WRITTEN STATEMENT OF

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BEFORE THE

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COMMITTEE ON OVERSIGHT AND REFORM

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Chairman Connolly, Ranking Member Hice, and distinguished Members of this Subcommittee:

Thank you for inviting me to testify at today's hearing on "the IRS in the pandemic."[1] This is the first congressional hearing at which I have testified as the National Taxpayer Advocate. By way of background, I began my career as an attorney in the IRS Office of Chief Counsel, where I worked for nearly 15 years in the Los Angeles District Counsel office. I then spent 20 years at the accounting firm of KPMG, where I was managing director of the firm's tax controversy practice for the Western region. When I retired from KPMG, I had no intention of taking another job in the field of taxation. But I had long admired and valued the work of the Taxpayer Advocate Service (TAS), and when the opportunity to serve as the National Taxpayer Advocate presented itself, I changed my plans. I accepted the position early this year and was sworn in on March 30. Little did I know at the time that the COVID-19 pandemic would so profoundly alter tax administration for the IRS and TAS, and most importantly for taxpayers. As we continue to grapple with the COVID-19 pandemic, my best wishes go out to all impacted.

The topic of this hearing is both timely and important. More taxpayers interact with the IRS each year than with any other federal agency, and even in the average year, the interaction has considerable financial significance. In 2018 and 2019, the IRS issued tax refunds to more than 110 million taxpayers, and the average refund amount was nearly $3,000.[2]

This wasn't an average year; in fact, it has been a year unlike any other. The IRS took unprecedented actions to protect the health and safety of its employees, taxpayers and the public. The officewide closures required by the COVID-19 pandemic and the subsequent challenges the IRS faced exposed critical shortcomings in IRS technology and its staffing levels that impacted many functions within the agency. As the IRS and oversight bodies take stock of lessons learned from this experience, two lessons are obvious: (1) improving the technology capabilities of the IRS is critical, and (2) funding for increased personnel is required to enable the IRS to properly execute its mission of providing America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforcing the law with integrity and fairness to all. Neither is a small or inexpensive task, but it is imperative for proper tax administration. It is incumbent upon Congress to fund the technological upgrades and properly staff the IRS to provide an enhanced level of service and improve its overall operations. Taxpayers are entitled to top quality service. Modernizing the IRS's technology and increasing its use of digital communications and the electronic production of documents in a secure environment are no longer luxuries; rather, they are a required operational need for all taxpayers.

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[1] The views expressed herein are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate is appointed by the Secretary of the Treasury and reports to the Commissioner of Internal Revenue. However, the National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget. Congressional testimony requested from the National Taxpayer Advocate is not submitted to the IRS, the Treasury Department, or the Office of Management and Budget for prior approval. However, we have provided courtesy copies of this statement to both the IRS and the Treasury Department in advance of this hearing.

[2] IRS, *2019 Filing Season Statistics* (week ending Dec. 27, 2019), https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-27-2019.

Social distancing requirements forced the IRS to temporarily shut down many of its core operations, including its mail facilities, its call centers, and its Taxpayer Assistance Centers (TACs), and then began reopening its operations with reduced staffing. At the beginning of the pandemic, Congress charged the IRS with implementing the CARES Act, including delivery of economic impact payments (EIPs) to more than 160 million Americans.[3] Given the magnitude of its challenges, I believe the IRS performed well overall. I am particularly proud of TAS's employees. We quickly and seamlessly transitioned our employees to telework when our offices were forced to close.[4] Other IRS employees also deserve enormous credit for doing their best under extraordinarily difficult circumstances.

To add to these challenges, the IRS's 2020 filing season coincided with the onset of the pandemic. However, the agency took swift actions and provided taxpayers additional time, until July 15, to file their returns and pay the tax due.[5] IRS statistics indicate that as of July 24, approximately 153 million individual returns were filed, of which 144 million were filed electronically and over 103 million requested refunds.[6] By September 18, these amounts increased to approximately 159 million returns, of which 147 million were filed electronically and 121 million requested refunds. For comparison purposes, the number of paper returns processed as of July 24 was approximately 9.0 million compared to 15 million at the same point in 2019. Also compared to last year, electronic return receipts have increased by 10 percent, paper returns received and processed have decreased by 21 percent, and visits to *IRS.gov* have increased by 165 percent. In the best of times, the filing season presents challenges for the IRS. Considering the additional challenges the pandemic has presented, the IRS has performed admirably.

Yet despite the IRS's best efforts, some taxpayers experienced unusual difficulties in their dealings with the IRS. While a portion of those difficulties is attributable to the impossibility of anticipating and planning for the impacts of a national shutdown, some of the difficulties would have been substantially lessened if the IRS had better technology and more staff to meet the needs of taxpayers.

In this statement, I will describe some of the key challenges taxpayers experienced this year, briefly touch on plans the IRS is making to implement portions of the Taxpayer First Act (TFA), identify several additional information technology (IT) challenges, and summarize the cuts made to the IRS budget over the past decade that have left the agency short of the resources it requires to properly administer the tax code.

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[3] The Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).
[4] TAS serves an ombud's role, so our case advocates work with IRS employees, who make final substantive decisions and input most account adjustments. For certain categories of cases, the IRS personnel who ordinarily work with us were unable to do so. Of note, the IRS earlier in the year took the position that it generally would not resolve nonpayments or underpayments of EIPs, so TAS was unable to assist taxpayers who contacted us with EIP concerns.
[5] *See* IRS Notice 2020-23, 2020-18 I.R.B. 742.
[6] Due to closures related to COVID-19, paper return volumes were estimated. As operations resume, and actual data becomes available, IRS will update the number of paper returns received. Calendar Year 2020 data includes 6,996,000 returns from individuals who did not have a filing requirement but submitted returns solely to claim EIPs.

I. Taxpayers Experienced More Challenges Than Usual This Year Due to the Impact of the COVID-19 Pandemic on IRS Operations.

After the President declared a national emergency, the IRS took steps to maximize social distancing to protect the personal health and safety of taxpayers, employees, contractors, stakeholders, and local communities.[7] These precautions included the partial or complete cessation of core IRS functions nationwide. On March 25, 2020, the IRS released the *People First Initiative*, which provided relief for taxpayers on a variety of issues ranging from adjusting or postponing compliance actions, to adjusting or suspending key IRS compliance programs, to easing payment guidelines. The IRS also suspended liens and levies, halted passport certifications of seriously delinquent taxpayers, stopped referring delinquent accounts to private debt collection agencies, and delayed new field, office, and correspondence examinations through July 15, 2020. The IRS's main challenge in closing its facilities was that core functions (*e.g.*, answering phones, opening and processing taxpayer correspondence and paper-filed returns, and issuing notices) were not portable. To further complicate matters, the IRS was tasked with disbursing EIPs "as rapidly as possible" early in the pandemic, implementing other provisions of the CARES Act, and providing guidance on its various provisions, including a waiver of the early withdrawal penalty for certain types of retirement distributions, charitable cash contributions, the refundable payroll tax credit, application of the pass-through business and sole proprietors loss limitation, and the five-year net operating loss carryback provisions for corporations.[8]

The IRS's decision to shut down core operations significantly reduced the services it provided to taxpayers and practitioners. The IRS closed its four Tax Processing Centers (campuses). Most of the work at these campuses is performed onsite and is not conducive to telework. As of May 20, 2020, 48 of the 105 toll-free telephone lines remained closed, and all the TACs remained closed. In addition, 10,792 (98 percent) of the 11,014 Volunteer Income Tax Assistance/Tax Counseling for the Elderly partner sites remained closed as of May 24, 2020. As a result, taxpayers and practitioners had difficulty contacting the IRS in person or by phone, and their mailed correspondence and paper-filed returns sat unopened and unprocessed. As an alternative, the IRS steered taxpayers to use self-help online tools, which were not necessarily accessible or preferred by some taxpayers.[9] In early June, the IRS slowly began to recall limited staff, but efforts to maximize social distancing remain in place today and most employees are still teleworking. The impact of the IRS's response could have significant downstream consequences for many taxpayers for months to come. Moreover, if COVID-19 continues to affect large numbers of taxpayers, there is a high probability that office shutdowns and reduced staffing will continue during the 2021 filing season beginning in January. As the pandemic continues, some of these problems are likely to recur.

