

III. FILING SEASON REVIEW

Each year, the nation's taxpayers incur a heavy burden, spending an estimated 6.1 billion hours and \$168 billion to comply with the tax code and file their returns, which is often their only interaction with the IRS. Similarly, the IRS faces enormous challenges in each filing season, processing over 143 million individual tax returns while updating its systems to account for legislative changes and revenue protection measures.¹ The IRS views a filing season as a success if it hits certain numerical processing targets. However, taxpayers may have a different experience. The IRS does not consider the long times taxpayers often wait when trying to get help at a Taxpayer Assistance Center (TAC) or on a toll-free line, or even the fact that many of these taxpayers cannot obtain assistance at all, in determining whether a filing season was a success.

From the taxpayers' perspective, a successful filing season means they can submit their returns easily, electronically or on paper. If the IRS finds a problem, the taxpayer would receive a clear explanation and an opportunity to fix the problem in one step, through self-help online tools, a telephone call, correspondence, or a visit to a TAC.

However, in the current environment, this often is not the case. In the 2013 filing season, taxpayers experienced challenges in the following areas:

- A late start to the filing season;
- Additional forms, such as the one required to claim an education credit (Form 8863), were delayed into March;
- Low levels of phone service;
- Long wait times to reach a customer service representative;
- Limited services available at TACs; and
- Fewer TACs that could accept cash payments.

A. Late Legislation Delayed the 2013 Filing Season

Congress often considers legislation to extend expiring tax provisions and make other changes to the tax code. In recent years, Congress has passed this legislation late in the calendar year, compressing the time available for the IRS to update and test programming for the filing season, and to revise tax forms and instructions. The IRS faced significant hurdles in changing programming to implement late legislative changes enacted on January 2, 2013.² While many individuals could file on January 30, about two weeks after the

1 National Taxpayer Advocate 2012 Annual Report to Congress 5-6; IRS, *IRS Data Book*, Table 9a: *Examination Coverage: Recommended and Average Recommended Additional Tax After Examination, by Type and Size of Return* (2012).

2 American Taxpayer Relief Act (ATRA) (Jan. 2, 2013).

traditional start of the filing season, certain returns were delayed until March 4.³ The IRS opened the filing season for more taxpayers as it completed programming for additional forms.⁴

- February 10, 2013: Returns with Form 4562, *Depreciation and Amortization (Including Information on Listed Property)*;
- February 14, 2013: Returns with Form 8863, *Education Credits*; and
- March 4, 2013: Filing season open for all individuals.

The late legislation imposed significant burden on taxpayers, return preparers, and the IRS. The compressed timeframe limited software testing and could have contributed to the problems surrounding education credits, discussed later in this section.

In FY 2014, TAS will continue to recommend that Congress pass “extender” legislation early enough to give the IRS adequate time to program and test tax code changes affecting the current filing season. Additionally, TAS will participate in the IRS’s Filing Season Readiness initiative and assist the IRS in identifying potential problems before they arise, such as those associated with the First-Time Homebuyer Credit (FTHBC) repayment programming, discussed below. TAS will continue to encourage TAS and IRS employees, practitioners, and taxpayers to submit potential systemic issues to the Systemic Advocacy Management System (SAMS) to assist TAS in the early identification of problems, such as the missing information from Form 8863, *Education Credits*, discussed below.

B. Miscommunications with e-File Vendors and Tax Preparers Delayed Taxpayers’ Refunds and Caused More Work for IRS Employees

During the first three weeks of the 2013 filing season, the IRS rejected more individual returns for error resolution than it typically does (8.39 percent versus approximately four to six percent).⁵ As of February 22, 2013, inventories of individual returns awaiting correction had increased nearly 330 percent compared to the same period the previous year.⁶ Fifty-two percent of that inventory (over 520,000 taxpayers) was over aged, meaning the IRS did not work the returns in the prescribed timeframe.⁷ The IRS determined the increase was due to incomplete Forms 8863, *Education Credits*, and Form 8867, *Paid Preparer’s Earned Income Credit Checklist*.

