



# TAS SYSTEMIC ADVOCACY OBJECTIVES

## INTRODUCTION

IRC § 7803(c)(2)(B)(i) requires the National Taxpayer Advocate to submit a report to Congress by June 30 of each year that describes the objectives outlined by the Office of the Taxpayer Advocate for the upcoming fiscal year. This report is known as the Objectives Report to Congress. The following sections present TAS’s key goals and planned activities for fiscal year (FY) 2025 in three areas: Systemic Advocacy Objectives, TAS Case and Other Business Objectives, and TAS Research Objectives.

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

**TAS Case Advocacy and Other Business Objectives** describe additional activities TAS will pursue to advance its advocacy efforts through casework and systemic advocacy and through the Taxpayer Advocacy Panel and Low Income Taxpayer Clinics. TAS works directly with taxpayers and their representatives to identify issues, research solutions, and advocate on behalf of taxpayers. TAS’s goal is to continuously improve its internal and external processes and business operations for the benefit of taxpayers. This section details planned TAS activities for organizational improvement and promotion of its advocacy efforts.

**TAS Research Objectives** focus on understanding how IRS procedures affect taxpayers and how taxpayers react to IRS actions. The objectives of TAS Research are to improve IRS operations and assist the IRS with balancing its compliance and enforcement efforts with taxpayer rights while also reducing taxpayer burden. Four new research projects are scheduled for FY 2025.

## 1. MODERNIZE IRS PROCESSING TO INCREASE EFFICIENCY AND IMPROVE THE TAXPAYER EXPERIENCE

Hundreds of millions of taxpayers file their tax returns with the IRS annually. For many Americans, it is the only experience they have with the IRS, so providing efficient filing and processing systems is paramount to effective tax administration. The effects of paper processing ripple throughout the IRS, decreasing administrative efficiency and increasing taxpayer burden. Paper processing not only creates backlogs in the processing of mailed tax forms and correspondence, but it also negatively impacts elements of the taxpayer experience, including telephone line wait times, timeliness of refunds, and document storage costs.<sup>1</sup>

The IRS Paperless Processing Initiative<sup>2</sup> seeks to mitigate the impacts of paper submissions and reduce the burden of paper filing on taxpayers. As part of the initiative, the IRS launched the Document Upload Tool (DUT),<sup>3</sup> which allows taxpayers to securely upload documents to the IRS but still requires the IRS to manually process on the back end. The initiative has set an ambitious goal to accomplish paperless processing (scanning and digitalization) of all tax and information returns by the 2025 filing season.<sup>4</sup> Even with a shift toward digitalization, the IRS only scanned about ten percent (nearly a million) of returns and forms filed by paper during Filing Season 2024 through May 3, 2024. The scanned returns and forms were primarily IRS Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return; IRS Form 941, Employer's Quarterly Federal Tax Return; IRS Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return; and IRS Form 1040, U.S. Individual Income Tax Return, where certain schedules were attached.<sup>5</sup>

Electronic filing is an important tool to reduce the number of paper tax returns taxpayers submit to the IRS, as it allows the IRS to more efficiently process returns during the annual filing season.<sup>6</sup> With less paper to process, backlogs decrease, improving return processing and the timeliness of payment of refunds. Even with a high rate of electronic filing, some taxpayers who want to electronically file are unable to do so. Taxpayers may have to paper file if they must file a form or schedule that the IRS has not programmed its systems to accept electronically or if the IRS systems reject a tax return for violating a programming rule. As part of the Paperless Processing Initiative, the IRS has begun expanding the forms eligible for electronic filing, but the project is far from complete.<sup>7</sup> TAS will continue to monitor the Paperless Processing Initiative and provide recommendations as needed.

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- 1 National Taxpayer Advocate 2023 Annual Report to Congress 5 (Most Serious Problem: *Processing: Ongoing Processing Delays Burden and Frustrate Taxpayers Awaiting Refunds and Other Account Actions*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_01\\_Processing-Delays\\_FINAL\\_01292024.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_01_Processing-Delays_FINAL_01292024.pdf).
  - 2 IRS Fact Sheet, FS-2023-25, IRS Achieves Key Paperless Processing Initiative Goal, Outlines Improvements for Filing Season 2024 (Nov. 2023), <https://www.irs.gov/newsroom/irs-achieves-key-paperless-processing-initiative-goal-outlines-improvements-for-filing-season-2024>; IRS Fact Sheet, FS-2023-18, IRS Launches Paperless Processing Initiative (Aug. 2023), <https://www.irs.gov/newsroom/irs-launches-paperless-processing-initiative>.
  - 3 Until the IRS implements a backend workflow process and case management system integration, IRS staff processes DUT submissions manually, which creates another potential processing backlog. See National Taxpayer Advocate 2023 Annual Report to Congress 87 (Most Serious Problem: *Online Account Access for Taxpayers and Tax Professionals: Digital Services Remain Inadequate, Impeding Efficient Case Resolution and Forcing Millions of Taxpayers to Call or Send Correspondence to the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_07\\_Online-Accounts.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_07_Online-Accounts.pdf).
  - 4 IRS Fact Sheet, FS-2023-25, IRS Achieves Key Paperless Processing Initiative Goal, Outlines Improvements for Filing Season 2024 (Nov. 2023), <https://www.irs.gov/newsroom/irs-achieves-key-paperless-processing-initiative-goal-outlines-improvements-for-filing-season-2024>; IRS Fact Sheet, FS-2023-18, IRS Launches Paperless Processing Initiative (Aug. 2023), <https://www.irs.gov/newsroom/irs-launches-paperless-processing-initiative>.
  - 5 IRS response to TAS information request (May 23, 2024). The IRS also has a longstanding hybrid scanning/manual transcription program that processed about 3.8 million employment tax returns through May 3, 2024. During Filing Season 2024 through the week ending May 25, 2024, the IRS scanned only 176,365 Forms 1040. IRS response to TAS information request (June 3, 2024).
  - 6 See, e.g., Alexander Rifaat, *Paper W-2 Filings on Track to Drop by Half*, TAX NOTES, Apr. 5, 2024, at 372, <https://www.taxnotes.com/tax-notes-today-federal/employment-taxes/paper-w-2-filings-track-drop-half/2024/04/05/7dj9>.
  - 7 National Taxpayer Advocate 2023 Annual Report to Congress 5 (Most Serious Problem: *Processing: Ongoing Processing Delays Burden and Frustrate Taxpayers Awaiting Refunds and Other Account Actions*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_01\\_Processing-Delays\\_FINAL\\_01292024.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_01_Processing-Delays_FINAL_01292024.pdf).

The National Taxpayer Advocate has recommended the IRS accept valid tax returns it rejected solely based on electronic filing criteria and direct them to an appropriate treatment stream for resolving discrepancies.<sup>8</sup> During FY 2023, 150.9 million individuals filed an electronic Form 1040. Of the 19.4 million taxpayers who experienced rejection of their tax return, the IRS ultimately accepted returns for approximately 14 million taxpayers, while over five million of those taxpayers with a rejected Form 1040 return ended up filing on paper or did not file.<sup>9</sup> TAS will continue to advocate for a system that allows taxpayers to perfect electronic tax return filings rather than forcing those taxpayers to submit paper returns.

### **Objective 1 for FY 2025 – TAS will work with the IRS as the IRS implements plans to modernize processing through the Paperless Processing Initiative.**

- Activity 1: Monitor the IRS implementation of the Paperless Processing Initiative, including scanning technology and digitalization to process paper-filed IRS forms and correspondence and the expansion of electronic filing eligible tax forms, and make administrative recommendations as needed to minimize taxpayer burden.
- Activity 2: Provide recommendations to allow perfection of electronically filed tax returns rejected solely based on electronic filing criteria and the creation of an appropriate treatment stream for resolving discrepancies.
- Activity 3: Monitor the inventory and processing of amended returns, including Employee Retention Credit claims, and provide recommendations to improve the processing timeframe and transparency about the length of time and reasons for delays.