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[7] Proclamation No. 9994, 85 Fed. Reg. 15,337 (Mar. 13, 2020).

[8] *See* Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335 (2020).

[9] IRS, IR-2020-99, *IRS.gov Helps Taxpayers Get Tax Information They Need; Find Tools for Filing, Paying, Checking Accounts and Answering Questions* (May 21, 2020), https://www.irs.gov/newsroom/irsgov-helps-taxpayers-get-tax-information-they-need-find-tools-for-filing-paying-checking-accounts-and-answering-questions.

A. SUBMISSION PROCESSING: The IRS Stopped Opening and Processing Mail, Including Tax Returns, Paper Checks, and Correspondence.

Much of the work performed at the campuses is not conducive to a telework environment. The work consists of mail operations (receiving, sorting, and distributing mail and processing paper tax returns). Processing requires manual input of information from the tax return into IRS systems, correcting errors, and corresponding with taxpayers. The IRS also turned off all fax machines to prevent correspondence from taxpayers coming into the sites when employees were not present to work the inventory. The IRS worked with the U.S. Postal Service to hold mail or deliver mail to semi-trailers at each location as needed. Beginning in March 2020, with little or no time to prepare, the IRS stopped opening and processing mail. It began to address the mail backlog on June 1, 2020. But progress through the backlog has been slow, as the IRS focused on the health and safety of its employees by complying with social distancing requirements.[10] The unopened mail included paper-filed returns (original and amended), paper checks, and taxpayer correspondence. As of September 19, the mail backlog was estimated to be about 5.8 million total pieces, of which approximately 2.8 million items are estimated to be tax returns.[11]

Consequently, millions of taxpayers have waited extended periods for the IRS to process their returns, and some are still waiting. For taxpayers expecting refunds, the long delays are frustrating, and this frustration is compounded for those who experienced a sudden financial hardship due to the COVID-19 pandemic and desperately need their tax refunds. Besides burdening taxpayers, processing delays have resulted in IRS rework:

- *Abatement of Failure to File Penalty*: Many taxpayers who paper-filed extension requests had their e-filed returns processed ,[12] before the IRS processed the paper extension requests, triggering a failure-to-file penalty notice.[13] However, once the IRS processes the paper-filed extension request, it should systemically abate the penalty and notify the taxpayer.[14]

- *Abatement of Failure to Pay Penalty*: Taxpayers who timely mailed a check for a tax obligation due on July 15 may have received a balance due notice after the processing of their returns but before the processing of their checks. The IRS issued guidance to its personnel that after the IRS processes the paper check, it will treat the payment as received on the "IRS received date" rather than on the date the IRS processed it. The IRS will systemically abate any late payment penalties previously imposed if the payment was timely when received. The IRS has instructed taxpayers that they can avoid interest and

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[10] Email from Charles Rettig, IRS Commissioner, to all IRS employees (June 3, 2020).
[11] IRS Wage & Investment Division response to TAS information request (Sept. 28, 2020). Although the e-file rate in recent years has reached almost 90 percent, the IRS still receives a significant number of returns on paper. In 2019, individual taxpayers paper filed nearly 18 million income tax returns. IRS, *2019 Filing Season Statistics* (week ending Dec. 27, 2019), https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-27-2019.
[12] Under IRS Notice 2020-23, 2020-18 I.R.B. 742, taxpayers had until July 15, 2020, to file their 2019 federal income tax returns.
[13] IRC § 6651(a)(1).
[14] TAS, Case Guidance: *IRS Continues to Process Mail Backlog* (Aug. 24, 2020).

penalties if they do not cancel their checks, provided the associated bank account has sufficient funds available when the IRS cashes them.[15] I would encourage and expect the IRS to abate penalties if the payment was timely made once notified of the canceled check.

- *Abatement of Bad or Dishonored Check Penalties*: If a taxpayer mailed a check between March 1 and July 15 but the check sat in the IRS mail backlog for over 30 days and was dishonored, the taxpayer is eligible for bad-check penalty relief.[16] The IRS will apply the penalty relief automatically when it processes the payment, and a penalty notice should not be issued to the taxpayer.[17]

- *Interest on Refunds*: Generally, the IRS is required to pay interest on a refund if it issues the refund after a statutory 45-day period from the later of the due date of the return or the date of actual filing.[18] However, as all taxpayers were affected by a federally declared disaster, the 45-day grace period does not apply.[19] For that reason, the IRS correctly paid interest to individual taxpayers who timely filed their tax year 2019 returns on or before July 15, 2020. The overpayment interest accrued from the original April 15 due date, rather than from the postponed due date of July 15.[20]

Recommendations

To prevent significant mail backlogs during future national or local emergencies, I recommend that the IRS:

- Explore the feasibility of automating the opening and processing of mailed correspondence, payments, and tax returns, including the use of optical scanning technology.[21]

- Work with commercial tax return preparation software companies to incorporate scannable code technology to shorten the processing time and reduce the costs and errors associated with manual transcription of returns filed on paper but prepared electronically.[22]

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[15] IRC § 6651(a)(2); IRS, SERP Alert 20A0339, *Paper Check Processing Delays* (Aug. 13, 2020).
[16] IRC § 6657.
[17] IRS, SERP Alert 20A0321, *Bad Check Penalty Relief Due to Remittance Processing Delays* (Aug. 3, 2020).
[18] IRC § 6611.
[19] IRC §§7508A(c), 7508(b).
[20] The IRS will send Forms 1099-INT, *Interest Income,* in January 2021 to taxpayers who received at least $10. IRS, *Millions of Taxpayers Receive a Tax Refund Interest Payment* (Aug. 31, 2020), https://www.irs.gov/newsroom/millions-of-taxpayers-receive-a-tax-refund-interest-payment; IRS, SERP Alert 20A0323, *Interest Payments Resulting from Elimination of the 45- and 180-Day Rules for Certain Taxpayers* (Aug. 5, 2020).
[21] *See* Internal Revenue Manual (IRM) 3.10.72.2.2(2)(h), *Incoming Mail Sorting Operations* (Jan. 1, 2018).
[22] National Taxpayer Advocate 2020 Purple Book 22 (Legislative Recommendation: *Require That Electronically Prepared Paper Tax Returns Include a Scannable Code*).

- Expand its Online Services functions beyond the ability to download account transcripts or make payments to allow taxpayers to view tax return information, receive correspondence electronically, upload responses to IRS inquiries, and to provide documentation to resolve issues such as suspected identity theft or other refund fraud. Electronic communication can eliminate the need to use paper and help to eliminate processing backlogs. Minimizing the use of paper, which often requires the IRS to scan in documents or perform manual data entry, would free up staff resources to assist taxpayers who are unable to communicate with the IRS electronically.

- Continue its efforts to make Submission Processing employees telework eligible by obtaining the necessary equipment, providing the necessary training, and executing telework agreements.

B. TELEPHONE SERVICE: The IRS Continues to Struggle to Maintain Adequate Telephone Service After Closing the Phone Lines for Weeks.

The IRS typically receives about 100 million telephone calls per year.[23] The Accounts Management (AM) phone lines have the highest call volumes and are used to assist with account inquiries, status of refunds, account adjustments, and tax law questions. The IRS closed all AM phone lines supported by Customer Service Representatives (CSRs) for both taxpayers and tax practitioners by March 31, 2020. It began slowly resuming service on April 27, 2020.[24] Automated phone lines remained operational. A main reason the IRS struggled to provide service on the assistor-supported lines was the inability of CSRs to perform their duties while teleworking. The IRS addressed this issue by shipping thousands of laptops to CSRs at their telework locations. All major phone lines reopened by June 26, but callers continue to experience long wait times.[25] For the week ending September 19, 2020, of the more than 1.7 million calls made to the AM phone lines, only about 22 percent (approximately 388,000 calls) were answered by a CSR, with an average wait time of about 22 minutes.[26] Additional IT funding would enable the IRS to significantly improve telephone operations.