3 IRS, *IRS Plans Jan. 30 Tax Season Opening for 1040 Filers*, IR-2013-2 (Jan. 8, 2013), available at <http://www.irs.gov/uac/Newsroom/IRS-Plans-Jan.-30-Tax-Season-Opening-For-1040-Filers>.

4 IRS, *IRS to Accept Tax Returns with Education Credits, Depreciation Next Week*, IR-2013-18 (Feb. 8, 2013), available at <http://www.irs.gov/uac/Newsroom/IRS-To-Accept-Tax>Returns-with-Education-Credits,-Depreciation-Next-Week> and *IRS Now Accepting All 2012 Returns*, IR-2013-25 (Mar. 4, 2013), available at <http://www.irs.gov/uac/IRS-Now-Accepting-All-2012>Returns>.

5 IRS, Submission Processing Miscellaneous Monitoring Report, Headquarters, (week ending Feb. 22, 2013, Feb. 24, 2012, Feb. 25, 2011). Comparatively, in the last week in February of filing season 2012 the ERS error rate was 4.2 percent, and in filing season 2011 it was 6.4 percent.

6 For a discussion of how this affected TAS case volumes, see *Case Advocacy, infra*. IRS, Submission Processing Miscellaneous Monitoring Report, Headquarters, (week ending Feb. 22, 2013). In filing season 2013, over one million returns were awaiting correction as of Feb. 22, compared to approximately 200,000 returns during the same period in 2012.

7 IRS, Submission Processing Miscellaneous Monitoring Report, Headquarters, (week ending Feb. 22, 2013).

TAS notified the IRS that lines 23 through 26 on Forms 8863 transmitted by a limited number of Modernized e-File (MeF) vendors were not appearing on IRS systems. At the same time, the vendors were reporting the same problem to the IRS, yet the IRS did not change its processes. The IRS determined that the taxpayers had input the information on those lines, but the vendor's software failed to transmit the data to the IRS during e-filing. The vendors fixed the problem on February 22, 2013, yet for nearly three more weeks, the IRS continued to delay return processing and refunds and mailed notices to taxpayers asking for the missing information.⁸ After receiving vendor affidavits related to the missing Form 8863 data, on March 12, 2013 the IRS began manually releasing the delayed tax returns for processing without waiting for taxpayer responses.⁹ The IRS completed all the manual releases (for those where there was no other issue requiring a taxpayer response) by March 28, 2013, allowing the IRS to resume processing the returns. The missing Form 8863 information impacted over 800,000 returns.¹⁰

TAS's early alert systems allowed it to identify this issue and advise the IRS that although both TAS and the vendors had found the root cause of the problem, the IRS was still unnecessarily corresponding with taxpayers and delaying their refunds. Over 850 taxpayers contacted TAS for help with missing Form 8863 information.¹¹ TAS worked with the Wage and Investment division on a streamlined process to resolve over 850 cases.¹² Additionally, 21 SAMS submissions identified the problem with Form 8863.¹³ TAS will continue to closely monitor data to identify systemic problems with IRS filing season processes and procedures and will work closely with the IRS to resolve any issues.

Similarly, the IRS discovered many Forms 8867, *Paid Preparer's Earned Income Credit Checklist*, were missing or incomplete. Preparers complete this checklist to describe the actions taken during return preparation to verify taxpayers' eligibility for the Earned Income Tax Credit (EITC). The IRS delayed processing the associated tax returns while it contacted the taxpayers for the missing information, even though the preparers were responsible for the form. Requesting Form 8867 directly from the taxpayers imposed an unnecessary burden. This is the second year the IRS required preparers to file Form 8867 with tax returns claiming the EITC, but the first year it delayed return processing because of missing forms. The IRS sent a letter to preparers who submitted 2011 tax returns claiming the EITC without attaching Form 8867, warning them of their failure to meet due diligence requirements, and stating that the IRS would assert due diligence penalties starting with 2012 returns.¹⁴

8 IRS, Servicewide Electronic Research Program (SERP) Alert 13A0205 (Mar. 11, 2013).

9 IRS, SERP Alert 13A0203 (Mar. 12, 2013).

10 IRS, SERP Alert 13A0297 (April 16, 2013).

11 TAMIS Data (Mar. 19 and 22, 2013).

12 *Id.*

13 SAMS submissions from Jan. 1, 2013 to June 4, 2013; data retrieved June 4, 2013.

14 IRS, Tax Preparer Toolkit – What is Form 8867? (Oct. 24, 2012), available at <http://www.eitc.irs.gov/rptoolkit/dd/Form8867/>. The IRS sent Letter 4989 to affected preparers in July 2012.

