is leaving out literally millions of other LEP

32 IRS, Understanding Your CP3219N Notice, <https://www.irs.gov/individuals/understanding-your-cp3219n-notice>.

33 *Id.*

34 IRS, Understanding Your IRS Notice or Letter, <https://www.irs.gov/individuals/understanding-your-irs-notice-or-letter> (English) and IRS, Entendiendo sus cartas o avisos del IRS, <https://www.irs.gov/es/individuals/understanding-your-irs-notice-or-letter> (Spanish).

35 IRS, Limited-English Proficient (LEP) Customer Base Report, FY 2012–2015, 211 (Jan. 2018).

36 IRS, Taxpayer Experience Survey (TES) 2017 Spanish Limited English Proficient (LEP) Report 8 (Apr. 30, 2018).

37 Spanish LEP respondents reported they were likely to use the IRS website to find an answer to a tax law question (67 percent); respond to a notice or letter received from the IRS (65 percent); and get an IRS form or publication (64 percent). *Id.* at 21 (Apr. 30, 2018).

38 IRS, Understanding a Federal Tax Lien, <https://www.irs.gov/businesses/small-businesses-self-employed/understanding-a-federal-tax-lien>, is translated into six different languages, specifically Spanish, Chinese, Korean, Russian, Vietnamese and Haitian Creole.

39 IRS, Letters and Notices Offering an Appeal Opportunity, <https://www.irs.gov/appeals/letters-and-notices-offering-an-appeal-opportunity>. See also Most Serious Problem: *Customer Service Strategy: The IRS Needs to Develop a Comprehensive Customer Service Strategy That Puts Taxpayers First, Incorporates Research on Customer Needs and Preferences, and Focuses on Measurable Results*, *supra*.

taxpayers.⁴⁰ In 2015, there were an estimated 1.8 million LEP persons in the United States speaking Chinese, Vietnamese, Korean, Cantonese, or Russian, which are the five most popular foreign languages for LEP persons after Spanish.⁴¹ Focusing on the top five foreign languages in addition to Spanish and translating the notices that have the most importance in terms of taxpayer rights would show the IRS is committed to serving multilingual taxpayers. TAS commends the IRS for translating publications, such as its new Publication 5307, Tax Reform Basics for Individuals and Families, into languages other than English and Spanish.⁴² Still, by focusing on publications taxpayers will use on the front end when filing their taxes, and not translating key notices that are sent to taxpayers when they have a problem related to their taxes, the IRS impairs taxpayers' *right to be informed*.

IMPACT ON THE INTERNAL REVENUE SERVICE

The IRS Overlooks the Positive Impact When Determining Which Documents to Translate

In FY 2017, the IRS had 323 translated vital documents, meaning they were required by law or critical for taxpayers to receive a benefit or service.⁴³ The IRS's Standard Translation Process requires, among other items, that a document must (1) be important to LEP taxpayers, (2) be unavailable by alternate means, and (3) have an acceptable level of downstream adverse impact (such as staffing to handle additional calls).⁴⁴ Certainly, notices required by law to be issued to taxpayers or those which provide statutory rights are "important to LEP taxpayers." One might argue that if the IRS translates one SNOD, then the information is available to taxpayers by alternate means. However, because the IRS does not post the translated notices on its webpage, and it would not issue the similar translated notice to the taxpayer, then the document is not available by alternate means.

In considering downstream adverse impacts, the IRS should weigh these with the positive benefits. For example, issuing an exam notice in another language may lead the taxpayer to call the IRS to ask questions using an interpreter, which would be an adverse downstream effect in terms of resources. However, this same event may be positive for the IRS in that the taxpayer is responding to the notice, participating in the exam, and possibly learning from the exam to avoid repeating mistakes on future returns. The IRS's LEP Customer Base Report notes the costs for not only publishing LEP written materials but also the postage costs when sending these materials.⁴⁵ The IRS should not consider these costs a downstream consequence because regardless of what language the taxpayer prefers, the IRS must send the taxpayer the notice, and postage costs are the same for translated notices. In FY 2015, the IRS spent \$877,087 on over-the-phone interpretation services for Spanish speakers.⁴⁶ It is possible that issuing a greater number of notices in Spanish and providing more detailed information about the notices on the IRS's Spanish webpages could reduce some of the need for taxpayers to call the IRS.

40 LEP persons speaking one of the top 10 languages in addition to Spanish numbered 2.5 million in 2015. IRS, LEP Customer Base Report, FY 2012–2015, 28 (Jan. 2018).

41 IRS, LEP Customer Base Report, FY 2012–2015, 28 (Jan. 2018).

42 IRS.gov, Tax Reform Tax Tip 2019-140, Tax Reform Publication Translated Into Different Languages (Oct. 8, 2019), <https://www.irs.gov/newsroom/tax-reform-publication-translated-into-different-languages>.

43 IRS, LEP Customer Base Report, FY 2012–2015, 10 (Jan. 2018).

44 IRS response to TAS information request (June 28, 2019).

45 IRS, LEP Customer Base Report, FY 2012–2015, 104 (Jan. 2018).

46 *Id.*

The IRS Should Use Its Limited English Proficiency Demographic Assessment to Identify Documents to Translate

According to the IRS, the document business owner has the program responsibility for the technical content of the document and is the only one who can request a document be translated.⁴⁷ Placing the onus on the document owner to identify whether taxpayers need a document translated is misguided, considering the document owner may be an expert on the technical content but have little knowledge of what demographic, geographic, or ethnic group is receiving the document.