The IRS launched the EIP automated phone line on April 11, 2020, but initially callers were only greeted with recordings. The IRS began offering live assistance on the EIP phone line on May 18, 2020. Callers are first routed to a vendor who only answers certain frequently-asked-questions (FAQs). If the vendor is unable to respond to the caller’s inquiry, the call is then transferred to an AM CSR. Between May 18 and September 19, AM CSRs answered over 1.8 million EIP calls (about 50 percent of all calls transferred to AM during that period), with an average wait time of about 28 minutes.

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[23] IRS, Joint Operations Center (JOC) Snapshot Reports: Enterprise Total (week ending Sept. 30, 2019) (showing that the IRS received 99.4 million total calls in FY 2019).

[24] IRS Response to TAS information request 3 (Sept. 30, 2020); IRS, SERP Alert 20A0135, *Product Line Closure* (rev. Apr. 1, 2020); IRS, SERP Alert 20A0191, *TPP Guidance During Continued COVID-19 Closures* (Apr. 29, 2020) (TPP line opened on April 27, 2020); IRS, SERP Alert 20A0207, *Accounts Management to Open Some Phone Lines on Monday May 18, 2020* (May 19, 2020).

[25] IRS Response to TAS information request 3 (Sept. 30, 2020).

[26] For comparison, during the same week in FY 2019, about 32 percent of the calls were answered by a live assistor (304,869 out of 942,564), and the average speed of answer was almost 13 minutes. IRS, JOC Snapshot Reports: Enterprise Totals (week ending Sept. 19, 2020).

Recommendations

To maintain adequate levels of service on its toll-free telephone lines, I recommend that the IRS:

- Provide all CSRs with the equipment necessary to perform their duties while teleworking or ensure that enough laptops are available for quick distribution to prepare for future national or local emergencies.

- Further expand customer callback technology to relieve taxpayers of the frustration associated with long wait times and low levels of service. This technology also helps the IRS balance uneven call volumes throughout the day. The IRS has implemented this technology on several phone lines and is looking into further expanding it to additional phone lines in fiscal years 2021 and 2022 if sufficient funding is available.

- Continue its efforts to make AM employees telework eligible by obtaining the necessary equipment, providing the necessary training, and executing telework agreements.

C. FACE-TO-FACE SERVICE: Taxpayers Were Unable to Access Face-to-Face Service at Taxpayer Assistance Centers for Months.

TACs provide taxpayers with face-to-face assistance throughout the year. In FY 2020, taxpayers made about 66 percent fewer visits to the IRS's 358 TACs compared with FY 2019, mostly because of office closures.[27] To protect the health and safety of taxpayers and employees, the IRS shut down all TACs on March 19.[28] TAC employees were not previously eligible for telework and did not have the necessary equipment to allow for remote work. At the time of the closures, there were approximately 79,000 appointments that were cancelled. Although the IRS has some videoconferencing capability, the TACs could not continue to provide service while employees teleworked. The IRS lacks the hardware and server capacity to virtually connect employees working remotely with taxpayers seeking TAC appointments. The IRS began to gradually reopen TACs in phases starting on June 29, but taxpayers must make appointments, and at this time, only about 60 percent of TACs are open, with limited services available.[29]

Recommendation

I recommend that the IRS:

- Provide taxpayers with the option of receiving face-to-face service through videoconferencing technology. The IRS's use of this technology was restricted during the initial months of the pandemic due to limited bandwidth. Future bandwidth issues

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[27] Visits are based upon face to face contacts for the year as of mid-September 2019 and 2020.
[28] IRS, *Taxpayer Assistance Centers Statement* (Mar. 20, 2020), https://www.irs.gov/newsroom/taxpayer-assistance-center-statement.
[29] IRS, *IRS Statement on Taxpayer Assistance Centers* (June 26, 2020), https://www.irs.gov/newsroom/irs-statement-on-taxpayer-assistance-centers.

must be addressed as the IRS further incorporates additional technology options into its operations.

- Explore the option of making TAC employees telework eligible by obtaining the necessary equipment, providing the necessary training, and executing telework agreements.

D. VOLUNTEER TAX RETURN PREPARATION: Taxpayer Access to Volunteer Tax Return Preparation Services Was Extremely Limited During the Pandemic.

Eligible low income and elderly taxpayers can have their income tax returns prepared free of charge at volunteer partner sites participating in the IRS's Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. In FY 2019, VITA and TCE in combination prepared 3.6 million tax returns. However, once the pandemic hit during the 2020 filing season, 10,792 of the 11,014 partner sites closed.[30] As a result, the millions of taxpayers who have traditionally relied on VITA and TCE to prepare their returns were forced to turn elsewhere in the early days of the pandemic. As the pandemic continues, VITA sites are trying to establish remote services to assist taxpayers in need.[31]

Recommendation

To ensure the continuation of volunteer tax return preparation services during future national or local emergencies, I recommend that the IRS:

- Explore the feasibility of incorporating, and even providing incentives for partner sites to implement, the use of videoconferencing software into the VITA and TCE programs.

E. REFUND FRAUD: Taxpayers Whose Returns Were Flagged By IRS Refund Fraud Filters May Have Been Unaware Their Refunds Were Being Held.

The IRS's Return Integrity and Compliance Service is responsible for identifying returns with potentially fraudulent refund claims. If a return is flagged, return processing is held up pending confirmation of the taxpayer's identity or until information on the return, such as income or withholdings, can be verified. This year, taxpayers experienced extreme delay in the processing of refunds of paper returns, compounding an already longstanding problem. The IRS's return processing filters, which are designed to detect identity theft (IDT) and other types of refund fraud, continue to delay refunds. As of July 15, 2020, IRS filters had selected 3.3 million returns as possible non-IDT refund fraud and 1.5 million returns as possible IDT refund fraud.[32] We commend the IRS's efforts to safeguard returns against fraud but as TAS has documented, some of these filters flag more than 50 percent of returns (meaning that more than half the taxpayers

[30] IRS Response to TAS information request 3 (Sept. 30, 2020).
[31] Volunteer return preparation dropped approximately 30 percent from the prior year.
[32] IRS, *IDT and IVO Modeling Analysis Performance Report* (July 22, 2020). Although the IRS screened and suspended 3.3 million non-IDT returns, 2.3 million of these returns were systemically released by mid-March.

whose returns are stopped by certain filters are entitled to the refunds they claimed).[33] The returns are held either until the taxpayer verifies his or her identity or until the information on the return can be verified with third-party data sent to the IRS by the Social Security Administration. If the information on the return cannot be verified, the return will be held for further review.

Since the IRS stopped mailing notices at the beginning of the COVID-19 pandemic, many taxpayers were unaware that their refunds were being held or that their returns had been selected for review. For a number of taxpayers (*i.e.*, those who had their returns selected by the IRS's non-IDT refund fraud filters and whose wages and withholdings on the returns largely matched up with Form W-2 data the IRS had received from the Social Security Administration), the IRS released the refunds quickly and automatically. For other taxpayers (*i.e.*, those reporting information on their returns that the IRS could not verify based on the information it had received from third parties), the refund delays were more significant. Because no notices were mailed to notify taxpayers of the review, taxpayers were left in the dark and did not know why their refunds were being held, when their refunds would be issued, and whether there was anything they needed to do to expedite the review process.

Even taxpayers who received letters from the IRS asking them to verify their identities before the shutdown faced challenges. Typically, when a filter is triggered, the IRS mails a letter instructing taxpayers to verify their identities in one of three ways – online, over the phone, or at a TAC. Taxpayers who were instructed to verify either over the phone or in person at a TAC were unable to do so because TACs and call centers were shuttered due to the pandemic. Thus, only those taxpayers who received letters prior to the closure of the campuses instructing them to verify their identities online could do so.