A Treasury Inspector General for Tax Administration (TIGTA) report identified as many as 80,585 preparers who filed 612,622 returns claiming the EITC without the form through March 7, 2013.¹⁵ Two weeks into the filing season, the IRS made a policy decision to cease delaying these returns and instead to address the compliance issue directly with the preparers.¹⁶ The IRS began manually releasing the returns delayed during the first two weeks for processing on February 15, 2013.¹⁷

In FY 2014, TAS will encourage the IRS to work with software vendors to require e-filed preparer returns that claim the EITC to include Form 8867. The IRS should resolve any due diligence issues from paper returns missing Form 8867 by contacting the preparer, not the taxpayer.

C. Key Measures of Taxpayer Service Levels Fail to Meet Expectations

The National Taxpayer Advocate identified inadequate IRS funding to serve taxpayers and collect taxes as a Most Serious Problem in both the 2011 and 2012 Annual Reports to Congress.¹⁸ The National Taxpayer Advocate also has reported on many aspects of taxpayer service that have declined or have not met taxpayer expectations over the last five fiscal years because of funding cuts and IRS policy decisions.¹⁹ Despite the National Taxpayer Advocate's concerns and continued recommendations for improvements, taxpayer service levels across the IRS fail to meet taxpayer expectations. Problems persist with phone levels of service, phone wait times, and the face-to-face service offered at TACs.

In the 2012 Annual Report, the National Taxpayer Advocate highlighted declining levels of service (LOS) across IRS phone lines.²⁰ However, the IRS continued to fail to answer nearly 30 percent of Customer Account Services incoming calls between October 2012 and late May, 2013.²¹ More troubling than even the overall LOS was the IRS's inability to answer the phones on the statutory deadline for filing taxes, April 15, 2013. On that day, the IRS answered only 57 percent of incoming calls.²²

15 These preparers could face over \$306 million in penalties (\$500 per return) at the completion of the filing season. TIGTA, Ref. No. 2013-40-035, *Interim Results of the 2013 Filing Season 8* (Mar. 29, 2013).

16 IRS, SERP Alert 13A0168 (Feb. 25, 2013). TIGTA, 2013-40-035, *Interim Results of the 2013 Filing Season 8* (Mar. 29, 2013).

17 IRS, SERP Alert 13A0152 (Feb. 15, 2013).

18 See National Taxpayer Advocate 2012 Annual Report to Congress 34-41 and National Taxpayer Advocate 2011 Annual Report to Congress 1-14.

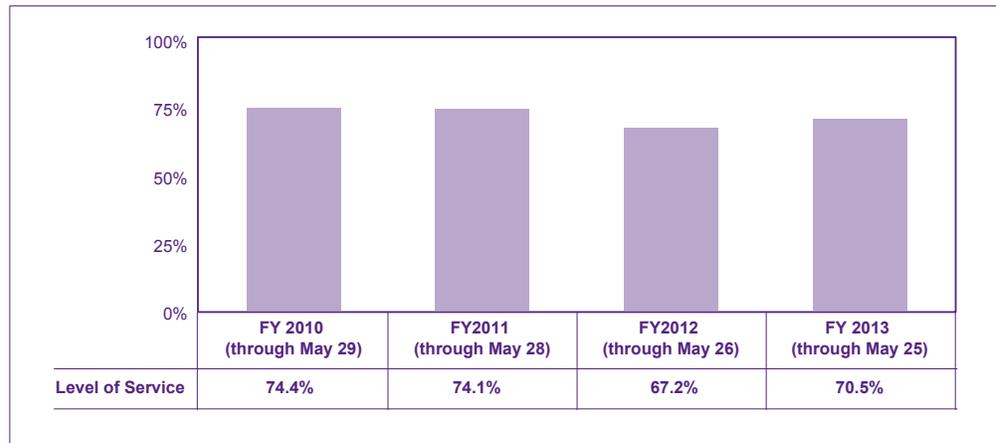
19 See e.g., National Taxpayer Advocate 2012 Annual Report to Congress 206-347 and National Taxpayer Advocate 2010 Annual Report to Congress 267-277.