## **2. IMPROVE IRS EMPLOYEE HIRING, RECRUITMENT, RETENTION, AND TRAINING PROCESSES**

The IRS still has much work to do to improve its hiring, recruitment, and training processes. Failures in hiring, recruitment, and training lead to poor customer service quality, undermine voluntary compliance, and burden tax administration. IRS employee attrition remains a concern for the National Taxpayer Advocate. As noted in the 2023 Annual Report to Congress, about 18 percent of IRS employees are currently retirement-eligible and can leave at any time, with 37 percent of IRS employees estimated to become retirement-eligible in the next five years.<sup>10</sup> This state of affairs will lead to a void in the management and leadership ranks at the IRS, and the National Taxpayer Advocate urges the IRS to move quickly and efficiently to mitigate the impact of employee attrition.

The IRS continues to expand its use of in-person and virtual recruitment events, which it announces on an external recruitment website.<sup>11</sup> Using funding provided in the Inflation Reduction Act of 2022,<sup>12</sup> the IRS has increased its focus on hiring customer service representatives (CSRs) and revenue agents. The IRS Chief

8 National Taxpayer Advocate 2023 Annual Report to Congress 5 (Most Serious Problem: *Processing: Ongoing Processing Delays Burden and Frustrate Taxpayers Awaiting Refunds and Other Account Actions*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_01\\_Processing-Delays\\_FINAL\\_01292024.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_01_Processing-Delays_FINAL_01292024.pdf); National Taxpayer Advocate 2021 Annual Report to Congress 139 (Most Serious Problem: *E-Filing Barriers: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21\\_MSP\\_08\\_Efiling.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_MSP_08_Efiling.pdf).

9 IRS, Compliance Data Warehouse (CDW), Electronic Tax Administration Research and Analysis System (Nov. 2023).

10 Email from the IRS Chief Human Capital Officer (dated Dec. 19, 2023). The volume of IRS retirement-eligible employees in the next five years varies, and estimates are as high as 63 percent. IRS, Pub. 5530, Fiscal Year 2024 Budget in Brief (Feb. 2023), <https://www.irs.gov/pub/irs-prior/p5530--2023.pdf>. Attrition is defined as “the departure of employees from an organization for any reason (voluntary or involuntary), including resignation, termination, death, or retirement,” in a fiscal year and is used interchangeably with the term “employee turnover.” See Human Resources Glossary, Gartner, <https://www.gartner.com/en/human-resources/glossary/attrition> (last visited May 13, 2024).

11 IRS Events, IRS Careers, <https://www.jobs.irs.gov/events> (last visited May 13, 2024).

12 An Act to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14, Pub. L. No. 117-169, 136 Stat. 1818 (2022).

Human Capital Officer, Traci DiMartini, declared in early 2024 that the IRS will continue to use “every tool that is available to us” to improve the recruitment and hiring process.<sup>13</sup>

Increasing hiring operations includes expanding the IRS Human Capital Office (HCO) hiring personnel staff to improve hiring operation capacity. These new employees require effective training before they can hire other new employees to expand the overall workforce. In a recent Government Accountability Office (GAO) audit, GAO directed the IRS Commissioner “to direct the Human Capital Officer at IRS to ensure that USA Staffing Program Managers at their agency routinely solicit and analyze training feedback from human capital professionals and use such information to improve training resources that address human capital professionals’ needs.”<sup>14</sup>

A recent change in the IRS telework policy may pose a new challenge for employee recruitment and retention. A 2024 Treasury directive to return certain employees in the National Capital Region to the office 50 percent of the time may complicate IRS efforts to recruit and retain employees.<sup>15</sup> The Treasury Department announced the directive due to a wider directive from the U.S. Office of Management and Budget (OMB).<sup>16</sup> The National Treasury Employees Union (NTEU) opposes the Treasury directive to increase the number of days Treasury employees report to a government worksite, calling it a decision that “flies in the face of the proven benefits of telework.”<sup>17</sup> This may be a challenge in terms of employee recruitment and retention.

The IRS hiring process continues to take too long. The IRS fails to meet the Office of Personnel Management’s (OPM’s) 80-day Time-to-Hire benchmark<sup>18</sup> for external hires, as shown in Figure 3.1. In FY 2024 to date, the average time to hire has increased compared to FY 2023. Although TAS commends the recent efforts of HCO in expanding recruitment operations, these changes have not yet produced tangible results. The National Taxpayer Advocate continues to advocate for significant improvements in FY 2025 and beyond to slow the current rate of attrition, meet hiring demand, and reduce the length of the hiring process.

**FIGURE 3.1, IRS Time-to-Hire Averages From FY 2022 to FY 2024 to Date<sup>19</sup>**

Time to Hire by Segment	FY 2022 Average	FY 2023 Average	FY 2024 Average
Overall	81 days	68 days	77 days
External	93 days	85 days	95 days
Internal	58 days	51 days	61 days

13 Louis Parks, *The IRS Is Taking a Maverick’s Approach to Recruitment*, FIN. MAGNATES, Apr. 1, 2024, <https://www.financemagnates.com/trending/the-irs-is-taking-a-mavericks-approach-to-recruitment/>.

14 GAO, GAO-24-105738, *Federal Hiring: USA Staffing System Supports Hiring Needs, But Actions Are Needed to Strengthen Training and Program Management* (2024), <https://www.gao.gov/products/gao-24-105738>.

15 Jory Heckman, *Treasury, IRS Set 50% Return-To-Office Target For Employees to Meet ‘Governmentwide’ Standard*, FED. NEWS NETWORK, Feb. 16, 2024, <https://federalnewsnetwork.com/workforce/2024/02/treasury-irs-set-50-return-to-office-target-for-employees-in-may/>.

16 See OMB Memorandum No. M-23-15, *Measuring, Monitoring, and Improving Organizational Health and Organizational Performance in the Context of Evolving Agency Work Environments* (Aug. 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf>. See also Jory Heckman, *Treasury, IRS Set 50% Return-To-Office Target For Employees to Meet ‘Governmentwide’ Standard*, FED. NEWS NETWORK, Feb. 16, 2024, <https://federalnewsnetwork.com/workforce/2024/02/treasury-irs-set-50-return-to-office-target-for-employees-in-may/>.

17 NTEU, *NTEU Opposes Treasury Telework Directive*, <https://www.nteu.org/~media/Files/nteu/docs/public/irs/2024/nteu-opposes-treasury-telework-directive> (Apr. 3, 2024).

18 Erich Wagner, *OPM Announces Adjustments to Annual Time-to-Hire Metrics*, GOVEXEC, Feb. 26, 2020, <https://www.govexec.com/management/2020/02/opm-announces-adjustments-annual-time-hire-metrics/163361/>. See also OPM Memorandum, *Time-to-Hire Reporting Requirements* (Feb. 25, 2020), <https://www.chcoc.gov/content/time-hire-reporting-requirements-1>.

19 IRS Time-to-Hire Averages Table, Latest from the IRS Tactical Operations Center (TOC) - TALK (week ending Mar. 8, 2024) (email on file with TAS).

## Objective 2 for FY 2025 – TAS will continue to advocate for improvements in IRS employee hiring, recruitment, retention, and training processes.

- Activity 1: Review and analyze the IRS FY 2025 hiring and recruitment strategies and propose suggestions on improving recruitment efforts and speeding up the pace of hiring.
- Activity 2: Collaborate with hiring and training subject matter experts within each of the IRS's Business Operating Divisions in FY 2025 to gain direct insight from HCO customers to identify current hurdles and inefficiencies in IRS hiring, recruitment, and training processes.
- Activity 3: Work with IRS HCO to develop potential employee retention strategies and recommendations in FY 2025 to reduce the overall turnover rates of employees.