But many of these taxpayers could not verify their identities online, because only taxpayers who pass a set of authentication screens can reach the point of being permitted to verify their identities.[34] If these taxpayers could not pass online authentication, they were left with no other options to verify their identities as the other two options were closed. On July 30, however, the IRS established procedures allowing taxpayers to submit authentication documents via an e-fax option.[35]

[33] National Taxpayer Advocate 2019 Annual Report to Congress 39 (Most Serious Problem: *Processing Delays: Refund Fraud Filters Continue to Delay Taxpayer Refunds for Legitimately Filed Returns, Potentially Causing Financial Hardship*).

[34] National Taxpayer Advocate 2019 Annual Report to Congress 7 (Most Serious Problem: *Customer Service Strategy: The IRS Needs to Develop a Comprehensive Customer Service Strategy That Puts Taxpayers First, Incorporates Research on Customer Needs and Preferences, and Focuses on Measurable Results)*. In FY 2019, only 43 percent of taxpayers were able to pass the authentication screens. *See* IRS Letter 4883C, *Potential Identity Theft During Original Processing.* The elevated authentication requirements are necessary to screen out unauthorized users and, often, highly sophisticated attempts to steal taxpayer information. However, stringent authentication requirements also make it more difficult for legitimate taxpayers to gain access. I recommend that the IRS continue to assess ways to increase accessibility while also maintaining required compliance with strict security guidelines developed by the National Institute of Standards and Technology

[35] IRS, SERP Alert 20A0144, *Treatment of TPP Taxpayers Sent to TAC during COVID-19 Shutdown* (rev. July 30, 2020).

The pandemic provided additional impetus for the IRS to allow taxpayers to communicate with the IRS and submit documents electronically. This is a welcome and much needed procedural change and should be continued after the pandemic – and not just for potential fraud issues. Rather than requiring taxpayers to visit a TAC to verify their identities, the IRS could allow taxpayers to upload the documents to a secure online site for IRS review. This would reduce taxpayer burden, especially for taxpayers who have mobility or transportation challenges, and would free up TAC employees to assist taxpayers with problems that must be addressed in person. Additionally, a secure online account platform could allow those taxpayers to elect to electronically receive letters, notices, and other updates on the status of their returns without the need to mail correspondence. If the IRS had 21st century technology, it could maintain contact with taxpayers even during a pandemic. Having this type of technology would allow IRS employees to operate remotely and permit transfer of work throughout the country based upon agency resources, thereby creating additional efficiencies in workload and taxpayer service.

Recommendation

I recommend that Congress:

- Provide funding for the IRS to quickly develop a robust secure online option that allows taxpayers to receive and respond to IRS letters and notices and provides updates to taxpayers regarding the status of their refunds.

F. CONFUSING IRS NOTICES: After Closing for Weeks, the IRS Notice Production Centers Mailed Backlogged Notices That Were Confusing and Outdated.

The IRS closed its notice production centers from April 8 through the end of May. During that time, the IRS did not have the ability to either (i) mail the nearly 20 million notices that were systemically generated during this period or (ii) program the system in real time to postpone the systemic generation of the notices.[36] After reopening the centers in early June, and due to programming limitations and the extensive manual time requirements to correct the notices, the IRS determined that it could not reasonably have the backlogged notices reflect updated response dates in a timely fashion. As a result, the IRS mailed notices as originally generated, and millions of taxpayers received notices bearing dates that were weeks or even months old. Moreover, some of the notices required taxpayers to respond by specified deadlines that had already passed by the time of mailing.

In an effort to reduce confusion and address this issue, the IRS included an informational insert in some of the envelopes – specifically, notices informing taxpayers that tax had been assessed and demanding that they pay a balance due (called a "notice and demand"), math error notices, and collection due process (CDP) notices. The inserts were placed as the last page of the document and informed taxpayers of the new, updated pay-or-respond deadlines. However,

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[36] *See* IRS, SERP Alert 20A0211, *Postponement of Account Settlement of Balance Due Tax Returns* (May 20, 2020) (rev. July 2, 2020).

some taxpayers inevitably were confused and did not know whether or how to respond, and since telephone service was limited, many taxpayers did not know where to turn.[37]

Of the original backlog, about 1.5 million were notice and demand and math error notices.[38] Due to the pandemic, the IRS chose the lesser of two evils and continued to send these notices despite the pile-up of unprocessed mail. Many taxpayers received these payment due notices despite having already submitted their payments albeit they were unprocessed. The backlogged notice and demands requesting payment, dated March 30 to June 22, were mailed with an insert, Notice 1052-A, *Important! You Have More Time to Make Your Payment.* It provided a revised payment deadline (either July 15 or July 10, depending on the original due date and type of tax).[39]

The IRS included a similar insert, Notice 1052-B, *Important! You Have More Time to Make Your Payment*, with notices informing taxpayers of math errors. Notice 1052-B provided a revised response date of August 21, which was 60 days after the IRS mailed the math error notices.[40]

The IRS included another insert, Notice 1052-C, *Important! You Have More Time to Appeal*, with over 76,000 backlogged CDP levy notices.[41] In most cases, the 30-day period for taxpayers to request a CDP hearing had expired by the time the IRS mailed CDP notices in mid-July. To remedy this problem, the insert gave taxpayers until August 13 to request a CDP hearing.[42] Again, the multiple correspondence and limited telephone service were a recipe for confusion.

Recommendations

To prevent a complete shutdown of the notice distribution function in the future, I recommend that the IRS:

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[37] *See* Erin M. Collins, *Keep an Eye on Your Mailbox: Millions of Backlogged Notices Are Being Mailed Over the Next Few Months, Some Reflect Expired Action Dates. But Don't Panic, See Inserts Providing Extended Due Dates*, NTA BLOG (June 22, 2020), https://taxpayeradvocate.irs.gov/news/nta-blog-mailbox.

[38] IRC § 6303(a) requires the IRS to issue the notices within 60 days of assessment and to establish legal response dates and time frames. *See* Erin M. Collins, *Keep an Eye on Your Mailbox: Millions of Backlogged Notices Are Being Mailed Over the Next Few Months, Some Reflect Expired Action Dates. But Don't Panic, See Inserts Providing Extended Due Dates*, NTA BLOG (June 22, 2020), https://taxpayeradvocate.irs.gov/news/nta-blog-mailbox.

[39] IRS, *IRS Statement on Balance Due Notices* (June 12, 2020), https://www.irs.gov/newsroom/irs-statement-on-balance-due-notices. After catching up with the notice and demand backlog, the IRS has mailed current versions of the notice and demand letter without an insert since the end of June.

[40] IRC § 6213(b) provides that the taxpayer has 60 days to request an abatement of a math error adjustment.

[41] IRC § 6330 provides that the taxpayer has 30 days to request a hearing before the IRS Independent Office of Appeals, and the IRS generally cannot proceed with the levy until after the hearing takes place.

[42] Insert Notice 1052-C was inadvertently excluded from about 11,000 backdated CDP notices (CP90, CP297 and CP90C). A supplemental Letter 544-C was mailed on August 7, 2020, advising taxpayers that they had until September 8, 2020, to request a CDP hearing. IRS, SERP Alert 20A0333, *Federal Payment Levy Program (FPLP) and State Income Tax Levy Program (SITLP) Collection Due Process (CDP) Notices* (Aug. 12, 2020); IRS, *IRS Operations During COVID-19: Mission-Critical Functions Continue* (Aug. 31, 2020), https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue.

- Evaluate the notice production centers to improve the automated mailing of IRS notices.
- Continue to explore the feasibility of electronic methods to deliver notices to taxpayers and their authorized representatives, including online account platforms.
- Modernize the IRS's IT infrastructure to enable real-time programming changes at the notice production centers, which would prevent the IRS from mailing notices with outdated information in the future.[43]

G. <u>ECONOMIC IMPACT PAYMENTS: Some Taxpayers Did Not Receive Their Full EIPs Due to IRS Programming Errors or Factual Issues the IRS Decided It Did Not Have the Resources to Resolve This Year.</u>

On March 27, 2020, the CARES Act was signed into law. Among other things, it directed the IRS to make EIPs of $1,200 to each "eligible individual" and an additional $500 for each qualifying child "as rapidly as possible."[44] The IRS took immediate steps and made significant efforts to expedite programming its systems, coordinate with the Social Security Administration, the Department of Veterans Affairs, and the Bureau of the Fiscal Service; issue guidance to the public; create a dedicated Coronavirus webpage; and develop two online tools ("Get My Payment" and "Non-Filers Enter Payment Info Here") to provide eligible individuals with the ability to track their EIPs or file a short return listing their qualified children to receive an additional child payment. The IRS began issuing these payments around April 10, 2020. As of August 14, 2020, approximately 160 million payments had been issued.

