

Transparency

IRS TRANSPARENCY

Lack of Transparency About Processing Delays and Other Key Data Frustrates Taxpayers and May Undermine Voluntary Compliance

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

Transparency is a critical element of a fair and effective tax administration system. Access and transparency have never been more important than now. Congress has given the IRS significant additional funding to improve tax administration, and it is incumbent on the IRS to be transparent about its plans and outcomes to demonstrate to Congress and the taxpaying public that it is using the funding fairly, equitably, and prudently.

The IRS provides taxpayers with access to certain information about the status of their refunds and delays in processing returns, and it provides answers to basic tax law questions. But many in the tax community believe the IRS does not adequately communicate with taxpayers and is too limited in what it discloses publicly. Historically, taxpayers have struggled to get precise information about when the IRS would process their returns, pay refunds, and address their correspondence, along with the reasons for delays. The pandemic has exacerbated that issue.

While the IRS provides taxpayers with voluminous amounts of information on [IRS.gov](https://www.irs.gov) to assist them in complying with their tax filing and payment obligations, a cluttered website causes taxpayers to struggle to find the information they are looking for. When taxpayers do find information they are seeking, they sometimes are surprised to discover they cannot rely on all IRS guidance. When taxpayers cannot find any guidance on their issue, they often are not able to find out whether the IRS is in the process of developing such guidance and, if so, when it will be issued. The IRS's lack of transparency and lack of access regarding updated communications and guidance are barriers to taxpayers voluntarily complying with their tax obligations and have led to frustration with the tax system.

EXPLANATION OF THE PROBLEM

Since fiscal year (FY) 2010, the IRS budget has been reduced by nearly 20 percent after adjusting for inflation, and its staffing has declined as well.¹ Reduced budget and staffing caused challenges for taxpayers and the IRS. During this time, the IRS has not provided taxpayers clear explanations of the challenges or the impact to overall service. The IRS was recently appropriated a significant amount of funding to use over the next ten years to improve taxpayer service, modernize its systems, improve operations, and increase enforcement against certain taxpayers, and it must provide regular updates on the use of this funding.² The IRS must be fully transparent to taxpayers, tax practitioners, stakeholders, the public, and all oversight organizations that it is applying the funds wisely, fairly, and equitably, particularly in the area of enforcement.³ Any failure of the IRS to fully embrace providing access and transparency risks eroding the public's confidence in the IRS, thereby threatening the bedrock principle upon which tax administration is based – taxpayers voluntarily complying through self-assessment.

Another aspect of transparency is whether the IRS provides taxpayers with information regarding the status of their return and how to voluntarily comply with their tax obligations. Despite the IRS's efforts to provide such information, taxpayers all too often feel in the dark about their interactions with the IRS and how to best comply with their obligations. Taxpayers need access to phone assistance, in-person assistance, timely responses to correspondence inquiries or replies, and accessible [IRS.gov](https://www.irs.gov) information.

FIGURE 2.7.1

A lack of transparency causes problems for taxpayers in many areas, including:



Difficulty accessing specific information about their refunds, processing delays, and their case before the IRS;



Difficulty obtaining answers to questions;



Difficulty determining upon what IRS guidance they can rely; and



Difficulty identifying what new guidance the IRS is developing and its projected completion date.

ANALYSIS

Taxpayers and the Public Need Regular Updates on How the IRS Plans to Use the Inflation Reduction Act Funding

As part of the Inflation Reduction Act, the IRS is scheduled to receive a significant influx of funding over the next decade for improvements to technology, customer service, and enforcement and to cover operational costs.⁴ After the President signed this legislation into law, the Treasury Department put certain constraints on how the IRS could use the funding in the area of enforcement.⁵ For taxpayers and the public to have confidence that the IRS is using this funding fairly and equitably – particularly in the area of enforcement – the IRS must be fully transparent to taxpayers, practitioners, the American public, Congress, and other oversight agencies, including TAS.⁶ If the IRS is not fully transparent as to how it will apply the funds, there is a risk that the public could believe the IRS is not allocating the money in a fair and equitable manner. A lack of transparency could jeopardize one of the bedrock principles of our tax system: taxpayers voluntarily complying with their tax obligations through self-assessment.⁷