20 National Taxpayer Advocate 2012 Annual Report to Congress 218-231.

21 IRS, Joint Operations Center, Snapshot Report, May 25, 2013. Customer Account Services (CAS)/Accounts Management (AM) telephone lines included 28 toll-free lines in 2013). From October 1, 2012 through May 25, 2013, the IRS received 78,144,150 net call attempts to the CAS or AM lines, of which 22,598,925 were answered by a customer service representative. The CSR level of service (LOS) as of May 25, 2013 is 70.5 percent.

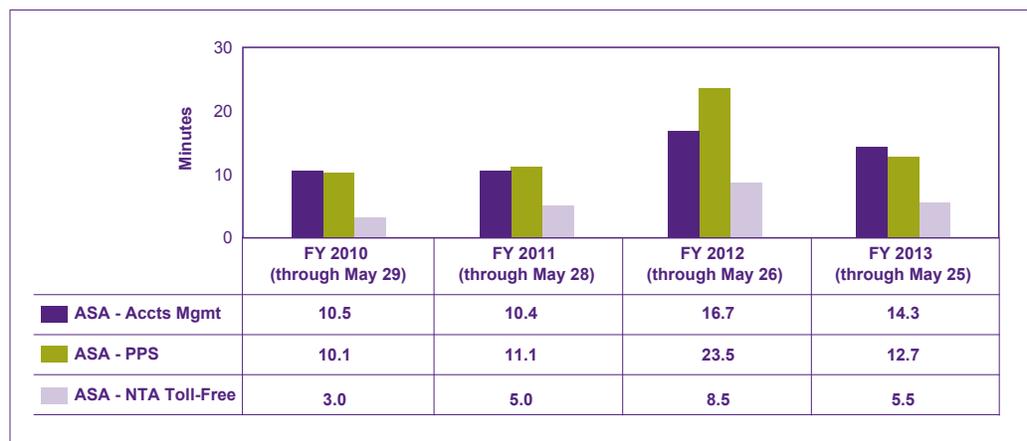
22 IRS, Joint Operations Center, Accounts Management Rollup (Apr. 15, 2013).

FIGURE III.1, LEVEL OF SERVICE FOR IRS CUSTOMER ACCOUNT SERVICES TELEPHONE OPERATIONS, FY 2010 - 2013²³



Not only does the IRS too often fail to answer the phone, but when it does answer a call, the taxpayer has to wait longer to speak to an employee. The IRS measures wait time, *i.e.*, the Average Speed of Answer (ASA), on both an enterprise-wide basis and for individual specialty telephone lines, such as the Practitioner Priority Service (PPS) and National Taxpayer Advocate (NTA) Toll-Free line.²⁴ ASA varies widely, which means taxpayers cannot expect consistent service.

FIGURE III.2, AVERAGE SPEED OF ANSWER (ASA) FOR IRS CUSTOMER ACCOUNT SERVICES TELEPHONE OPERATIONS IN MINUTES, FY 2010 - 2013²⁵



23 Enterprise Snapshot Reports (May 29, 2010, May 28, 2011, May 26, 2012, and May 25, 2013). The FY 2013 actual data is through May 25, 2013. IRS, Joint Operations Center, Snapshot Reports, May 25, 2013.

24 PPS is for taxpayer representatives calling with questions about their clients' accounts. W&I staff answer NTA Toll-Free calls from taxpayers that seek TAS assistance to resolve their tax problems.