As of the date of this testimony, the IRS continues to reach out to individuals who typically don't file federal income tax returns but who may be eligible for, but have not registered to claim, EIPs. As the EIP is a credit advance with respect to an individual's 2020 tax return, the IRS must issue the payment by year-end. Otherwise, the individual will be required to file a 2020 income tax return to claim the 2020 recovery rebate. As such, the IRS is requiring individuals to submit their requests through the filing of their 2019 income tax returns by October 15, 2020, or through an online "Non-Filers" tool created for taxpayers without a return filing obligation by October 30, 2020, to allow the IRS time to process and pay the EIP this calendar year.

The significant majority of eligible individuals received their EIPs promptly and without incident.[45] However, some individuals have not received their EIPs, and other individuals did

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[43] Had the IRS been able to implement real-time programming changes within a week of the April 8 notice production center closure, the impact could have been drastically reduced.

[44] CARES Act, Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335 (2020) (codified at IRC § 6428).

[45] IRS, IR-2020-180, *IRS takes new steps to ensure people with children receive $500 Economic Impact Payments* (Aug. 14, 2020), https://www.irs.gov/newsroom/irs-takes-new-steps-to-ensure-people-with-children-receive-500-economic-impact-payments. *See also* Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2020-46-041, *Interim Results of the 2020 Filing Season: Effect of COVID-19 Shutdown on Tax Processing and Customer Service Operations and Assessment of Efforts to Implement Legislative Provisions* (June 2020), https://www.treasury.gov/tigta/auditreports/2020reports/202046041fr.pdf. TIGTA generally gave the IRS high marks for its efforts. Payments started going out on April 10, just two weeks after the passage of the CARES Act, and by TIGTA's reckoning, about 98 percent of the payment amounts were correctly computed.

not receive the full amounts.[46] At first, the IRS took the position that many of these individuals would have to wait until they filed their 2020 tax returns (in 2021) to claim recovery rebate credits against their 2020 tax liabilities.[47] However, it has since agreed to correct its programming errors and pay additional amounts this year in certain circumstances, primarily to individuals with issues that could be identified and resolved via automation. The following are examples of these issues:

- Qualifying children**:** As noted above, the IRS created a "Non-Filers" tool to allow taxpayers who otherwise did not have a return-filing obligation to claim EIPs and to claim an additional $500 amount for each qualifying child. Due to a programming glitch, however, not all taxpayers who used the Non-Filers tool and claimed qualifying children received the additional $500 per-child benefit. The problem arose for about 450,000 taxpayers who submitted information on the Non-Filers tool from April 10 to May 17.[48] After May 17, qualifying children were correctly accounted for and were included in payment computations. This issue has since been resolved, with these taxpayers receiving the $500 benefit for each qualifying child in August.[49]

- Taxpayers whose spouses owe past-due child support: The CARES Act permitted the IRS to offset EIPs for outstanding child support. However, early in the process there was a programming error. Some taxpayers had their portion of the EIP erroneously offset against their spouse's past due child support,[50] even though they had filed an injured spouse claim with their 2019 tax return – and in some cases their 2018 return – on IRS Form 8379, *Injured Spouse Allocation*.[51] The IRS addressed this error by issuing EIP refunds to about 50,000 injured spouses by September 4, 2020.[52] Additionally, 836,000 taxpayers who did not file a Form 8379 did not receive their portion of the EIP because it was offset against their spouse's past-due child support.[53] The IRS will automatically issue the portion of the EIP that was offset to the non-liable spouse without requiring the non-liable spouse to submit a Form 8379.[54]

- Taxpayers who filed a joint return with someone who was incarcerated: Some taxpayers who filed a joint return with someone who is currently incarcerated had their portion of

[46] Government Accountability Office (GAO), GAO-20-701, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions* (Sept. 21, 2020), https://www.gao.gov/reports/GAO-20-701/.
[47] National Taxpayer Advocate 2021 Objectives Report to Congress 3.
[48] GAO, GAO-20-625, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts* (June 25, 2020), https://www.gao.gov/reports/GAO-20-625.
[49] IRS, SERP Alert 20A0301, *Economic Impact Payment Adjustments* (July 22, 2020).
[50] Under § 2201(d) of the CARES Act, the EIP is generally not subject to offset, except that offset to satisfy past-due child support is permissible. Pub. L. No. 116-136, § 2201(d), 134 Stat. 281, 338 (2020).
[51] Form 8379 is filed by one spouse (the injured spouse) on a joint return when the refund is applied (offset) to a past-due debt of the other spouse so that the injured spouse can receive his or her share of the refund.
[52] IRS, IR-2020-192, *IRS: 50,000 spouses to get catch-up Economic Impact Payments* (Aug. 25, 2020).
[53] IRS, CDW, IMF (Apr. 23, 2020); IRS response to TAS fact check (June 23, 2020).
[54] IRS, SERP Alert 20A0301, *Economic Impact Payment Adjustments* (rev. Aug. 30, 2020).

> the EIP stopped**.** The IRS corrected this programming error and is working to issue these taxpayers their portion of the EIP.[55]

These problems were likely caused by programming errors, but other issues resulted from IRS systems limitations that require the agency to rely on manual processes. In situations where the EIP has already been disbursed based on information in the IRS's systems, the IRS has said the individual will have to wait until he or she files a 2020 return next year to claim a 2020 recovery rebate credit. There have been individuals who, after receiving their EIPs, filed 2019 returns that should result in increased EIP amounts.[56] The challenge the IRS faces is determining how to identify which individuals filed subsequent returns permitting increased EIP amounts, then manually adjusting their account information, and manually issuing second payments – a time-consuming task. This is yet another example of how aged IRS systems that rely too heavily on manual processes can burden taxpayers, in this case by requiring eligible individuals to wait nearly an entire year to receive payments Congress directed the IRS to disburse to them "as rapidly as possible."

Recommendation

I recommend that Congress:

- Provide the IRS with the resources it needs to modernize its aging technology systems to leverage automated processes, increase flexibility, and reduce processing times.

II. The IRS Is Developing a Comprehensive Taxpayer Service Plan That, if Implemented, Has the Potential to Transform Taxpayer Service.

The Taxpayer First Act, enacted into law on July 1, 2019,[57] made the most comprehensive revisions to IRS procedures since the IRS Restructuring and Reform Act of 1998,[58] including some 23 provisions previously recommended by the National Taxpayer Advocate. Congress recognized the critical importance of providing quality service to taxpayers. The TFA directed the IRS to develop four strategic plans: (i) a comprehensive taxpayer service strategy; (ii) a comprehensive plan to redesign the IRS's organizational structure; (iii) a comprehensive

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[55] In addition, a U.S. district court recently issued an order in which it (1) determined that it had jurisdiction to decide the case, (2) enjoined the IRS from withholding EIPs from incarcerated individuals, and (3) certified a class. *Scholl v. Mnuchin,* 2020 WL 5702129 (N.D. Cal. Sept. 24, 2020).

[56] For example, when the IRS issued the EIP to an eligible individual, it correctly applied the CARES Act and relied on the individual's 2018 return information in determining the amount of the EIP. After the issuance of the EIP, the individual filed a 2019 return reflecting a qualifying child who was not included on the 2018 return. Although the individual may be entitled to an additional $500 payment, the IRS's systems were not programmed to identify which EIP recipients filed subsequent returns and whether it needed to recalculate whether any additional payments should be made. The CARES Act instructed the IRS to use the information in its systems, either 2018 return information or 2019 return information, in calculating the advance credit for 2020. The CARES Act provided a true-up provision for additional payments with the filing of the individual's 2020 income tax return. I continue to encourage the IRS to find workarounds to make additional payments now, but considering the IRS's current IT capabilities, the task is significant.