The Secretary of the Treasury made clear this expectation of transparency when she directed that the IRS's operational plan include how it will allocate the recent increase in funding it receives through the Inflation Reduction Act.⁸ In response, the IRS announced on August 19, 2022, the creation of the Inflation Reduction Act 2022 Transformation & Implementation Office, charged with developing this operational plan.⁹ This plan will undoubtedly be a useful roadmap as the IRS moves forward over the next decade implementing long-lasting improvements to tax administration. However, for the initial operational plan to be meaningful, it must contain details and provide specific performance metrics that outside parties can monitor and verify to measure the results of how the IRS has applied the funds and the success of its efforts to transform the IRS.¹⁰ Objective timeframes and milestones of the implementation of the funds must be specific and clear. The National Taxpayer Advocate recommends that the operational plan be a living document, regularly updated and modified as the IRS accomplishes transformational changes and identifies new objectives. Requiring and updating such performance measures, timeframes, and objectives will reassure the public that the IRS is using the funds appropriately.

Further, as the implementation process proceeds, there will likely be modifications made to the plan as new priorities are identified and unforeseen circumstances arise. Thus, the IRS should regularly update this operational plan, making the public and external stakeholders aware of any changes to its implementation, and provide the opportunity for external suggestions and comments. Such a level of transparency will give taxpayers and external stakeholders confidence that the IRS is using the funds in a fair, efficient, and equitable manner.

Taxpayers Need More Transparency on the Status of the Filing Season, Processing Delays, Refund Delays, and How to Comply With Their Tax Obligations

Taxpayers Have Difficulty Obtaining Information on Their Refunds, Processing Delays, and Their Cases Before the IRS

During the past several years, millions of taxpayers have experienced return processing and refunds delays due to an IRS backlog.¹¹ These delays drove many taxpayers to Where's My Refund?, which they accessed 557.2 million times in FY 2022, and Where's My Amended Return?, which was accessed 20.8 million times during the same timeframe.¹² However, the information these tools provide taxpayers is limited, as it will only tell taxpayers one of three things: return received; refund approved; or refund sent.¹³ If there was an issue, the taxpayer was not provided any details about what needed to be done or the timing involved with the delay.

The IRS has made some enhancements to the Where's My Refund? tool recently, such as allowing taxpayers to check their refund status for prior tax years.¹⁴ The IRS plans to make further upgrades to the Where's My Refund? tool for the 2023 filing season, including information about refunds that the IRS has adjusted through its math error authority.¹⁵ Despite these upgrades, limitations to the Where's My Refund? tool remain, such as not providing taxpayers with information regarding processing delays caused by errors on the return or by possible identity theft concerns. Until the applications, tools, or taxpayers' online accounts have additional functionality, the combination of processing delays along with limited or no specific information as to the status of the taxpayer's refund will likely drive taxpayers to their phones seeking answers from an IRS assistor. This further burdens an already overwhelmed phone system, as the IRS only answered 14 percent of calls to the IRS's 1040 telephone line for FY 2022.¹⁶

The IRS has taken steps to add more information to Where's My Refund? about refund delays. In 2021, the IRS's Return Integrity and Compliance Service submitted a unified work request (UWR) to update Where's My Refund? to provide taxpayers with more information about refund delays, such as the IRS reviewing their return for accuracy, but the IRS denied the UWR. However, recently upgrades to Where's My Refund? have received initial approval as a Development, Modernization, and Enhancement project, but implementation is contingent on a final funding decision.¹⁷

During the COVID-19 pandemic, the IRS began providing taxpayers with more general information regarding processing delays. After much prompting by the National Taxpayer Advocate and outside stakeholders, the IRS created a webpage, “IRS Operations During COVID-19: Mission-critical functions continue” (hereafter called the Operational page), where it posts information about a number of processing issues, such as delays in processing returns and amended returns.¹⁸ For example, the page says:

As of October 21, 2022, we had 5.1 million unprocessed individual returns received this year. These include tax year 2021 returns and late filed prior year returns. Of these, 2.1 million returns require error correction or other special handling, and 3.0 million are paper returns waiting to be reviewed and processed. This work does not typically require us to correspond with taxpayers, but it does require special handling by an IRS employee so, in these instances, it is taking the IRS more than 21 days to issue any related refund.¹⁹

Although this is a good start at transparency, the operational page does not provide specifics such as how far along the IRS is in processing these 5.1 million returns (*e.g.*, were they filed in April? June?) and does not provide reliable estimates as to when the IRS will complete the processing of these returns. In fact, the section entitled, “How long you may have to wait,” describes what steps the IRS takes to process returns and provides taxpayers only limited information about how long it might take the IRS to process the remaining returns.²⁰ It would be more helpful to taxpayers if the IRS formatted these numbers to allow taxpayers to see the progress the IRS has made in processing returns and issuing refunds. Adding this information in a more user-friendly format, such as a dashboard, would provide taxpayers with more transparency regarding the status of processing returns and make it easier for oversight organizations and congressional committees to monitor the IRS’s progress in processing returns.²¹



A more user-friendly format, such as a dashboard, would provide taxpayers with more transparency regarding the status of processing returns.

It is the National Taxpayer Advocate’s understanding that the IRS had agreed to provide more detailed information about the processing of returns in a dashboard format for the 2023 filing season. Unfortunately, this project is inexplicably delayed or no longer moving forward.²² Taxpayers are entitled to access key information impacting their tax obligations, tax filings, and overall tax administration.

Beyond information on the status of their refunds or where the IRS is in processing returns, taxpayers could also benefit from being able to determine the status of an issue they are trying to resolve with the IRS. Recently, the IRS created a Documentation Upload Tool (DUT) that allows taxpayers who are subject to a correspondence exam to upload documentation in support of their position, but the correspondence examination DUT only tells taxpayers that the IRS has received their documents. To be even more useful, the IRS should expand the tool to inform taxpayers that the IRS has reviewed the documentation they submitted.²³ Alternatively, the IRS should add such a feature to a taxpayer’s online account where they could receive updates regarding documentation they submitted via the DUT or their online account. Once reviewed, the system could update the taxpayer as to whether the items were sufficient, or if not, why.

The IRS could expand a similar tool to other areas where taxpayers have submitted a form or documentation for IRS consideration, such as when taxpayers submit Form 14039, Identity Theft Affidavit, requesting relief from tax-related identity theft.²⁴ Providing access to information and making these tools more available to

taxpayers would provide them with important information regarding the status of the documentation they submitted to the IRS and alleviate the frustration taxpayers experience when calling the IRS to obtain a status update on their issue. Reaching the IRS to obtain such information is extremely difficult. In FY 2022, the IRS only answered about 14 percent of the calls received, and taxpayers had to wait long periods of time to reach a customer service representative (CSR), with an average hold time of about 24 minutes.²⁵ As the IRS moves forward in reinventing and transforming customer service, it should seriously consider expanding the use of these types of tools, whether it be through a taxpayer's online account or some other application.²⁶ Access is key to achieving transparency, whether through CSRs, walk-in Taxpayer Assistance Centers, online accounts, other applications or tools, or [IRS.gov](https://www.irs.gov).

Taxpayers Have Difficulty Obtaining Answers to Questions

[IRS.gov](https://www.irs.gov) provides taxpayers with a wealth of information, including:

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

In FY 2022, the IRS reported about 5.3 billion page views on [IRS.gov](https://www.irs.gov).²⁷ The information taxpayers need to answer their questions and comply with their tax filing and payment obligations might be available somewhere on the nearly 41,000 webpages comprising [IRS.gov](https://www.irs.gov), but pinpointing the exact information is so challenging that the website's value is reduced.²⁸ The volume of webpages and amount of inconsistent and duplicate information may be due in part to the fact that each Operating Division (OD) controls the specific areas on the IRS website for which that OD is responsible. In other words, there is no specific group overseeing and approving each OD's contributions to [IRS.gov](https://www.irs.gov) to ensure that webpages are user-friendly, consistent, and free of content duplication. The IRS is aware of the challenges facing [IRS.gov](https://www.irs.gov), and its Online Services function is working to reduce duplication of the webpages. But Online Services must negotiate this effort with the ODs. The IRS could improve the process by giving a specific group within the IRS, such as Online Services, the authority to approve or deny web content, which would streamline website consistency.