### 3. ENHANCE IRS TRANSPARENCY BY IMPROVING APPLICABLE TECHNOLOGY, SUFFICIENTLY EXPLAINING MODERNIZATION PROGRESS, AND PROVIDING STRAIGHTFORWARD GUIDANCE ON TAX LAW

“Transparency” is the government’s obligation to share with citizens the information they need to make informed decisions and hold officials accountable for the conduct of the people’s business. For the IRS, this means providing taxpayers, tax professionals, industry, and other stakeholders with all the information to which they’re entitled, when they need it, in an accessible, clear, and sufficiently detailed way. It is imperative that the IRS be transparent, impartial, fair, and consistent to maintain its integrity. And to preserve the trust and confidence of taxpayers, it is imperative that tax administration remain independent and insulated from partisan influence, allowing it to operate in a manner that promotes the best interests of the taxpayers and the nation as a whole. The IRS has made progress recently in key areas relating to transparency, including phone service, clarification of certain notices and letters, and improvements to online accounts. Despite these advances, taxpayers and tax professionals still report difficulties communicating effectively with the IRS.<sup>20</sup>

Many of the IRS’s plans to improve transparency rely on updating the agency’s technology.<sup>21</sup> Technology modernization would provide “taxpayers with instant account updates, faster refund processing and payment posting, and near real-time status updates”<sup>22</sup> as well as give IRS CSRs the streamlined access to taxpayer data they need to respond to taxpayer questions with specificity and detail.<sup>23</sup> However, GAO has reported that the IRS still needs to finish developing its plans on technology modernization and that the IRS may be at risk of “cost overruns, schedule delays, and overall project failure.”<sup>24</sup> Additionally, as the IRS’s modernization of technology involves the implementation of artificial intelligence (AI), such as in existing voicebots and chatbots, the IRS must remain transparent about its use of AI, particularly as those uses affect taxpayer rights and data privacy.<sup>25</sup>

20 See, e.g., 2023 IRS Nationwide Tax Forums TAS Focus Groups, IRS Transparency (Oct. 2023).

21 See, e.g., IRS, Pub. 3744-A, 2024 IRA Strategic Operating Plan Annual Update Supplement 27 (Apr. 2024), <https://www.irs.gov/pub/irs-pdf/p3744a.pdf> (“Modernizing the IRS IT environment underpins all of the service and enforcement improvements described in this update.”).

22 IRS, Pub. 4450, IRS Fiscal Year 2025 Congressional Budget Justification & Annual Performance Report and Plan 5 (Feb. 2024), <https://home.treasury.gov/system/files/266/02.-IRS-FY2025-CJ.pdf>.

23 See IRS, Pub. 3744-A, 2024 IRA Strategic Operating Plan Annual Update Supplement 18 (Apr. 2024), <https://www.irs.gov/pub/irs-pdf/p3744a.pdf>.

24 GAO, GAO-24-106566, *Information Technology: IRS Needs to Complete Planning and Improve Reporting for Its Modernization Programs* 12-13 (2024), <https://www.gao.gov/products/gao-24-106566>.

25 See OMB, Memorandum No. M-24-10, *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence* 24-25 (2024), <https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf>.

Technology is not the only area of concern for IRS transparency. The IRS must be proactive in issuing guidance on tax law that is clear and timely and that adequately reflects input from stakeholders while fully complying with the notice-and-comment requirements of the Administrative Procedure Act.<sup>26</sup> As the IRS continues to implement its Strategic Operating Plan (SOP), it needs to provide stakeholders with meaningful updates on its progress without overstating successes or minimizing setbacks. These updates must include performance metrics and specific deadlines that objectively report progress toward all initiatives in the SOP, not just modernization efforts the IRS currently prioritizes.<sup>27</sup>

**Objective 3 for FY 2025 – TAS will continue to advocate for the IRS to be fully transparent and provide specific details on its progress toward implementing the SOP, including its efforts to modernize technology and strategically implement AI, and to produce clear and timely guidance and information to taxpayers, tax professionals, industry, and other stakeholders.**

- Activity 1: Make recommendations through TAS’s cross-functional working groups, the IRS Advisory Counsel, public speeches, blogs, Reports to Congress, and other avenues that the IRS be transparent when providing updates on its plans for modernization and its progress toward meeting modernization initiatives.
- Activity 2: Review IRS uses of AI to ensure that they comply with government-wide standards on taxpayer rights and data privacy through membership on the Data and Analytics Strategic Integration Board, the AI Assurance Team, or other cross-functional groups involved in AI oversight.
- Activity 3: Conduct listening sessions and other forms of outreach with external stakeholders to identify areas in which the IRS has not provided taxpayers with guidance and information that is timely and clear and that adequately incorporates stakeholder feedback. Use internal meetings, blogs, and Reports to Congress to advocate for the IRS to promptly address these issues.

#### **4. IMPROVE TAXPAYER ACCESS TO TELEPHONE AND IN-PERSON ASSISTANCE**

When taxpayers need IRS assistance filing and paying their federal taxes, two of the primary service channels they use are calling telephone lines and seeking in-person assistance at Taxpayer Assistance Centers (TACs).<sup>28</sup> The IRS reports its performance assisting callers on the telephone lines using a metric called Level of Service (LOS), which fails to measure several industry standard factors such as:

- Satisfaction (whether the customer is satisfied with service received);
- Confidence/trust (whether the interaction increased confidence in the federal program/service or the ability to serve its relevant population);
- Effectiveness/quality (whether the customer’s need was addressed or issue was resolved);
- Ease/simplicity (whether it was easy to complete what needed to be done);
- Efficiency/speed (whether it took a reasonable amount of time to complete what needed to be done);

26 5 U.S.C. §§ 551-559. See National Taxpayer Advocate 2023 Annual Report to Congress 176-177 (Most Litigated Issues: *Litigation Trend: Challenges Concerning the Administrative Procedure Act*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/02/ARC23\\_MostLitigatedIssues.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/02/ARC23_MostLitigatedIssues.pdf).

27 The IRS’s 2024 SOP update and update supplement both present arguments for why the IRS has been successful so far in its modernization efforts, but neither attempts to comprehensively describe IRS progress toward all initiatives in the SOP. See IRS, Pub. 3744-A, 2024 IRA Strategic Operating Plan Annual Update Supplement (Apr. 2024), <https://www.irs.gov/pub/irs-pdf/p3744a.pdf>; IRS, Pub. 3744-B, 2024 IRA Strategic Operating Plan Annual Update (Apr. 2024), <https://www.irs.gov/pub/irs-pdf/p3744b.pdf>.

28 See IRS, Service to Taxpayers (Mar. 13, 2023), <https://www.irs.gov/statistics/service-to-taxpayers>.

- Equity/transparency (whether the customer was treated fairly/understood what was being asked of the customer throughout the process); and
- Employee helpfulness (whether employees the customer interacted with were helpful).<sup>29</sup>

TAS has advocated for the IRS to adopt a more comprehensive measure of phone service that includes the quality of the caller's experience.<sup>30</sup> Although it is commendable that the IRS reported a CSR LOS of 88 percent on its Accounts Management (AM) toll-free phone lines during Filing Season 2024,<sup>31</sup> that calculation includes calls where the IRS routed a caller to an automated response when they wanted to reach a live assistor, calls where the CSR was unable to answer the caller's questions, and calls where the taxpayer had to call multiple times or was unsatisfied with the service they received from a CSR for other reasons. As such, the LOS is neither a good measurement of service nor an accurate reflection of the taxpayer experience. On other phone lines outside of AM, such as the Installment Agreement/Balance Due lines and the Taxpayer Protection Program line, the IRS achieved low Levels of Service even by its own measurement, reporting Levels of Service of 42 and 17 percent, respectively.<sup>32</sup> Assisting taxpayers with collection or fraud issues and improving service must be a priority for the IRS.

The IRS provides face-to-face taxpayer assistance at local TAC offices across the country, the District of Columbia, and Puerto Rico. Taxpayers serviced at TACs rated the quality of their service between 86 and 93 percent during 2023.<sup>33</sup> However, when taxpayers call the IRS for assistance, such as to make a TAC appointment, the IRS only allows them to rate their experience if the IRS CSR resolves the taxpayer's inquiry and the taxpayer agrees to the IRS transferring them to the survey.<sup>34</sup> The IRS should allow taxpayers to opt into a survey before it connects them with a CSR, so they can provide feedback on the quality of their experience, regardless of whether the CSR resolves the taxpayer's inquiry. Also, the IRS does not give callers the opportunity to rate the quality of their experience when it disconnects the call. In fact, through April 20, over 23,000 callers to the TAC appointment line, 241,000 callers to the AM lines, and 3.7 million callers on the IRS Enterprise lines during 2024 were unable to rate the quality of their experience because the IRS disconnected their call.<sup>35</sup>

29 See OMB, *Preparation, Submission, and Execution of the Budget*, Circular No. A-11, Section 280 (July 10, 2020), <https://trumpadministration.archives.performance.gov/cx/assets/files/a11-280.pdf>. OMB developed this list of factors using leading practices from the private and public sectors, including Fortune 500 companies, market research institutions, and international organizations. Transactional surveys, such as the Accounts Management toll-free survey, have been aligned to these standards since 2020; however, the IRS lacks transparency about how the results of these surveys guide operational planning, as it places the majority of focus on LOS measures. The IRS also specifies that telephone calls will be measured for Timeliness, Professionalism, Customer Accuracy, Regulatory/Statutory Accuracy and Procedural Accuracy. See Internal Revenue Manual (IRM) IRM 21.10.1.4.1.1, Accounts Phones Measure (Oct. 1, 2006), [https://www.irs.gov/irm/part21/irm\\_21-010-001](https://www.irs.gov/irm/part21/irm_21-010-001).