[57] Pub. L. No. 116-25, 133 Stat. 981 (2019).

[58] Pub. L. No. 105-206, 112 Stat. 685 (1998).

employee training strategy that includes taxpayer rights training for employees who interface with taxpayers and the direct managers of such employees; and (iv) a multi-year plan to meet the IRS's IT needs.[59]

Developing these plans has been among the IRS's highest priorities over the past year. Although the completion of the plans was delayed due to the impact of the COVID-19 pandemic on IRS operations, the IRS is planning to submit them to Congress by the end of the year. (The TFA does not require the IRS to deliver the IT plan to Congress, and the IT plan therefore will not be included with the submission.)

Because these strategic plans are still being finalized, I am limited in my ability to discuss the details. Having reviewed drafts, however, I can tell you that I am encouraged by the strategies the IRS is proposing to improve taxpayer service. While there are still many details that need to be fleshed out, I believe that, if implemented, the IRS's plan has the potential to transform taxpayer service. Significantly, many components of the plan are dependent on modernizing and expanding the IRS's existing technology systems and efforts. As I will discuss in the next section of this statement, the IRS cannot make many of the improvements discussed in the plan without the necessary funding to do so.

I would be remiss if I did not mention that while the customer service strategy the IRS presents will be an important first step toward improving customer service, the manner in which the IRS implements the plan in the coming years will be even more important. As the IRS moves into implementation of the customer service and training strategies, any potential reorganization, and all the resulting changes that are involved in such large-scale actions, I believe it is critical that TAS be actively involved in that implementation.

Recommendation

I recommend that the IRS:

- Include a TAS executive as a core member of the executive team responsible for TFA implementation. To date, I believe our involvement on the larger advisory board and as a lower level member on various TFA subgroups has been beneficial for taxpayers and the IRS. As the statutory voice of the taxpayer within the IRS, I believe TAS can continue to bring value to help improve taxpayer services and protect taxpayer rights during the implementation phase. TAS is committed to working collaboratively with the IRS to help make Congress's goals in enacting the TFA a reality and to ensure that taxpayers receive the service they need from fully trained employees who are mindful of taxpayers' rights throughout the tax administration process.

[59] Pub. L. No. 116-25, §§ 1101, 1302, 2101 & 2402, 113 Stat. 981, 985, 993, 1008 & 1014 (2019).

III. The IRS Is Seeking to Improve Its Ability to Serve Taxpayers But Doing So Requires Significant Upgrades to Its Information Technology Systems.

The Supreme Court famously stated that "taxes are the life-blood of government."[60] In that vein, the IRS is responsible for collecting approximately $3.5 trillion in taxes each year – roughly 95 percent of federal revenue. In addition, the agency is tasked with administering recurring social benefits programs like the Earned Income Tax Credit, and one-time financial relief programs like Economic Stimulus Payments in 2008 and EIPs this year. Despite these enormous and critical responsibilities, the IRS is overwhelmingly reliant on "legacy" information technology (IT) systems, which the IRS's IT function has defined as systems that are at least 25 years old, use obsolete programming languages (*e.g.*, COBOL), or lack vendor support, training, or resources to maintain. Legacy systems are critical, as they support the day-to-day operations for key mission functionality. A recent report by the Treasury Inspector General for Tax Administration found that 231 IT systems used by the IRS are legacy systems.[61]

In order to provide first-rate taxpayer service, the IRS will require a substantial overhaul of its IT systems. IRS legacy computing infrastructure must meet a complex set of demands, such as incorporating ongoing changes to tax rules and regulations and processing more than 160 million individual and business tax returns each filing season as well as safeguarding sensitive taxpayer data and combating cybersecurity attacks. Over the past 50 years or so, the IRS has developed hundreds of software programs to meet the needs of its business units. But these programs generally lack the ability to interface with each other to provide a seamless taxpayer experience, nor are they nimble enough to integrate new technologies. As a result, data from one system often must be re-entered into another (*e.g.*, when a taxpayer's case moves from Exam to Appeals).

The TFA directed the IRS Chief Information Officer to develop and implement a multi-year strategic plan for IT.[62] Prior to the passage of the TFA, the IRS had embarked on a mission to modernize its IT systems. In April 2019, it released an Integrated Modernization Business Plan that outlines the IRS leadership's vision to improve the taxpayer experience by modernizing core tax administration systems, IRS operations, and cybersecurity over a six-year period.

The IRS has also established a new Enterprise Digitalization and Case Management office to oversee its efforts to develop a more taxpayer-centric approach to case management. The key component of that undertaking is the "Enterprise Case Management" initiative. It aims to address the challenges the IRS currently faces from having casework taking place on more than 60 aging systems, most of which are incapable of communicating with each another, by creating a consolidated cloud-based case management system.

We can all envision the benefits of IT modernization, but core IT upgrades are more than just about improving taxpayer service. They are also required to reduce the chances of a catastrophic breakdown. In 2018, some systems crashed for just a few hours. Although the IRS was able to recover quickly that time, the crash occurred on the filing deadline, prompting the agency to give

[60] *Bull v. United States*, 295 U.S. 247, 259 (1935).
[61] TIGTA, Ref. No. 2020-20-044, *Legacy Systems Management Needs Improvement* (Aug. 2020).
[62] Pub. L. No. 116-25, § 2101, 133 Stat. 981, 1008 (2019).

panicked taxpayers and practitioners an extra day to file their returns. With a more significant crash, the IRS might be unable to process returns, collect tax payments or issue tax refunds. As I detail in this statement, the IRS's IT antiquated technology systems have also limited its ability to operate during the pandemic.[63]

The IRS estimates it will need about $2.5 billion over six years to implement its modernization plan. Yet Congress appropriated just $150 million in FY 2019 and $180 million in FY 2020 for business modernization efforts. For the IRS to properly implement and expand on its modernization plan, as a whole and not in pieces, it requires multi-year funding for its modernization efforts, along with sufficient flexibility to use IT funds sensibly. Without more long-term funding, the IRS will not be able to enter into long-term contracts to upgrade its systems, the state of its technology will continue to deteriorate, it will face greater business risks, and it will need to spend increasingly more funding to extend the life of its legacy systems.

The Government Accountability Office has found that the IRS's Individual Master File and Business Master File systems date to about 1960 and are the two oldest IT systems in the federal government.[64] That is deeply concerning in itself, because those systems hold the official records of taxpayer accounts. But the IRS's IT challenges are far more pervasive. Among key deficiencies are the lack of (i) a standardized agency-wide case management system, (ii) robust online accounts, and (iii) widely available videoconferencing capability.

A. <u>The IRS Requires a Standardized Agency-Wide Case Management System.</u>

The IRS curently uses over 60 discrete case management systems, which have been developed over many years to support the individual needs of multiple business units. Many of these systems are incapable of communicating with each another, resulting in redundancies, bottlenecks, and increased risk. The IRS's Enterprise Case Management (ECM) initiative began in 2015 and has the dauting task of consolidating case management systems across the IRS and replacing them with a cloud-based case management system. The ECM solution is designed to streamline case management and integrate IT programs to improve service to taxpayers.

The IRS awarded a contract with a total value of more than $45 million, with plans for full deployment of Release 1.0 by the end of this calendar year.[65] The IRS estimates it will require approximately an additional $255 million over the next four years to fully implement its ECM plan. Implementation of the ECM plan should continue to be a top priority for the IRS and for Congress on behalf of taxpayers, and the IRS should receive the funding it needs to complete the project in the foreseeable future.

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[63] *See* Erin M. Collins, *IT Modernization – The IRS's Reliance on Antiquated Technology Poses a Continuing Risk to Tax Administration*, NTA BLOG (Sept. 3, 2020), https://taxpayeradvocate.irs.gov/news/nta-blog-IT-Modernization?category=Tax%20News.
[64] GAO, GAO-16-468, *Information Technology: Federal Agencies Need to Address Aging Legacy Systems* 28-30 (May 2016), https://www.gao.gov/assets/680/677436.pdf.
[65] *See* Treasury Inspector General for Tax Administration, Ref. No. 2020-20-061, *The Enterprise Case Management Solution Deployment Is Delayed, and Additional Actions Are Needed to Develop a Decommissioning Strategy* (Sept. 21, 2020).