In the long term, to assist taxpayers in navigating the nearly 41,000 webpages, the IRS should consider placing a chatbot on the [IRS.gov](https://www.irs.gov) landing page, which would allow taxpayers to ask questions, and the chatbot would provide a brief answer linking to the relevant [IRS.gov](https://www.irs.gov) pages. This would eliminate the need for taxpayers to sift through thousands of webpages to find what they need.

Despite the voluminous amounts of information provided to taxpayers on [IRS.gov](https://www.irs.gov), there are instances where the IRS has omitted information taxpayers need from the website. For example, when taxpayers want to extend the two-year period for filing a refund suit in a U.S. district court or the U.S. Court of Federal Claims to dispute a notice of claim disallowance, they must sign and submit a Form 907, Agreement to Extend the Time to Bring Suit, to the IRS for its consideration.²⁹ If the IRS agrees to the extension, an authorized IRS official will sign Form 907 prior to the expiration of the two-year period to file suit. However, there is currently no information regarding this process on [IRS.gov](https://www.irs.gov), including where to send the form. Thus, many taxpayers and even some taxpayers' representatives are not aware of the option of extending the two-year period or how to request such an extension. Failure to secure an extension before the expiration of the two-year period for filing suit means the IRS is barred from issuing a refund, even if the taxpayer is entitled to one.³⁰

Taxpayers Have Difficulty Determining If They Can Rely on IRS Guidance

It is reasonable for taxpayers to believe that they can rely on all guidance the IRS provides with equal amounts of confidence, whether it is a publication on its webpage, FAQs, or instructions on how to complete a form.

The reality is that taxpayers can rely on different types of guidance to different degrees. Most IRS guidance, such as instructions, publications, and FAQs, are informal, and taxpayers may not rely upon the guidance in all circumstances. Thus, if taxpayers are later audited or seek relief from accuracy-related penalties, they may find the support for their position is limited since the guidance was informal (*i.e.*, taxpayers can only rely on such guidance that is reasonable and in good faith to support a reasonable cause defense from accuracy-related penalties).³¹ Conversely, guidance the IRS publishes in the Internal Revenue Bulletin (Bulletin) is considered “formal,” meaning taxpayers can rely upon it in an audit situation or use it to obtain penalty relief.³² Although not published in the Bulletin, on October 15, 2021, the IRS clarified that taxpayers can rely on certain FAQs for purposes of penalty relief.³³ This includes FAQs developed in connection with recently enacted tax legislation or emerging issues.³⁴

Although this development is welcome to taxpayers who use FAQs to find answers to their tax law questions, determining which FAQs possess a higher degree of reliability remains confusing. For example, the FAQs site for the Advance Child Tax Credit (AdvCTC) lacks a disclaimer at the top of the page explaining that the IRS developed the FAQs to help provide guidance on recently enacted changes to the AdvCTC, meaning taxpayers can rely on those FAQs for certain types of penalty relief. Instead, there is a hyperlink to a fact sheet that opens in a separate window that explains to what extent taxpayers can rely upon the AdvCTC FAQs.³⁵ It would be much clearer to label these FAQs at the top of each page.³⁶

Further, the extent to which taxpayers can rely upon other informal guidance, such as forms and instructions, is equally unclear. Thus, the IRS should clearly state that reliance upon such informal guidance provides taxpayers with a reasonable cause defense against any negligence or other component of the accuracy-related penalty. In regard to formal guidance, the IRS must make clear to taxpayers that they can rely upon other guidance published in the Bulletin for the purposes of penalty relief and support in an audit situation for positions they have taken on their returns.