25 IRS, Joint Operations Center, Product Line Detail Reports and Snapshot Reports (May 29, 2010, May 28, 2011, May 26, 2012, May 25, 2013).

While the IRS is currently exceeding the target goal of 15 minutes to answer the phone, taxpayers must still wait over 14 minutes to speak to a representative, and nearly four minutes longer than in FY 2010 and 2011. This is an unacceptable wait time, when not even ten years ago the IRS answered the phones in an average of less than three minutes.²⁶ Meanwhile, more Taxpayer Assistance Centers are staffed by just one IRS employee, impacting the hours and potential availability of those TACs and leading to a decline in taxpayer service, as shown below.

FIGURE III.3, TAXPAYER ASSISTANCE CENTERS STAFFING AT THE START OF THE 2012 AND 2013 FILING SEASONS²⁷

TAC Staffing Level	As of Feb. 11, 2012	As of Feb. 9, 2013
1 employee	48	65
2 employees	115	99
3 or more employees	237	228
Total	400	392

The number of staffed TACs has fallen each year. Furthermore, the number of sites staffed by just one employee rose from 48 in 2012 to 65 in 2013. TACs staffed by two or fewer employees are subject to unexpected closures due to employee absence or extended wait times due to higher-than-projected customer volumes. Because of an IRS policy requiring three separate employees to complete a cash transaction, TACs with only one or two employees do not accept cash payments,²⁸ and due to staffing changes, nearly 42 percent of TACs now cannot accept cash.²⁹ The IRS could mitigate this problem by updating its website (www.irs.gov) to reflect whether a TAC accepts cash. However, a taxpayer who lacks Internet access, is not familiar with IRS cash acceptance procedures, and does not call ahead to a TAC may travel a long distance to find that he or she cannot make a cash payment.³⁰

Taxpayers increasingly seek return preparation assistance through a TAC office, VITA site, paid preparer, or third-party software. Continuing a change made in 2012, however, TACs no longer schedule appointments for return preparation, and perform this service only on a walk-in, first-come first-served basis.³¹ In the 2013 filing season, TACs prepared 57,027

26 IRS, Joint Operations Center, Snapshot Reports FY 2004-2012. The actual data was provided in seconds and converted to minutes. In FY 2004, average phone wait time was 158 seconds (2.6 minutes).

27 IRS Human Resources Reporting Center Post of Duty and Building Reports (Feb. 11, 2012, Feb. 9, 2013).

28 IRM 21.3.4.7.11.5 (Apr. 1, 2011). To comply with the requirements associated with the segregation of duties and to implement the remittance/courier process, three separate employees are required to complete the cash transaction.

29 IRS Human Resources Reporting Center Post of Duty and Building Reports (Feb. 9, 2013). 164 TACs have fewer than three employees out of 392 total TACs, resulting in 41.8 percent that cannot ever accept cash payments.

30 IRM 21.3.4.7.2 (Oct. 1, 2011).

31 W&I Business Performance Review 3 (Nov. 14, 2012).

accepted tax returns, down more than 50 percent from 122,843 in 2011 when they still made appointments.³²

FIGURE III.4, VOLUME AND SOURCE OF CURRENT YEAR INDIVIDUAL RETURNS ACCEPTED FOR THE 2010 THROUGH 2013 FILING SEASONS³³

Individual Tax Returns Accepted	2011 Filing Season (through 4/22/2011)	2012 Filing Season (through 4/20/2012)	2013 Filing Season (through 4/19/2013)
Volunteer Prepared Returns	2,429,081	3,051,319	2,298,173
Traditional Free File Electronic Returns	2,632,990	2,549,423	2,384,332
Free File Fillable Forms Electronic Returns	407,795	449,937	450,951
TAC E-File Tax Returns	30,986	71,345	29,562
Other E-File Returns	99,147,031	104,868,842	107,168,713
V-Coded Paper Returns	16,326,993	12,956,427	11,175,270
Other Paper Returns	7,584,124	6,925,707	6,437,999
Total Individual Returns Accepted	128,559,000	130,873,000	129,945,000