B. The IRS Should Offer Taxpayers Robust Online Accounts and a Video Conferencing Option.

Technology is reshaping how taxpayers and the IRS can communicate with each other. The commercial growth of available online services has heightened taxpayers' expectations of receiving quality online services that can be used to conduct tax communications and transactions. As the IRS continues to resume its business operations that were partially or completely shut down at the inception of the COVID-19 pandemic, it should continue to evaluate what needs to be done to administer the tax laws and provide necessary taxpayer services, especially under similar conditions in the future. For years, the IRS has steered taxpayers toward digital self-help and has continually expanded its offerings of digital service options.

In addition, as discussed above, the TFA requires the IRS to develop a plan to provide taxpayers with services, including digital services, that are secure and designed to meet their reasonable expectations. However, the success of the IRS's IT plan will be contingent on additional multi-year funding.

During the COVID-19 pandemic, with the temporary closure of TACs and phone lines supported by customer service representatives, the IRS encouraged taxpayers to use digital service options. However, this experience exposed shortcomings.

Recommendations

To improve the experience of taxpayers as they digitally interact with the IRS in the future, I recommend that Congress:

- Continue to fund the technological upgrades the IRS requires to provide an enhanced level of service and improve its overall operations, as the country deserves.

In addition, I recommend that the IRS:

- Expand Digital Acceptance and Transmission of Documents and Digital Signatures. The March closure of IRS offices and mail facilities made it impossible for IRS employees to receive paper documents from taxpayers. As a workaround, the IRS issued temporary guidance on March 27, 2020, which it subsequently extended through the end of 2020, that authorizes employees to accept and transmit documents related to the determination or collection of a tax liability by email using an established secured messaging system.[66] Employees are also permitted to accept images of signatures (scanned or photographed) and digital signatures on documents related to the determination or collection of a tax liability. In addition, the TFA requires the IRS to develop guidance to establish uniform standards and procedures for the acceptance of taxpayers' electronic signatures for powers of attorney (Form 2848) and tax information

[66] *See* Memorandum from Sunita B. Lough, Deputy Commissioner, Services and Enforcement for All Services and Enforcement Employees, Control Number: NHQ-01-0620-0002, *(1) Approval to Accept Images of Signatures and Digital Signatures [and] (2) Approval to Receive Documents and Transmit Encrypted Documents by Email* (June 12, 2020), https://www.irs.gov/pub/foia/ig/spder/nhq-01-0620-0002.pdf.

authorizations (Form 8821).[67] All of these changes are beneficial for taxpayers and practitioners and improve tax administration. I recommend that the IRS continue to move forward into the 21st century with additional digital taxpayer services.

The TFA and the COVID-19 pandemic have provided the impetus for the IRS to expand its use of email and acceptance of electronic digital signatures in line with the practices of private financial institutions and businesses. These changes were long overdue and have been very positively received.[68] Going forward, I urge the IRS to continue soliciting suggestions regarding how to incorporate digital signatures into practice from external stakeholders, including the Internal Revenue Service Advisory Council, Taxpayer Advocacy Panel, the Electronic Tax Administration Advisory Committee, the American Institute of CPAs, the American Bar Association, and the National Association of Enrolled Agents, many of which have already provided comments to the IRS on this topic.

- Improve Online Account Accessibility and Features. The IRS offers an online account application for individual taxpayers. Taxpayers who gain access to the taxpayer online account can view their balance due, make payments, retrieve account transcripts, and even view the status of EIPs, among other features.

  However, certain taxpayers have difficulty satisfying the elevated e-authentication requirements of the application. Legitimate taxpayers have experienced difficulties passing the authentication requirements, as the current authentication process is complex and not user-friendly. In July 2020, only 50 percent of users who attempted to register for an online account passed the IRS e-authentication requirements. I recommend that the IRS continue to assess ways to increase accessibility while also maintaining required compliance with strict security guidelines developed by the National Institute of Standards and Technology. We anticipate that the IRS will continue to add features (*e.g.*, digitally communicating in a secure environment, viewing the status of submitted correspondence, and viewing copies of notices mailed by the IRS) to enable a one-stop experience for users once staffing and an increased IT budget are provided and security and risk issues are addressed.

  In addition, the IRS currently offers e-Services, an online application for tax professionals. E-Services gives professionals access to (i) the Transcript Delivery System to view filed returns and taxpayer account information, (ii) Taxpayer Identification Number (TIN) matching to validate TIN and name combinations prior to submitting information returns, and (iii) other e-file provider services. The IRS is also developing Tax Pro, a much-needed online platform for tax professionals to digitally create and manage third-party authorizations (*e.g.*, Forms 2848 and 8821). It is my understanding, that due to lack of funding, Tax Pro will not have robust features for many years. I recommend that Congress appropriate funding to allow the IRS to implement a

[67] Pub. L. No. 116-25, § 2302, 133 Stat. 981, 1013 (2019).
[68] *See, e.g.*, James Creech, *The IRS Cracks Open the Door to Electronic Communications*, PROCEDURALLY TAXING (May 14, 2020), https://procedurallytaxing.com/the-irs-cracks-open-the-door-to-electronic-communications.

full-service online tool for professionals, possibly integrating it with e-Services. The online tool for tax professionals should provide services with at least as much functionality as those offered on the taxpayer online account application.

- Offer Videoconferencing Options to Taxpayers. Videoconference technology allows taxpayers and their authorized representatives to be both seen and heard, and to share documents, without being physically present. The IRS Independent Office of Appeals currently offers WebEx technology for virtual face-to-face conferences between taxpayers, representatives, and Appeals Officers. The IRS Office of Chief Counsel and the U.S. Tax Court are also conducting video communications and virtual trials using ZoomGov.com. Although videoconferencing should not replace in-person or telephone conference options, it adds a digital option to communicate with taxpayers when appropriate.

  I recommend that the IRS evaluate the feasibility of expanding this technology to as many taxpayer-facing functions as possible, without removing the in-person options for taxpayers. Unfortunately, existing bandwidth has been too limited to handle widescale use of this technology. It is only recently that the IRS has started permitting limited internal videoconferencing during COVID-19 closures. Videoconferencing should continue to be expanded and offered as an option to taxpayers because it can help fill current or future voids in face-to-face service at TACs and in dealing with revenue agents or revenue officers.

  In addition, taxpayers who are geographically remote from a TAC would find using videoconferencing technology more helpful and economical than traveling for an in-person conference. Even taxpayers not geographically remote may prefer the convenience of a virtual meeting. The IRS has utilized Virtual Service Delivery (VSD) in the past, but it should modernize its VSD capabilities to allow taxpayers to use neighborhood facilities such as local post offices, community centers, VITA centers, and other partner locations to log into secure IRS applications. It is my understanding that the IRS is exploring the feasibility of this option for remote locations. We encourage the agency to continue down this path.

Finally, despite the many benefits of digital communication, it is critical that telephone and in-person service options be maintained. Millions of taxpayers still do not have access to broadband, while other taxpayers strongly prefer to interact with the IRS by telephone or in-person for certain categories of transactions. For these reasons, I believe it is essential that the IRS maintain a robust omni-channel service environment while it enhances its digital offerings.[69]

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[69] For more perspective on the importance of providing taxpayers with multiple channels through which to interact with the IRS, see National Taxpayer Advocate 2019 Annual Report to Congress 3-14 (Most Serious Problem: *Customer Service Strategy: The IRS Needs to Develop a Comprehensive Customer Service Strategy That Puts Taxpayers First, Incorporates Research on Customer Needs and Preferences, and Focuses on Measurable Results*).