The IRS could make publications and instructions more useful to taxpayers by providing information about the laws and regulations upon which they are based. Current IRS publications omit any discussion of passed laws or regulations and do not direct taxpayers to the precise origins of the rules with which they must comply. The primary reason for this omission is to keep the publications simple. Although this objective is justified, the publications and instructions should, at a minimum, hyperlink to relevant statutes and regulations so taxpayers and tax professionals can easily locate the laws upon which the IRS bases guidance. Additionally, IRS publications could contain QR codes that would direct taxpayers to the laws and regulations referenced within them.

Taxpayers and Tax Professionals Have Difficulty Determining What New Guidance the IRS Is Developing and the Expected Completion Date

Each year, the IRS and the Treasury Department release a Priority Guidance Plan (PGP) that identifies what topics it intends to produce additional guidance on, usually in the form of regulations, notices, revenue rulings, or revenue procedures. Both internal and external stakeholders can provide recommendations for inclusion in this plan. The IRS and Treasury consider recommendations using a variety of factors,³⁷ and if a recommendation is ultimately adopted, the IRS will add it to the PGP.³⁸

The current layout of the PGP makes it difficult for taxpayers, their representatives, and outside stakeholders to easily assess what guidance is currently under development and its current status.³⁹ The IRS could improve the layout of the PGP and make it more useful and navigable if it took the form of a living spreadsheet or dashboard that showed:

- The type of guidance the IRS will issue,
- The types of issue(s) the guidance will address,

- When the PGP received the recommendation, and
- The current status of the guidance.

In addition to improving the display of formal guidance under development, the IRS could share with taxpayers and tax professionals what informal guidance – such as forms, instructions, and publications – are under development, so they can provide comment and prepare for any last-minute changes that may require them to devote more time to completing returns and complying with tax obligations. Recently, the IRS made major revisions to the instructions for filing Form 1065 Schedule K-2, Partners' Distributive Share Items – International, and Schedule K-3, Partner's Share of Income, Deductions, Credits, etc. – International.⁴⁰ These significant revisions took some taxpayers and representatives by surprise. It would be beneficial to develop an informal guidance plan similar to the PGP that would let taxpayers and those in the tax community know that the IRS is revising certain documents and when the IRS will release new updates.

CONCLUSION AND RECOMMENDATIONS

As the IRS moves forward with developing and implementing its plan for how it will use the influx of funds it is scheduled to receive over the next ten years, transparency is a critical part of this process to foster trust between the IRS and the public. Full transparency will give taxpayers and the public at large confidence that the IRS is using the funds wisely, fairly, and equitably.

FULL TRANSPARENCY

will give taxpayers and the public at large confidence that the IRS is using the funds wisely, fairly, and equitably.

The IRS needs to ensure it is fully transparent as to the status of taxpayers' refunds, return processing delays, and where taxpayer cases or issues reside before the IRS. Further, the challenges in finding relevant, reliable information on [IRS.gov](https://www.irs.gov) impedes transparency by making it more difficult for taxpayers to get answers to their questions. The IRS is not fully transparent as to what guidance taxpayers can rely on, what new guidance the IRS is in the process of developing, and when the IRS plans to release the guidance. Lack of transparency undermines taxpayer trust, thereby potentially compromising self-assessment and voluntary compliance.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Make the operational plan due six months from the enactment of the Inflation Reduction Act available to the public by posting it on [IRS.gov](https://www.irs.gov).
2. Commit to providing to the public and oversight organizations regular reports regarding the allocation of the increased funding and include performance metrics that show the results of how the IRS has applied the funds.
3. Improve Where's My Refund?, IRS2Go, and online accounts by providing taxpayers increased functionality, including specific information about the cause of their refund delay and an estimated date when the IRS might issue their refund.
4. Post a filing season dashboard and provide weekly information throughout the year on the filing season statistics, including the total number of returns in inventory, number of returns held beyond normal processing times, number of returns in suspense status, and the anticipated timeframes for working through them, while acknowledging that the situation is fluid and timeframes may change along with circumstances.
5. Clearly state on all guidance the extent to which the taxpayer can rely upon it either for penalty relief or in an audit.