30 See National Taxpayer Advocate 2023 Annual Report to Congress 48, 63 (Most Serious Problem: *Telephone and In-Person Service: Despite Improvements in Its Service Levels, the IRS Still Does Not Provide Taxpayers and Tax Professionals With Adequate, Timely Telephone and In-Person Service*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_04\\_Telephone-InPerson.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_04_Telephone-InPerson.pdf).

31 Approximately 35 phone lines reside within the IRS's Taxpayer Services AM function, which typically accounted for about 71 percent of the total call volume the IRS received during Filing Season 2024. IRS, Joint Operations Center (JOC), Snapshot Reports: Enterprise Snapshot, Enterprise Total; IRS, JOC, Snapshot Reports: Accounts Management (week ending Apr. 20, 2024). The IRS's formula for determining LOS is more complex than just number of calls received divided by number of calls answered. The LOS formula is: (Assistor Calls Answered + Automated Calls Answered (Info Messages)) divided by (Assistor Calls Answered + Automated Calls Answered (Info Messages) + Emergency Closed + Secondary Abandons + (Add either Calculated Busy Signal or Network Incompletes) + (Add either Calculated Network Disconnects or Total Disconnects)). Net AM attempts divided by net Enterprise attempts for Filing Season 2024 produced a percentage of 71.

32 IRS, JOC, Snapshot Reports: Product Line Detail (week ending Apr. 20, 2024).

33 IRS response to TAS information request (May 15, 2024).

34 *Id.*

35 *Id.*

Although improved in 2024, staffing shortages still limited taxpayer access to TAC services. During 2024, 22 TACs closed and provided no services for 30 days or more due to staffing shortages.<sup>36</sup> As of April 20, 2024, 252 TAC locations were open, and 16 were closed or unstaffed.<sup>37</sup> The IRS was able to fully staff only 27 percent of the TACs that stayed open, meaning fewer taxpayers could receive assistance.<sup>38</sup> Under normal procedures, taxpayers must make an appointment to receive TAC assistance; however, in a welcome change, the IRS served nearly 85,000 taxpayers without an appointment during regular TAC hours during 2024.<sup>39</sup> The average number of days taxpayers waited for a TAC appointment after scheduling decreased from 18.4 days in FY 2021 to 14.5 days in FY 2023, which was a 21 percent reduction, but still fell short of the seven-day waiting period TAS recommended in the 2023 Annual Report to Congress.<sup>40</sup>

The IRS offered special in-person Saturday hours known as Taxpayer Experience Days once a month during February, March, April, and May at many TAC locations. Taxpayers were able to walk in and receive most services routinely offered by the TAC without an appointment.<sup>41</sup> Through May, the IRS had held four Taxpayer Experience Days at 117 TACs during 2024 and served over 15,000 taxpayers.<sup>42</sup>

TAS has advocated for the IRS to increase availability of TAC in-person assistance so taxpayers can obtain an appointment within seven days and extend hours of operation beyond 8:30 a.m. to 4:30 p.m., Monday through Friday, including regular Saturday hours.<sup>43</sup> From January 29 through April 16, 2024, the IRS extended service hours on Tuesdays and Thursdays between 7:30-8:30 a.m. and 4:30-6 p.m. at 242 TAC locations, a positive start.<sup>44</sup> Over 600 TAC employees provided more than 12,800 additional hours of service at TACs during this filing season, and the TACs served a total of 784,000 taxpayers during regular and extended hours.<sup>45</sup> Auditors from the Treasury Inspector General for Tax Administration (TIGTA) made unannounced visits to 16 of the locations offering Saturday walk-in service.<sup>46</sup> TIGTA auditors, acting as taxpayers, posed one of two general tax law questions to TAC assistants and evaluated the TAC environment, including wait times, orderliness, and employee professionalism.<sup>47</sup> The auditors found that the TAC assistants generally provided accurate and professional assistance, but taxpayers experienced long wait times, ranging from three to seven hours at seven of the sampled TACs, highlighting the need for more service providers to

36 IRS response to TAS information request (May 15, 2024).

37 IRS response to TAS information request (May 23, 2024).

38 IRS response to TAS information request (May 15, 2024).

39 IRS response to TAS information request (May 23, 2024).

40 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2024-100-022, *Taxpayer Assistance Centers Generally Provided Quality Service, But Additional Actions Are Needed to Reduce Taxpayer Burden* 4 (2024), <https://www.tigta.gov/sites/default/files/reports/2024-05/2024100022fr.pdf>; National Taxpayer Advocate 2023 Annual Report to Congress 48, 64 (Most Serious Problem: *Telephone and In-Person Service: Despite Improvements in Its Service Levels, the IRS Still Does Not Provide Taxpayers and Tax Professionals With Adequate, Timely Telephone and In-Person Service*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_04\\_Telephone-InPerson.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_04_Telephone-InPerson.pdf).

41 IRS, Pub. 3744, *IRS Inflation Reduction Act Strategic Operating Plan* (Apr. 2023), <https://www.irs.gov/pub/irs-pdf/p3744.pdf>; IRS, *IRS Face-to-Face Saturday Help* (May 17, 2024), <https://www.irs.gov/help/irs-face-to-face-saturday-help>.

42 IRS response to TAS information request (May 23, 2024); TIGTA, Ref. No. 2024-100-022, *Taxpayer Assistance Centers Generally Provided Quality Service, But Additional Actions Are Needed to Reduce Taxpayer Burden* 1 (2024), <https://www.tigta.gov/sites/default/files/reports/2024-05/2024100022fr.pdf>.

43 See National Taxpayer Advocate 2023 Annual Report to Congress 48, 64 (Most Serious Problem: *Telephone and In-Person Service: Despite Improvements in Its Service Levels, the IRS Still Does Not Provide Taxpayers and Tax Professionals With Adequate, Timely Telephone and In-Person Service*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_04\\_Telephone-InPerson.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_04_Telephone-InPerson.pdf).

44 IRS News Release, *IR-2024-25, IRS Offering Additional Time at Taxpayer Assistance Centers for Face-to-Face Help* (Jan. 29, 2024), <https://www.irs.gov/newsroom/irs-offering-additional-time-at-taxpayer-assistance-centers-for-face-to-face-help>; IRS response to TAS information request (May 23, 2024).

45 IRS response to TAS information request (May 23, 2024); IRS, *CY 2024 Individual Filing Season Report* (week ending Apr. 20, 2024).

46 TIGTA, Ref. No. 2024-100-022, *Taxpayer Assistance Centers Generally Provided Quality Service, But Additional Actions Are Needed to Reduce Taxpayer Burden* 9 (2024), <https://www.tigta.gov/sites/default/files/reports/2024-05/2024100022fr.pdf>.

47 *Id.* at 10.



meet taxpayer demand.<sup>48</sup> The IRS is assessing the possibility of implementing extended hours as a regular, ongoing program, which would provide a great benefit to taxpayers.<sup>49</sup>

#### **Objective 4 for FY 2025 – TAS will work with the IRS to improve taxpayer access to telephone and in-person assistance.**

- Activity 1: Advocate for the discontinuation of the LOS measure.
- Activity 2: Propose new methods of measuring the taxpayer experience that include metrics related to quality of service provided for the IRS to put in place by the end of FY 2025.
- Activity 3: Advocate for the IRS to allow callers to opt into a post-call quality survey before they connect to a CSR by the end of FY 2025.
- Activity 4: Promote expanded TAC hours of operation beyond 8:30 a.m. to 4:30 p.m., Monday through Friday, including regular Saturday hours, to be in place by the end of FY 2025 for all TAC offices.