Returns prepared using software, then printed and mailed to the IRS, are called “v-coded” returns. This category declined because IRC § 6011(e)(3) and the associated regulations require preparers who reasonably expect to file 11 or more returns per year to e-file.³⁴

Some taxpayers are eligible (based on income level) to e-file at no cost through participating software vendors or fillable forms available (without income limitation) on the IRS website under the Free File program. The number of Free File returns accepted is far below the 60 to 70 percent that are eligible.³⁵ When taxpayers were asked in focus groups about whether they would use Free File, some responded that they:

- Do not trust that it is truly free;
- Are wary about security;
- Are not computer literate/savvy;
- Do not trust the IRS; and
- Want a physical copy of the return to feel secure.³⁶

32 IRS, EFILE Field Assistance Report, May 7, 2013. IRS, EFILE Field Assistance Report, May 8, 2011. The decrease in returns prepared by the IRS and accepted by the EFILE system since the IRS stopped accepting appointments for tax return preparation is 53.6 percent. The IRS prepared 65,816 fewer returns that were accepted in filing season 2013.

33 E-File Reports and Filing Season Statistics (Apr. 22, 2011, Apr. 20, 2012, Apr. 19, 2013). Volunteer prepared return data for the 2011 filing season is only through March 31, 2011 per W&I Business Performance Review 16 (May 17, 2011). TAS Research estimated the V-coded return counts for the dates indicated, based on the number of V-coded returns processed as of the date indicated.

34 Treas. Reg. § 301.6011-7(a)(3).

35 Memoranda of Understanding between the IRS and the Free File Alliance set the coverage level of returns eligible for Free File.

36 Publication 4833, *Report of Findings from Marketing Focus Groups Among Taxpayers* (Sep. 2010).

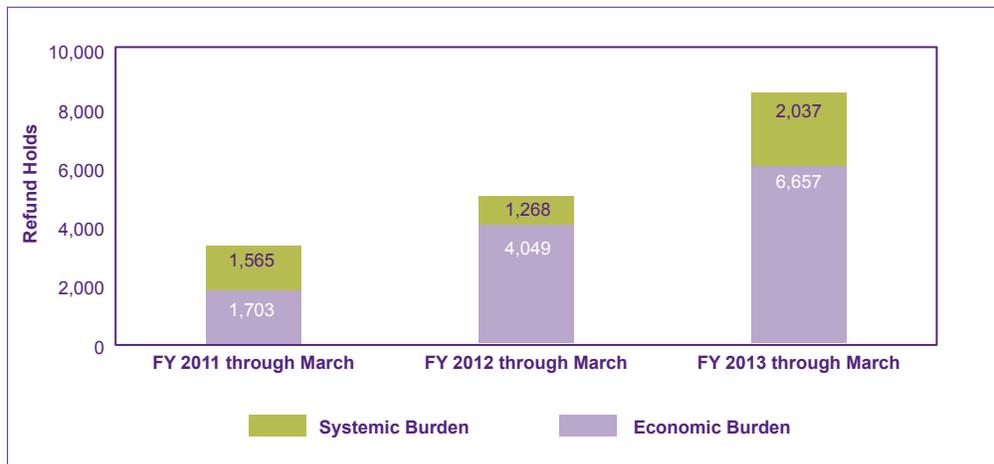
In FY 2014, TAS will encourage to IRS offer a free electronic filing option that allows taxpayers of all income levels to self-prepare and transmit their tax return directly to the IRS. This approach may address taxpayer security concerns.³⁷

D. Implementation of Fraud Detection Filters Impacts Taxpayers

The IRS has several methods of detecting and stopping refund fraud and identity theft through electronic filters.³⁸ However, these filters also can ensnare legitimate claims.

Over the last three years, TAS has seen a significant increase in wage verification cases. In FY 2011, TAS had received 3,268 such cases by March 30, where in FY 2013 the number rose to 8,695, an increase of 166 percent. *Cases involving taxpayers who are facing an economic burden increased over 290 percent during the same time frame, from 1,703 to 6,657.*³⁹ This increase shows that the wage verification unit is still failing to provide adequate victim assistance with respect to legitimate refunds where a filter inadvertently catches a valid return.