A better approach would be for the IRS to start with data from its LEP Demographic Assessment and use this data to make recommendations to program owners as to which documents the IRS should translate. The IRS gathers thorough data on the LEP population and publishes a useful document detailing this data in the LEP Demographic Assessment.⁴⁸ When asked for an explanation of how it uses the LEP demographic assessment, the Wage and Investment Division responded that it uses the data to determine the top five languages the IRS will serve and to “learn where these potential customers are located, industry they are employed in, education levels and other socio-economic and behavior information like computer use to determine how and where to serve taxpayers.”⁴⁹ Yet, it is not clear whether the IRS is using this data to select which notices it will translate. The most recent LEP Demographic Assessment states:

The IRS would benefit from further analysis into document translation demand, particularly in light of the success of the non-English website pages. Overall requests for document translation (internal requests from employees) have been increasing but is not that high a number, peaking at 2,422 in 2015, primarily for Spanish translation. What percent ‘share of the need’ this represents is not clear, *i.e.*, are there many others who would benefit from this who didn’t ask?⁵⁰

Some program owners may not think to ask for a translation, which could cause a discrepancy in which notices are translated. Currently, only two of the five most commonly issued versions of the statutory notice of deficiency are translated into Spanish.⁵¹ Furthermore, IRS leadership could identify some primary notices to translate into one of the top five identified foreign languages other than Spanish because the notices are so fundamental to taxpayer rights.

In addition to not leveraging the LEP Customer Data, the IRS misses the opportunity to evaluate whether it is meeting the notice needs of LEP taxpayers. The IRS appears to lack central coordination of when Spanish letters are issued, how they are accounted for, and how a taxpayer is notated as an LEP taxpayer. As the IRS prepares to implement Enterprise Case Management, now is an ideal opportunity to build in LEP indicators that will help the IRS communicate effectively across the organization.⁵²

47 The business document owner is an IRS individual who is responsible for the technical content, publishing and edits of specific letters. If a person other than the business document owner requests a letter translation, then the person must contact the business document owner and receive their concurrence. See IRS response to TAS information request (June 28, 2019).

48 IRS, LEP Customer Base Report, FY 2012–2015, 23-81 (Jan. 2018).

49 IRS response to TAS information request (June 28, 2019).

50 IRS, LEP Customer Base Report, FY 2012–2015, 20 (Jan. 2018).

51 The two Spanish versions are Letter 3219(SP), Notice of Deficiency (Spanish) and Notice CP 3219N(SP), Automated Substitute for Return (ASFR) 90-Day Letter (Spanish). IRS Product Catalog Information.

52 Enterprise Case Management (ECM) solution provides an IRS-wide solution for streamlining case and workload management processes. The solution digitizes case information, automates work selection, and improves resource alignment. See IRS Integrated Modernization Business Plan 23 (Apr. 2019). See also National Taxpayer Advocate FY 2019 Objectives Report to Congress 47-51; Most Serious Problem: *Information Technology Modernization: The IRS Modernization Plan’s Goal to Improve Taxpayer Experience Is Commendable, But the IRS Needs Additional Multi-Year Funding to Bring It to Fruition, supra.*

CONCLUSION

A tax agency dedicated to taxpayer rights should take a proactive approach to LEP taxpayers by identifying potential taxpayers who may want notices in other languages and allowing them to check a box to easily request notices in foreign languages. The IRS has identified no information technology barriers to placing a checkbox on its Form 1040 to allow taxpayers to receive notices in other languages. As the IRS relies more on its website to answer taxpayers' questions about notices and how to exercise their rights, it should translate webpages that explain the key notices. Until the IRS makes these changes, LEP taxpayers will continue to face difficulty in responding to IRS notices, exercising their rights, and coming into compliance.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Place a checkbox on Form 1040 to allow taxpayers to choose to receive their notices in Spanish and, as more notices are translated, expand the 1040 checkbox to languages other than Spanish.
2. Incorporate language information from the ITIN Real Time System in the IRS's account systems so that if a taxpayer files a Form W-7 in Spanish, an indicator is systemically placed on his or her accounts.
3. Translate into the five most common non-English languages the IRS webpages that correspond to the four notices identified above (CP 11 – English Math Error on Return – Balance Due; Letter 105C – English Claim Disallowed; Letter 106C – English Claim Partially Disallowed; Letter 854C – English Penalty Waiver or Abatement Disallowed/Appeals Procedure Explained), along with other IRS webpages that correspond to other statutory notices and taxpayer rights.
4. Develop a plan to identify additional notices that provide statutory rights and webpages that specifically pertain to those notices to be translated into the top five LEP languages by using the LEP demographics. The plan should include options to create a hyperlink or scannable code on the notices that would direct an LEP taxpayer to a webpage providing alternate language templates of the notice.
5. Create procedures similar to those used by the SSA to identify taxpayers who may have LEP, instruct employees to ask these taxpayers about language preference, and allow employees to mark a taxpayer's account to reflect this preference.
6. Place a note on all correspondence providing taxpayers with instructions explaining how to receive their notices in languages other than English.
7. Expand the LEP indicator and use the indicator to centrally coordinate and record the issuance of notices in languages other than English.