### **5. INCREASE AWARENESS OF THE NEED FOR IRS OVERSIGHT OF PAID FEDERAL RETURN PREPARERS**

Return preparers play an essential role in tax administration. In recent years, paid tax return preparers prepared the majority of the individual income tax returns filed.<sup>50</sup> Many of these preparers have no credentials and are subject to no minimum standards, such as competency tests, continuing education, or ethical rules. IRS data shows that there are significantly more non-credentialed paid tax return preparers than the total of all credentialed paid preparers preparing individual returns.<sup>51</sup> Non-credentialed preparers disproportionately serve lower-income taxpayers. For example, non-credentialed preparers prepared approximately 82 percent of the tax year (TY) 2022 individual returns claiming the Earned Income Tax Credit (EITC) that were prepared by paid tax return preparers.<sup>52</sup>

IRS oversight of the profession would protect taxpayers by imposing ethical rules on and ensuring a minimum level of competency for paid federal return preparers. The absence of such oversight exposes taxpayers to harm imposed by inept or dishonest return preparers. Because taxpayers bear ultimate responsibility for the accuracy of their own returns, incompetent and unethical return preparers subject taxpayers to unanticipated tax deficiencies, penalties, interest, overpaid taxes, or lost refunds. Non-credentialed preparers generate a disproportionate level of EITC audit adjustments. For example, of the TY 2021 EITC returns prepared by a paid preparer and subject to audit, approximately 94 percent of the audit adjustments (in dollars) were made to returns prepared by non-credentialed preparers.<sup>53</sup> This IRS data suggests that a significant portion of EITC improper payments was attributable to tax returns prepared by non-credentialed paid preparers.<sup>54</sup>

48 TIGTA, Ref. No. 2024-100-022, Taxpayer Assistance Centers Generally Provided Quality Service, But Additional Actions Are Needed to Reduce Taxpayer Burden 10 (2024), <https://www.tigta.gov/sites/default/files/reports/2024-05/2024100022fr.pdf>.

49 IRS response to TAS information request (May 23, 2024).

50 IRS, CDW, Individual Returns Transaction File (IRTF) TYs 2018-2022 (through Dec. 31, 2023).

51 Almost 60 percent of unique Preparer Tax Identification Numbers (PTINs) recorded on TY 2022 individual returns belonged to non-credentialed preparers. Of the approximately 534,000 unique PTINs recorded on TY 2022 individual returns, more than 313,000 were non-credentialed return preparers. IRS, CDW, IRTF TYs 2018-2022, Return Preparers and Providers (RPP) Database (through Dec. 31, 2023). Because the IRS cannot determine the number of ghost preparers preparing tax returns, this figure underestimates the number of non-credentialed return preparers actually preparing returns. Ghost preparers are preparers who fail to appropriately sign and enter their PTIN on the returns they prepare, typically making it appear as if the taxpayer self-prepared the return.

52 IRS, CDW, IRTF TYs 2018-2022, RPP Database (through Dec. 31, 2023).

53 IRS, CDW, IRTF TYs 2018-2022, RPP Database, and Audit Information Management System (AIMS) Closed Case Database (through Dec. 31, 2023).

54 In FY 2023, the IRS estimates the amount of EITC improper payments was \$22 billion, or 33.5 percent of dollars paid out. GAO, GAO-24-106927, *Improper Payments: Information on Agencies' Fiscal Year 2023 Estimates* (2024), <https://www.gao.gov/products/gao-24-106927>.

Since 2002, to protect taxpayers from the harm imposed by untrained and unscrupulous non-credentialed return preparers, the National Taxpayer Advocate has recommended that Congress authorize the IRS to conduct return preparer oversight.<sup>55</sup> Through data-supported outreach, TAS will continue raising awareness of the need to impose minimum standards on paid federal return preparers. To further protect taxpayers, especially before Congress enacts any preparer oversight legislation, TAS will also raise taxpayer awareness on how to select a reputable return preparer.

### **Objective 5 for FY 2025 – TAS will increase awareness of the risks inherent in the current lack of oversight of paid federal return preparers.**

- Activity 1: Conduct research in connection with the development of the related Purple Book legislative recommendation<sup>56</sup> to identify statistical data supporting the need to impose minimum competency and ethical standards on paid federal return preparers.
- Activity 2: Develop outreach (*e.g.*, NTA Blog, TAS Tax Tips) to raise taxpayer awareness on how to select a reputable tax return preparer.
- Activity 3: Meet with congressional members and staff throughout the year and during the Congressional Affairs Program conference, as appropriate, to discuss the Purple Book legislative recommendation to authorize the IRS to establish minimum competency standards for federal tax return preparers.

## **6. REDUCE PROCESSING TIMES FOR IDENTITY THEFT VICTIM ASSISTANCE CASES**

Each year, hundreds of thousands of taxpayers are victims of tax-related identity theft. In FY 2022, the IRS had 228,383 Identity Theft Victim Assistance (IDTVA) case receipts, and in FY 2023, they increased to 294,138.<sup>57</sup> This increase resulted in part from the issuance of pandemic-era credits such as Economic Impact Payments, the Additional Child Tax Credit, and the Advance Child Tax Credit, which led to the IRS having a backlog of IDTVA cases. IDTVA case receipts seem to be on a similar trajectory in FY 2024 as there have been 189,653 IDTVA case receipts in FY 2024 through May 25, 2024. The IRS received 93,429 of these case receipts during Filing Season 2024.<sup>58</sup> Identity thieves are often motivated by large credits to steal taxpayers' personal identifying information and file fraudulent returns so they can divert taxpayers' refunds to themselves. It took the IRS 556 days in FY 2023 to resolve IDTVA cases – nearly 19 months.<sup>59</sup> As of April 2024, the processing time jumped to 675 days – nearly two years.<sup>60</sup>

It has been four years from the onset of the pandemic, and the IRS's delays in helping victims are unconscionable.<sup>61</sup> The IRS has prioritized other service areas, such as processing a backlog of paper-filed returns and achieving an 85 percent Level of Service on its main toll-free lines, to demonstrate its success, while identity theft victims continue to experience extreme processing timeframes to get their refunds.<sup>62</sup> It is past time for the IRS to prioritize IDTVA cases.

55 See National Taxpayer Advocate 2002 Annual Report to Congress 216 (Legislative Recommendation: *Regulation of Federal Tax Return Preparers*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/arc2002\\_section\\_two.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/arc2002_section_two.pdf).

56 National Taxpayer Advocate 2024 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration 7 (Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers and Revoke the Identification Numbers of Sanctioned Preparers)*, [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_PurpleBook\\_02\\_ImproveFiling\\_4.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_PurpleBook_02_ImproveFiling_4.pdf).

57 IRS, JOC, AM RAD, IDTVA Accounts Inventory Report for Individuals, FY 2022 through FY 2024.

58 IRS, JOC, AM RAD, IDTVA Accounts Inventory Report for Individuals, FY 2024.

59 IRS, JOC, AM RAD, Correspondence Imaging System (CIS) Closed Case Cycle Time for the Identity Theft Victims Unit Reports, FY 2023.

60 IRS, JOC, AM RAD, CIS Closed Case Cycle Time for the Identity Theft Victims Unit Reports (through Mar./Apr. 2024).

61 Erin M. Collins, Identity Theft Victims Are Waiting Nearly Two Years to Receive Their Tax Refunds, NATIONAL TAXPAYER ADVOCATE BLOG (June 6, 2024), <https://www.taxpayeradvocate.irs.gov/news/nta-blog/identity-theft-victims-are-waiting-nearly-two-years-to-receive-their-tax-refunds/2024/06>.

62 Janet L. Yellen, Sec'y of the Treasury, Remarks at IRS Headquarters in Washington, D.C. (Nov. 7, 2023), <https://home.treasury.gov/news/press-releases/jy1888>.