C. <u>The IRS Does Not Have Enough Qualified IT Programmers.</u>

Hiring IT programmers has been a challenge for the IRS. Part of the problem is that the core IRS systems dating to the early 1960s operate on primitive Assembler Language Code or obsolete Common Business-Oriented Language (COBOL). A recent GAO report noted that COBOL is a programming language so antiquated that there is a dwindling number of people with the skills needed to support it.[70] In 2020, there are not many qualified IT personnel who are proficient in COBOL, so even expert computer programmers hired by the agency need extensive training before they can program some IRS systems.

IV. A Decade of Budget Cuts Has Weakened the IRS's Ability to Meet Taxpayer Needs and Properly Collect Tax.

Since FY 2010, the IRS's workload has substantially increased, while its resources have substantially decreased. As a result, the IRS has not had enough employees to properly assist taxpayers by phone or in person. In addition, its antiquated IT systems have impeded the agency's ability to provide online services comparable to what taxpayers receive from private financial institutions or even other federal or state agencies.

While no single data point provides a perfect measure of the IRS's workload, the number of income tax returns the IRS receives is probably the best general indicator. Most of the IRS's core work flows directly from the size of the taxpayer population, including the number of returns the IRS must process, the number of refunds it must issue, the number of telephone calls and letters it must answer, and the number of audits and collection actions it must take to ensure tax compliance and deter noncompliance. Between fiscal years 2010 and 2020, the number of income tax returns filed increased by about 13 percent.[71]

At the same time, the IRS's budget was reduced by almost 20 percent after adjusting for inflation.[72] That has translated into a cut in the number of IRS full-time equivalent employees (FTEs) of 22.4 percent (dropping from 94,711 FTEs in FY 2010 to 73,539 FTEs in FY 2020).[73]

Cutting the IRS budget makes little sense for several reasons. Simply from a dollars-and-cents perspective, the IRS serves as the accounts receivable department of the federal government, and

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[70] *See* GAO, GAO-19-471, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems* (June 2019), https://www.gao.gov/assets/700/699616.pdf.

[71] IRS, 2010 Data Book, Table 2, *Number of Returns Filed by Type of Return* (showing that taxpayers filed 151.5 million individual, corporation, and partnership returns in FY 2010), https://www.irs.gov/statistics/soi-tax-stats-numbers-of-returns-filed-by-type-of-return-irs-data-book-table-2; IRS, Pub. 6292, Table 1, *Fiscal Year Return Projections for the United States: 2020-2027, Fall 2020,* at 4 (projecting that taxpayers will file 171.8 million individual, corporation, and partnership returns in FY 2020) (rev. 9-2020), https://www.irs.gov/pub/irs-pdf/p6292.pdf.

[72] IRS Chief Financial Officer (CFO) response to TAS information request (Sept. 30, 2020). This total excludes one-time supplemental appropriations intended to enable the IRS to take actions in response to the COVID-19 pandemic, including the delivery of EIPs.

[73] IRS CFO response to TAS information request (Sept. 30, 2020). This total excludes FTE funded through one-time supplemental appropriations intended to enable the IRS to take actions in response to the COVID-19 pandemic, including the delivery of EIPs. The number is subject to minor adjustment after year-end accounting is complete.

each dollar appropriated for the IRS generates more than one dollar in return – a lot more. In FY 2019, the IRS collected $3.6 trillion in federal tax payments on a budget of $11.3 billion – a return on investment of more than 300:1.[74] My office has long argued that the appropriations process should be modified to account for that. For most other federal agencies, a dollar spent is simply that – one less dollar available for other federal programs. But the IRS is different. A dollar spent on the IRS typically generates substantially more than one dollar in return, increasing the funds available for other federal agencies and much needed programs.

The most recent tax gap estimates show the IRS fails to collect nearly $400 billion a year.[75] No reputable business would solve its budget problems by choosing to cut funding for its accounts receivable department if the department brought in substantially more than a dollar in revenue for each dollar it was allocated, yet that is exactly what the federal budgeting process does.

Focusing solely on taxpayer service, budget constraints have left the IRS unable to meet basic taxpayer needs. As described earlier in this statement, the IRS receives an average of about 100 million telephone calls in most years, yet its telephone assistors are only able to answer about a quarter of the calls, and wait times are often considerable. The Taxpayer Assistance Centers, formerly known as "walk-in" sites, have adopted a general policy of requiring taxpayers to make advance appointments to receive service. Taxpayers whose refunds are stopped by the IRS's anti-fraud processing filters often experience unacceptably long waits to receive their refunds. And taxpayers still do not have robust online accounts through which they can file tax returns and generally interact with the IRS.

Inadequate funding also harms taxpayers in the compliance process. Because of limited resources, the IRS has been increasingly using automation to propose tax adjustments and take collection actions. With respect to the imposition of penalties, in particular, automation cannot assess taxpayer intent, so penalties are sometimes imposed in inappropriate cases.[76]

Due to budget constraints, the IRS has done its best to handle more work with reduced funding over the past decade, but taxpayer service and revenue collection have both suffered.

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[74] GAO, GAO-20-159, *Financial Audit: IRS's FY 2019 and FY 2018 Financial Statements* 43, 100 (Nov. 2019), https://www.gao.gov/assets/710/702597.pdf.

[75] IRS, Pub. 5364, *Tax Gap Estimates for Tax Years 2011-2013* (rev. 9-2019), https://www.irs.gov/pub/irs-pdf/p5364.pdf. The IRS estimated an annual "gross" tax gap of $441 and an annual "net" tax gap of $381. The gross tax gap reflects taxes paid timely and voluntarily. The net tax gap reflects unpaid taxes after taking into account late payments and collection actions. The tax gap estimates examine legal-source income only. Unpaid tax attributable to illegal activities is not reflected in these estimates.

[76] For example, IRC § 6751(b)(1) generally requires supervisory approval before the IRS may impose penalties, except in the case of penalties "automatically calculated through electronic means." IRC § 6662(b)(1) authorizes the IRS to impose a 20 percent penalty for "negligence," which is defined as "any failure to make a reasonable attempt to comply with the provisions" of the Internal Revenue Code. Negligence cannot reasonably be determined by electronic means because a computer cannot assess whether a taxpayer made a "reasonable attempt" to comply with the law. Yet to save resources, the IRS has programmed its computers to impose the negligence penalty through electronic means in certain cases. For additional detail, see National Taxpayer Advocate 2020 Purple Book 32 (Legislative Recommendation: *Clarify the Parameters for Written Managerial Approval Required for Penalty Assessments Under IRC § 6751(b)*).

Recommendation

I recommend that Congress:

- Provide the IRS with the resources it requires if Congress expects significant performance improvements.

V. Conclusion

The 2020 filing season has presented unprecedented challenges for taxpayers and the IRS alike. Considering the hand it was dealt, the IRS performed well overall. The 2021 filing season is likely to present similar challenges. In some respects, the lessons the IRS learned this year will help to mitigate recurring problems. In other respects, resource constraints limit what the IRS can reasonably accomplish in the current environment. More broadly, the challenges the IRS faced this year were heightened by its reliance on outdated technology and a workforce that has shrunk by more than 20 percent over the past decade. Both to improve and provide quality taxpayer service and to enable the IRS to do a better job of administering the tax code and fairly collecting taxes that are due, the IRS requires significant additional resources, particularly resources for IT modernization.

In closing, I would be remiss if I didn’t acknowledge that the IRS, its employees, and their families have also been significantly impacted by COVID-19. I want to acknowledge the many hardworking and dedicated TAS and IRS employees, including leadership teams, support personnel, and contractors, who have worked countless hours day after day in the office or remotely during the pandemic, while juggling their own health, safety, and child care issues. I understand there are still many taxpayers with unresolved tax issues who are extremely frustrated with the process, and in my role as the National Taxpayer Advocate, I will continue to advocate for the IRS to resolve taxpayer problems without additional delay. Most of the problems, however, are a product of circumstance, particularly the office closures required by COVID 19-related social distancing requirements. Since mid-March, employees have faced the daunting task of not only administering the tax filing season under remarkably challenging circumstances, but also disbursing some 160 million EIPs on short notice. Without the dedication and hard work of IRS employees, taxpayer service might have been much worse. I am grateful to TAS employees and employees in other parts of the agency for all they have done to keep the tax system operating.