FIGURE III.5, TAS WAGE VERIFICATION REFUND HOLD ECONOMIC AND SYSTEMIC BURDEN CASES, FY 2011 - 2013⁴⁰



The number of taxpayers who came to TAS seeking release of refund holds and who received this relief shows that the IRS continues to impose significant delays on innocent taxpayers. The percentage of taxpayers who received full or partial relief from TAS, or

37 For further information about the National Taxpayer Advocate’s position on free electronic filing, see National Taxpayer Advocate 2012 Annual Report to Congress 232-250 (Most Serious Problem: *The IRS Has Failed to Make Free Return Preparation and Free Electronic Filing Available to All Individual Taxpayers*).

38 For more information about IRS efforts to combat identity theft, see Areas of Focus: *Identity Theft*, *supra*.

39 Data from TAMIS (Oct. 1, 2011 and Apr. 1, 2013).

40 Data from TAMIS (Oct. 1, 2011, Oct. 1, 2012, and Apr. 1, 2013).

relief from the IRS after contacting TAS, has increased from 75 percent in FY 2012 to 81 percent in FY 2013 (through March).⁴¹

FIGURE III.6, TAS RELIEF DATA FOR WAGE VERIFICATION REFUND HOLD CASES, FY 2011 - 2013⁴²

Type of Relief	% of Cases Closed in FY 2011	% of Cases Closed in FY 2012	% of Cases Closed in First Half of FY 2013
Full Relief	73%	68%	64%
Relief provided prior to TAS intervention	4%	5%	14%
Partial Relief	2%	2%	3%
No Relief (no response from taxpayer)	18%	21%	16%
Relief not required (taxpayer rescinded request)	1%	1%	1%
No relief (hardship not validated)	<1%	<1%	<1%
Relief not required (no Internal Revenue issue)	<1%	<1%	<1%
No relief (tax law precluded relief)	<1%	<1%	<1%
TAO Issued - IRS Complied	<1%	<1%	<1%
TAO Issued - IRS Appealed; TAO Rescinded	0%	<1%	0%
Other no relief	2%	2%	1%
Total Closures	100%	100%	100%

In FY 2014, TAS will continue to advocate for the IRS to improve processes, screening tools, and programming for the 2014 filing season to limit the impact on innocent taxpayers by:

- Actively participating in task forces and groups;
- Monitoring the percentage of returns erroneously stopped by the fraud filters;
- Advocating for changes in filters that are performing less than acceptably; and
- Issuing Taxpayer Assistance Orders when the IRS fails to timely offer relief in response to TAS case advocacy for innocent taxpayers.

E. Faster Return Processing Continued, But Service Interruptions on “Where’s My Refund?” Confused Taxpayers

The 2013 filing season was the second year the IRS used the Customer Account Data Engine (CADE) 2 to process returns, issue refunds, and maintain individual taxpayer accounts. CADE 2 processes some account actions on a daily basis (versus weekly under the prior system), providing faster refunds to taxpayers and more timely and accurate information for IRS employees to answer taxpayer inquiries. During this past filing season, CADE

41 Data from TAMIS (Oct. 1, 2011 and Apr. 1, 2013).

42 Data from TAMIS (Oct. 1, 2011, Oct. 1, 2012, and Apr. 1, 2013).

2 processed more transactions on a daily basis, including ID theft indicators, most payments, address changes, and name changes.⁴³

The IRS “Where’s My Refund” web tool and IRS2Go phone application offered faster and more complete information in 2013. However, the compressed start of the filing season due to late legislative changes generated high traffic and disrupted both services in February 2013. This prompted the IRS to remind taxpayers to check the applications no more than once a day.⁴⁴ The IRS also added a graphic refund tracker to these tools that displays three milestones:

- Return received;
- Refund approved; and
- Refund sent.