The IRS's failure to reduce these timeframes further harms victims who are often dealing with other issues related to the identity theft. These taxpayers won't receive their federal tax refunds until the IRS resolves their IDTVA cases. These delays are particularly challenging for low-income taxpayers who may rely on these refunds to pay their day-to-day living expenses or expenses accrued throughout the year, such as medical bills. IRS delays in issuing refunds may force some taxpayers to reduce their food expenses, leading to food insecurity.<sup>63</sup> In addition, these identity theft victims may struggle to secure certain kinds of loans, such as mortgages.<sup>64</sup>

The IRS's lengthy delays in resolving these IDTVA cases have also led to collection problems for some taxpayers. For instance, taxpayers who have elected to apply an overpayment to the next tax year may receive a collection notice because the IRS won't apply the overpayment until it resolves the IDTVA case. Another consequence of the lengthy processing time is that the IRS will not automatically assign an Identity Protection PIN (IP PIN) until it resolves their case.<sup>65</sup> However, taxpayers can request an IP PIN on their own at any point during the IDTVA case resolution process.<sup>66</sup> Undoubtedly, more problems are likely to arise until the IRS addresses the lengthy IDTVA processing times.<sup>67</sup>

### **Objective 6 for FY 2025 – TAS will work with the IRS to identify ways to reduce IDTVA case processing times.**

- Activity 1: Work with the IRS to identify ways to improve efficiency in IDTVA case processing to achieve shorter processing times.
- Activity 2: Identify systemic issues arising from these lengthy IDTVA case processing times and work with the IRS to systemically solve these problems.
- Activity 3: Advocate for the IRS to provide more specific processing timeframes for IDTVA cases on the IRS operational page.<sup>68</sup>

## **7. IMPROVE THE CUSTOMER EXPERIENCE FOR ONLINE ACCOUNTS AVAILABLE TO INDIVIDUALS, BUSINESSES, AND TAX PROFESSIONALS**

The IRS has continued to expand its online account functionality, but taxpayers and tax professionals still lack comprehensive online accounts. The lack of a robust, self-service avenue to interact online with the IRS fails to adequately meet taxpayer service expectations and forces taxpayers and tax professionals to pursue alternative methods that delay resolution, such as calling for assistance, seeking in-person assistance at a TAC, submitting paper documents, or forgoing assistance entirely.

63 O. Kondratjeva, *The Impact of Tax Refund Delays on the Experience of Hardship Among Lower-Income Households*, J. OF CONSUMER POL'Y, 45:239-280 (2022), <https://link.springer.com/content/pdf/10.1007/s10603-021-09501-4.pdf>.

64 IRM 21.2.3.5.8(4), Transcripts and Identity Theft (Apr. 29, 2022), [https://www.irs.gov/irm/part21/irm\\_21-002-003r](https://www.irs.gov/irm/part21/irm_21-002-003r). When a taxpayer has an identity theft indicator on their account, they won't be able to have the IRS send tax transcripts directly to a third party, such as a mortgage lender. In these situations, IRS assistors are instructed to inform the taxpayer: "In cases of identity theft, the financial community has been made aware we will only release transcripts to the taxpayer. A mortgage company or lender does not need to obtain the transcript directly from the IRS." See Regulation 12 CFR § 1026.43(c)(4)."

65 An IP PIN is a unique number issued annually known only to the IRS and the taxpayer. An IP PIN protects identity theft victims against future identity theft. The taxpayer includes the IP PIN on their return as a safeguard and as a way for the IRS to know it is truly the taxpayer filing the tax return rather than a bad actor.

66 IRM 25.23.2.9.1.2, Get an IP PIN Online Available for Taxpayers to Opt-In to the IP PIN Program (May 8, 2023), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). The IRS issues an IP PIN to taxpayers who are victims of tax-related identity theft once it resolves their cases and requires the taxpayers to use an IP PIN to file their returns going forward.

67 IRM 25.23.2.6, Closing Identity Theft Issues (Sept. 6, 2023), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). The completion of the necessary actions and input of a closing code by the IDTVA employee trigger the issuance of the IP PIN.

68 See IRS, IRS Operations: Status of Mission-Critical Functions (Apr. 10, 2024), <https://www.irs.gov/newsroom/irs-operations-status-of-mission-critical-functions>.

The IRS SOP contains many objectives that have the potential to transform the modernization of online accounts, such as improving self-service options, building status tracking tools, and expanding digital response options. As the IRS implements its SOP, TAS will continue to advocate for it to develop online account functionality with a taxpayer-centric approach that prioritizes the experience and needs of all taxpayers and tax professionals while incorporating input from stakeholders.<sup>69</sup>

On September 22, 2023, OMB issued Memorandum M-23-22, *Delivering a Digital-First Public Experience*, which provides guidance to agencies on how to design and deliver websites and digital services to the public. It includes and summarizes many best practices for digital services, including:

- Provide services to the public in a manner that maximizes self-service or transaction completion;
- Design and deliver digital options with users at the center of the experience;
- Prioritize customization to help users complete more relevant tasks more quickly;
- Ensure accessibility for people of diverse abilities;
- Provide content that is authoritative and easy to understand;
- Ensure the design of digital services incorporates appropriate privacy safeguards; and
- Build a digital workforce capable of delivering information and services to the public.<sup>70</sup>

Online accounts with robust services that incorporate the digital-first public experience best practices are an important tool to improve the taxpayer experience and raise taxpayers' overall satisfaction and trust in the IRS, and TAS will continue to advocate that the IRS implement these best practices.

**Objective 7 for FY 2025 – TAS will work with the IRS to incorporate the digital-first public experience best practices for online accounts available to individuals, businesses, and tax professionals.**

- Activity 1: Monitor IRS implementation of the SOP objectives relating to online accounts and provide recommendations to ensure the IRS makes timely progress toward developing online account functionality with a taxpayer-centric approach that prioritizes the experience and needs of individual and business taxpayers and tax professionals.
- Activity 2: Provide recommendations to the IRS for the expansion of services available within Individual Online Accounts, Business Tax Accounts, and Tax Pro Accounts.

**8. IMPROVE ADMINISTRATION OF INTERNATIONAL INFORMATION RETURN PENALTIES BY ELIMINATING SYSTEMIC ASSESSMENTS, OFFERING A FIRST-TIME ABATEMENT WAIVER, AND INCREASING TAXPAYER AWARENESS**

U.S. persons who receive money from abroad, have foreign financial interests, or engage in cross-border activities are potentially subject to a wide range of U.S. reporting requirements. Many of the international information return requirements can result in significant penalties when a filing is late, incomplete, or inaccurate, even if the information reported relates to income that isn't taxable. These penalties are broadly applied, needlessly harsh, and often unexpected, harming unsuspecting lower- and middle-income taxpayers, small businesses, and immigrants.<sup>71</sup> In FY 2025, TAS will continue to work with the IRS to develop a sounder approach to this penalty regime.

69 IRS, Pub. 3744, IRS Inflation Reduction Act Strategic Operating Plan (Apr. 2023), <https://www.irs.gov/pub/irs-pdf/p3744.pdf>.

70 OMB Memorandum No. M-23-22, *Delivering a Digital-First Public Experience* (Sept. 2023) (implementing the 21st Century Integrated Digital Experience Act, Pub. L. No. 115-336, 132 Stat. 5025 (2018)), <https://www.whitehouse.gov/omb/management/ofcio/delivering-a-digital-first-public-experience/>.

71 See National Taxpayer Advocate 2023 Annual Report to Congress 101 (Most Serious Problem: *International: The IRS's Approach to International Information Return Penalties Is Draconian and Inefficient*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_08\\_International.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_08_International.pdf).

In many cases, the failure to file is simply due to the taxpayer being unaware of international information return reporting obligations. This is particularly true when there are no federal tax consequences involved, such as when a taxpayer receives a nontaxable gift. Additional transparency and clarity regarding international information return requirements could contribute to compliance, which would be beneficial to taxpayers and the IRS. For example, the IRS should update Schedule B (Form 1040), Interest and Ordinary Dividends, and the related instructions to include foreign gifts as potentially reportable transfers.

Another significant issue arises because most of these penalties are systemically assessed at the time the IRS receives a late information return, which means taxpayers have no preassessment mechanism for disputing the penalty. The IRS use of systemic penalties creates hardships for taxpayers, causes substantial inequities and inefficiencies in tax administration, and rests on a questionable legal foundation.<sup>72</sup> Although many of these penalties are ultimately abated by the IRS for administrative reasons, including that the taxpayer filed returns timely or the IRS granted reasonable cause relief, the process may come at a great financial cost and emotional toll for taxpayers. For example, for the most frequently assessed international information return penalties (IRC §§ 6038 and 6038A), TAS has found that, averaged across calendar years 2018–2021, the abatement percentage as measured by number of penalties was 74 percent and by dollar value was 84 percent.<sup>73</sup> Since taxpayers and the IRS expend significant time, energy, and money addressing penalties that the IRS should not have assessed in the first place, the IRS should stop systemically assessing these penalties. Furthermore, these penalties should be directly eligible for first-time abatement, ideally the systemic first-time abatement for which the National Taxpayer Advocate has broadly advocated.<sup>74</sup> Offering an international information return first-time abatement waiver would help extend equitable treatment to taxpayers and bring administrative efficiency to the IRS.

**Objective 8 for FY 2025 – TAS will advocate to end systemic assessment of international information return penalties and to develop a first-time abatement waiver specific to these penalties.**

- Activity 1: Continue to advocate for the IRS to end the systemic assessment regime for Chapter 61 international information return penalties.
- Activity 2: Continue to meet with the IRS Office of Servicewide Penalties and the Taxpayer Experience Office to discuss extending eligibility for first-time abatement to all international information return penalties regardless of whether the underlying return was filed late.

72 The IRS's position is that the penalties in Title 26, Subtitle F, Chapter 61, Subchapter A, Part III are not subject to deficiency procedures and are immediately assessable. The National Taxpayer Advocate's position, consistent with that of the U.S. Tax Court in *Farhy v. Comm'r*, 160 T.C. No. 6 (Apr. 3, 2023), *rev'd and remanded*, No. 23-1179, 2024 WL 1945977 (D.C. Cir. May 3, 2024), is that these penalties do not contain or cross-reference language authorizing the IRS to treat them as assessable, and, therefore, the U.S. Department of Justice would need to institute a civil action to recover the penalties. In May 2024, the D.C. Circuit Court of Appeals reversed the Tax Court's decision in *Farhy*, holding that "the statute's text, structure, and function" indicated the penalties were assessable. *Farhy v. Comm'r*, No. 23-1179, 2024 WL 1945977, at \*10 (D.C. Cir. May 3, 2024). According to the rule laid out in *Golsen v. Comm'r*, 54 T.C. 742 (1970), the D.C. Circuit's ruling sets a precedent for the Tax Court in cases within the D.C. Circuit's appellate jurisdiction. The Tax Court addressed the applicability of the *Golsen* rule to *Farhy* in a recent case in which the Tax Court rejected the government's suggestion that it reconsider *Farhy* and explained that "the mere fact that *Farhy* is currently on appeal at the D.C. Circuit is insufficient. This case is appealable to the Eighth Circuit, and therefore any ruling from the D.C. Circuit would not be binding on this proceeding." *Mukhi v. Comm'r*, 162 T.C. No. 8 (Apr. 8, 2024) (citing to *Golsen*, 54 T.C. at 757). It remains to be seen if the IRS will appeal the decision in *Mukhi*, which followed the Tax Court's earlier decision that the IRS does not have assessment authority for these penalties, which could result in a split of opinion between circuits. See also National Taxpayer Advocate 2020 Annual Report to Congress 119 (Most Serious Problem: *International: The IRS's Assessment of International Penalties Under IRC §§ 6038 and 6038A Is Not Supported by Statute, and Systemic Assessments Burden Both Taxpayers and the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20\\_MSP\\_08\\_International.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2021/01/ARC20_MSP_08_International.pdf).

73 IRS, CDW, Business Master File. Because of such factors as the broad penalty relief provided in IRS Notice 2022-36, 2022-36 I.R.B. 188, Penalty Relief for Certain Taxpayers Filing Returns for Taxable Years 2019 and 2020, and processing delays due to COVID-19, penalty data in any given recent year may not be illustrative of long-term trends. For this reason, we present a four-year average.

74 For further discussion, see National Taxpayer Advocate Fiscal Year 2024 Objectives Report to Congress 21 (Systemic Advocacy Objective: *Implement Systemic First Time Abatement But Allow Substitution of Reasonable Cause*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/06/JRC24\\_SAO\\_SystAdvObjs.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2023/06/JRC24_SAO_SystAdvObjs.pdf).

- Activity 3: Advocate for updating the Internal Revenue Manual (IRM) to require review of reasonable cause relief requests before assessing penalties when these requests are submitted in conjunction with late filed international information returns potentially giving rise to penalties.
- Activity 4: Collaborate with the IRS to discuss the possibility of adding language to the Schedule B and related instructions to include foreign gifts as potentially reportable.

## 9. REDUCE COMPLIANCE CHALLENGES FOR TAXPAYERS ABROAD

Taxpayers abroad face significant challenges in meeting their U.S. tax obligations.<sup>75</sup> They are plagued by a complex tax code and declining levels of IRS customer service. They can be liable for severe penalties for failing to file or incorrectly filing their tax returns and complicated international information returns, of which they may not be aware. Yet, they have no access to in-person IRS assistance and almost no ability to access free return preparation assistance. Additionally, taxpayers abroad often encounter significant delays in receiving correspondence from or sending correspondence to the IRS and have insufficient timeframes in which to respond to key IRS notices, which causes them to lose critical administrative, due process, and judicial rights. Other challenges include difficulties in obtaining Individual Taxpayer Identification Numbers and checking on their application status, access to only one dedicated IRS telephone line (that is not toll-free), language barriers, problems accessing online resources, and limited payment and refund options.

Despite the multitude of challenges facing taxpayers abroad, the IRS offers only limited assistance, and many IRS systems are still not compatible with the needs of this population. The complexity of U.S. tax laws and the lack of accessible IRS customer service and assistance burdens taxpayers, especially those abroad, causes frustration, and impedes compliance. To protect taxpayer rights and improve voluntary compliance for this population, the IRS needs to educate and assist taxpayers abroad, improve customer service options, and reduce the challenges these taxpayers face.

### **Objective 9 for FY 2025 – TAS will identify compliance challenges for taxpayers abroad and make administrative recommendations to minimize burdens imposed on this population.**

- Activity 1: Meet with stakeholders and representatives for international taxpayers to better understand the difficulties they face in complying with their U.S. tax obligations and make recommendations to the IRS to reduce compliance burdens.
- Activity 2: Work with the IRS to identify which IRS forms and publications individual taxpayers abroad use most and recommend the IRS prioritize them for translation into languages other than English.
- Activity 3: Review IRM provisions and IRS correspondence products to identify circumstances in which taxpayers abroad do not have sufficient time to respond and make recommendations to the IRS to revise such notices and procedures to provide additional time.
- Activity 4: Review the IRS's FAQs about international individual tax matters applicable to U.S. taxpayers abroad and provide specific suggestions to the IRS about how to improve that content to make it more helpful to taxpayers abroad.

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<sup>75</sup> National Taxpayer Advocate 2023 Annual Report to Congress 116 (Most Serious Problem: *Compliance Challenges for Taxpayers Abroad: Taxpayers Abroad Continue to Be Underserved and Face Significant Challenges in Meeting Their U.S. Tax Obligations*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_09\\_Compliance-Abroad.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_09_Compliance-Abroad.pdf).

## 10. IMPROVE IRS ALTERNATIVE DISPUTE RESOLUTION USE AND EFFECTIVENESS

The IRS's Alternative Dispute Resolution (ADR) programs offer a unique opportunity for taxpayers to expedite the administrative resolution of their tax disputes, provide finality, and eliminate the burden and need for costly litigation. The IRS designed the ADR programs to save taxpayers and the government time and resources and ensure the protection of taxpayer rights. However, a 65 percent decline in taxpayer use of ADR between FYs 2013 and 2022 reveals significant agency shortcomings and an urgent need to understand the reasons for this decline.<sup>76</sup> Lack of sufficient data on program management complicates efforts to gauge the effectiveness of ADR initiatives. This negatively impacts taxpayer experiences and potentially results in inefficient use of government resources.<sup>77</sup>

The National Taxpayer Advocate previously recommended the IRS revitalize its ADR programs and ensure they serve as efficient, accessible, and transparent mechanisms for resolving tax disputes to uphold and advance taxpayer rights. To its credit, on April 24, 2024, the IRS announced the creation of an ADR Program Management Office within the Independent Office of Appeals (Appeals) to revamp its ADR offerings.<sup>78</sup>

### **Objective 10 for FY 2025 – TAS will advocate for improved ADR access for all eligible taxpayers, enhanced data collection and analysis for continuing program improvement, and the reduction of administrative hurdles to taxpayer participation.**

- Activity 1: Establish a cross-functional team consisting of TAS and the Appeals' ADR Program Management Office to develop strategies to improve and promote ADR programs.
- Activity 2: Participate in cross-functional team meetings to ensure eligible taxpayers have awareness of and the opportunity for ADR.
- Activity 3: Propose collaborative meetings with Appeals' ADR Program Management Office to develop and deploy a robust IRS-wide data collection and analysis framework. This framework should include taxpayer requests for ADR, denials, and outcomes for each ADR option (*e.g.*, Fast Track Settlement, Fast Track Mediation, Post Appeals Mediation) across all stages of the administrative dispute resolution cycle, focusing on improving transparency, identifying trends, and addressing program shortfalls.
- Activity 4: Advocate for the creation and implementation of a specialized unit within the IRS dedicated to ADR and focused exclusively on mediating tax disputes early in the process and participate in collaborative ADR cross-functional program meetings.
- Activity 5: Propose collaborative meetings with Appeals' ADR Program Management Office to establish guidance to lower ADR participation barriers.
- Activity 6: Propose collaborative meetings to allow TAS to participate in the creation of ADR training for Appeals technical employees.