Both tools posted information 24 hours after IRS e-file acceptance, compared to 72 hours the previous year. However, some taxpayers found subsequent checks of “Where’s My Refund” displayed less progress than shown previously. When taxpayers who received inconsistent information called the IRS, many found IRS employees refused to research the status of their refunds.⁴⁵ Later, the Accounts Management unit directed its employees to tell taxpayers the earlier information from “Where’s My Refund” was correct, but the guidance still told employees not to perform research on account unless the taxpayer insisted.⁴⁶

In March 2013, the IRS launched a similar tool, a web and automated phone application called “Where’s My Amended Return” to track Forms 1040X, *Amended U.S. Individual Income Tax Return*.⁴⁷ This tool should reduce routine telephone contacts on amended returns, allowing the IRS to shift employees to more complex issues. Even so, the IRS will continue to expend significant time and resources processing amended returns until it allows e-filing for Form 1040X.⁴⁸

Based on the functionality of the refund and amended return tools for the 2014 filing season, TAS will review IRS guidance on refund inquiries to verify, at a minimum, that if taxpayers contact the IRS because the tool gives conflicting information, IRS employees research the account in real time and provide current information to the taxpayer.

43 IMF Daily-Weekly Transactions - 2013 (Dec. 6, 2012).

44 IRS, IRS Statement on “Where’s My Refund?” Tool (Feb. 14, 2013) available at <http://www.irs.gov/uac/IRS-Statement-on-Where's-My-Refund-Tool>.

45 IRM 21.4.1.3 (Jan. 30, 2013). For example, if the IRS assistor learned the taxpayer previously received a message from “Where’s My Refund” of “We received your tax return and it is being processed,” the IRM instructs IRS employees: “DO NOT Access their Account or complete any research. Advise the taxpayer that you are unable to provide any additional information than the information already provided by the automated system.” IRS assistants were following this guidance even though the “Where’s My Refund” message later changed to “cannot provide any information.”

46 IRM 21.4.1.3 (Feb. 11, 2013).

47 IRS, W&I Business Performance Review 7 (Feb. 13, 2013).

48 National Taxpayer Advocate 2008 Annual Report to Congress 274-289.

F. For the Third Filing Season, the IRS Failed to Program Computers to Process Homebuyer Credit Repayments

The Housing and Economic Recovery Act of 2008 provided first-time homebuyers with a tax credit worth up to \$7,500 for homes purchased after April 8, 2008, and before July 1, 2009.⁴⁹ The credit is similar to a no-interest loan and must be repaid in 15 equal, annual installments beginning with the 2010 income tax year. Instead of programming to accommodate a 15-year repayment plan, the IRS has implemented “workarounds” in each filing season to date. However, it does not provide timely or adequate training to its employees and had no workaround in place at the start of the 2013 filing season, thus delaying returns with FTHBC repayments. The IRS began 2013 with no published guidance on resolving certain error conditions, even though TAS raised the issue in prior years. Below is a list of some reasons for the delay in processing the FTHBC:

- The taxpayer forgot to make a repayment;
- The repayment must be divided between the primary and secondary taxpayers;
- The taxpayer is reporting a disposition of the house and the information must be applied to the secondary taxpayer as well; or
- The taxpayer is deceased but the IRS’s computers do not recognize the death and keep looking for a repayment.⁵⁰

After TAS intervened, the IRS finally issued a special alert to employees to process these returns.⁵¹ The laws governing the FTHBC recapture have not changed, but the lack of guidance is affecting many of the same taxpayers across multiple filing seasons. Almost 500,000 taxpayers received the FTHBC subject to repayment, yet the IRS continues to burden these taxpayers every year by failing to implement permanent programming to process FTHBC repayment returns for the next 12 years.⁵²

TAS will continue to advocate for permanent guidance through the IRM clearance process and verify that the temporary guidance is incorporated into the permanent IRM. Moreover, through its participation in the IRS Filing Season Readiness team, TAS will make sure that employees receive adequate training on this issue.

49 Pub. L. No. 110-289, § 3011, 122 Stat. 2654, 2888 (July 30, 2008).

50 IRM 3.12.3.79.6.7 (Apr. 2013).

51 IRS, SERP Alert 13U0697 (April 5, 2013).

52 IRS, 2009 IRS Data Book, Table A.