## 11. PROTECT TAXPAYER RIGHTS IN EMPLOYEE RETENTION CREDIT CLAIMS

The Employee Retention Credit (ERC) is a refundable tax credit designed to provide employment tax relief for businesses that endured certain pandemic-linked difficulties in 2020 and 2021 yet retained employees on payroll.<sup>79</sup> However, the ERC's complex eligibility framework, often-lucrative value, and an unregulated preparer industry have made it vulnerable to infiltration by unscrupulous actors who aggressively marketed

76 GAO, GAO-23-105552, *IRS Could Better Manage Alternative Dispute Resolution Programs to Maximize Benefits* (2023), <https://www.gao.gov/products/gao-23-105552>.

77 See National Taxpayer Advocate 2023 Annual Report to Congress 139 (Most Serious Problem: *Appeals: Despite Some Improvements, Many Taxpayers and Tax Professionals Continue to Perceive the IRS Independent Office of Appeals as Insufficiently Independent*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_10\\_Appeals.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_10_Appeals.pdf).

78 IRS News Release, IR-2024-119, IRS Independent Office of Appeals Forms Alternative Dispute Resolution Program Management Office (Apr. 24, 2024), <https://www.irs.gov/newsroom/irs-independent-office-of-appeals-forms-alternative-dispute-resolution-program-management-office>.

79 IRC § 3134.

scams and misled business taxpayers under the guise of lawful services, often for large fees.<sup>80</sup> Due to a substantial processing backlog aggravated by fraudulent and erroneous claims, the IRS implemented compliance enforcement initiatives, slowed or halted ERC processing for stricter review, and imposed a moratorium on processing ERC claims filed on or after September 14, 2023.<sup>81</sup> To conserve staffing resources and encourage voluntary compliance for business taxpayers, the IRS deployed an ongoing ERC Withdrawal Program and a temporary Voluntary Disclosure Program (VDP) requiring taxpayers to withdraw unprocessed returns and repay overstated credits.<sup>82</sup>

The IRS pivoted from processing ERC claims toward using analytics to help review and identify incorrect ERC claims. When it imposed the moratorium, the IRS had a backlog of over 665,000 ERC claims, and only five percent were over 120 days old.<sup>83</sup> Over nine months later, the total number of unprocessed ERC claims has doubled to over 1.3 million with about 85 percent *over* 120 days old.<sup>84</sup> Although slowing ERC claim processing may aid the IRS in protecting against fraud, the deliberately slow pace has caused significant delays.<sup>85</sup> As of the drafting of this report, the moratorium remains in effect, and its end date is still unknown. Even though the IRS must pay interest on delayed ERC claims, it states the cost will be largely offset by not paying out more erroneous ERC claims.<sup>86</sup> Although the IRS paying required interest on delayed ERC claims may generally seem fair, interest won't help businesses that need immediate funds or that already closed because the ERC was their last lifeline.

The ERC's complexity and the IRS's focus on identifying incorrect claims means there are undoubtedly eligible business taxpayers with legitimate ERC claims who are experiencing lengthy delays. These taxpayers are waiting for information about their ERC claims because the IRS has not posted processing updates and offers no mechanism for taxpayers to check their claim status online. The IRS must find a balance between fraud prevention and taxpayer service to ensure it preserves the taxpayer *rights to finality and to challenge the IRS's decision and be heard*.<sup>87</sup> For business taxpayers to get the relief Congress intended, the IRS should improve its process to identify legitimate ERC claims in better, more timely ways; significantly increase the volume of ERC claims it processes (approval of claim, denial of claim, or initiation of an audit of the claim); and be transparent by posting general updates on the ERC claims backlog and estimated processing timelines.

80 IRS News Release, IR-2024-85, Dirty Dozen: Beware of Aggressive Promoters Who Dupe Taxpayers Into Making Questionable Employee Retention Credit Claims; Risks Continue for Small Businesses, Special Withdrawal Program Remains Available (Mar. 29, 2024), <https://www.irs.gov/newsroom/dirty-dozen-beware-of-aggressive-promoters-who-dupe-taxpayers-into-making-questionable-employee-retention-credit-claims-risks-continue-for-small-businesses-special-withdrawal-program-remains-available>.

81 IRS News Release, IR-2023-169, To Protect Taxpayers From Scams, IRS Orders Immediate Stop to New Employee Retention Credit Processing Amid Surge of Questionable Claims; Concerns From Tax Pros (Sept. 14, 2023), <https://www.irs.gov/newsroom/to-protect-taxpayers-from-scams-irs-orders-immediate-stop-to-new-employee-retention-credit-processing-amid-surge-of-questionable-claims-concerns-from-tax-pros>.

82 The IRS reports receiving \$225 million from the VDP; it closed the program on March 22, 2024. IRS News Release, IR-2023-193, IRS Announces Withdrawal Process for Employee Retention Credit Claims; Special Initiative Aimed at Helping Businesses Concerned About an Ineligible Claim Amid Aggressive Marketing, Scams (Oct. 19, 2023), <https://www.irs.gov/newsroom/irs-announces-withdrawal-process-for-employee-retention-credit-claims-special-initiative-aimed-at-helping-businesses-concerned-about-an-ineligible-claim-amid-aggressive-marketing-scams>; IRS, Withdraw an Employee Retention Credit (ERC) Claim (Dec. 21, 2023), <https://www.irs.gov/newsroom/withdraw-an-employee-retention-credit-erc-claim>.

83 IRS, JOC, AM RAD, COVID Business Credits (week ending Sept. 16, 2023).

84 IRS, JOC, AM RAD, COVID Business Credits (week ending May 25, 2024).

85 IRS News Release, IR-2023-169, To Protect Taxpayers From Scams, IRS Orders Immediate Stop to New Employee Retention Credit Processing Amid Surge of Questionable Claims; Concerns From Tax Pros (Sept. 14, 2023), <https://www.irs.gov/newsroom/to-protect-taxpayers-from-scams-irs-orders-immediate-stop-to-new-employee-retention-credit-processing-amid-surge-of-questionable-claims-concerns-from-tax-pros>.

86 See Fiscal Year 2025 Budget Request for the Internal Revenue Service, Hearing Before the H. Subcomm. on Financial Services and General Government of the H. Comm. on Appropriations, 118th Cong., (May 7, 2024) (testimony of Danny Werfel, Comm'r, Internal Revenue) (at 1:58), <https://appropriations.house.gov/events/hearings/budget-hearing-fiscal-year-2025-request-internal-revenue-service>.

87 See Taxpayer Bill of Rights (TBOR), <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited May 31, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).



**Objective 11 for FY 2025 – TAS will continue monitoring the IRS’s handling of ERC claims and protect taxpayer rights by advocating for transparency, the timely processing of all claims, and the issuance of refunds on legitimate claims.**

- Activity 1: Advocate for the IRS to continue incentivizing taxpayers to voluntarily withdraw ineligible pending ERC claims; return erroneous ERC claim refunds; and for taxpayers who received their ERC payments, file the required amended business returns related to the ERC benefits or offset the ERC pending claims by the benefits on the required amended business returns.
- Activity 2: Recommend the IRS post general updates on its website about the volume of the ERC claims backlog and estimated processing times.
- Activity 3: Continue to refer ERC cases for the IRS to prioritize when the taxpayer has a significant hardship and qualifies for TAS assistance.
- Activity 4: Work with the IRS to ensure it offers clear explanations and transparency when it denies an ERC claim by providing taxpayers with a written explanation consistent with the taxpayer *right to be informed* and clearly details the basis for denial so taxpayers may properly consider whether to exercise their *right to appeal an IRS decision in an independent forum* or pursue litigation.