6. In conjunction with IRS Chief Counsel, update the PGP to be a living document that specifies the type of guidance the IRS is developing, the issues it will address, the current status of the guidance, and the estimated date of completion.

RESPONSIBLE OFFICIALS

Kenneth Corbin, Commissioner, Wage and Investment Division

Amalia Colbert, Commissioner, Small Business/Self-Employed Division

IRS COMMENTS

The pandemic posed unprecedented challenges to our ability to service customers through normal telephone, inventory, and processing avenues. We established, and continue to post, information on [IRS.gov](https://www.irs.gov) giving the public updates about operational and processing timeframes.

In August 2022, the IRS established the Inflation Reduction Act (IRA) 2022 Transformation & Implementation Office and immediately began developing operational and strategic plans to implement legislative provisions. The influx of funding from IRA 2022, will allow the IRS to pursue significant improvements to our technology and customer service channels with an eye toward greater transparency. Once the IRS prepares the strategic operational plan for the Secretary of the Treasury we will work with Treasury to ensure there is transparency to the public on the IRS's plan to transform tax administration and improve service to taxpayers.

Prior to the passage of IRA 2022, the Service continually took steps to process returns timely and give taxpayers refund information through quick, easy to use, low level authentication tools such as Where's my Refund? (WMR) and Where's my Amended Return? (WMAR). Many taxpayers get the information they need from these applications and never have to contact us again. However, in our continuous efforts to improve transparency, we requested funding to enhance WMR. We added two prior years of data to the available information. Additional planned enhancements include providing explanations for frequent math errors, return received, refund approved, and refund sent statuses for accounts where the IRS received the return, but the refund is delayed, and improved messaging for returns delayed in the Taxpayer Protection Program or Error Resolution System (ERS). In addition, there are plans to update the look and feel of WMR to more closely mirror other [IRS.gov](https://www.irs.gov) content, improve navigation, translate content into six additional languages, and allow married filing joint taxpayers and taxpayers who choose direct deposit the ability to initiate their own refund trace.

Making the IRS healthy in terms of inventories and communicating account statuses/resolutions to taxpayers are the IRS's top priorities. The IRS deployed surge teams with resources from all over the agency to target and resolve correspondence, amended returns, and ERS inventories. These teams will continue their work through the end of 2022. To improve timeframes for identity theft cases, we requested funding to develop a Document Upload Tool (DUT) so taxpayers can self-submit Form 14039, Identity Theft Affidavit. Since May 2022, Certified Acceptance Agents (CAA) submitted several hundred Forms 13551, Application to Participate in the IRS Acceptance Agent Program, through the DUT.

To assist in taxpayers' understanding of IRS' forms, instructions, and publications, we apply the concepts outlined in the Plain Writing Act to every product we produce. We solicit public input

on our products by working with the Taxpayer Advocacy Panel and Internal Revenue Service Advisory Council. An early draft of our products' revisions is forwarded to the Taxpayer Advocate Service and hundreds of others for review and comment, from which we get many comments on simplifying language, which we work to address. We also provide early release drafts of our products at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms). Each of those draft postings has a cover page that gives the link of [IRS.gov/FormsComments](https://www.irs.gov/FormsComments) for the public to provide comments about draft or final forms. We conclude each of our instructions and publications with a paragraph encouraging taxpayers to send us comments and suggestions on how to make the product simpler, either by mail or via our website.

Notably, regulations and documents published in the Internal Revenue Bulletin (IRB) are the authoritative position of Treasury and the IRS and therefore, are generally authorities on which a taxpayer may rely to the extent they are not outweighed by other contrary authorities. Other forms of guidance not published in the IRB or otherwise identified in Treas. Reg. § 1.6662-4(d)(3) may not provide penalty relief unless, under facts and circumstances of each case, they help support a reasonable cause defense. These less formal forms of guidance are intended to provide information to taxpayers more quickly.

When considering the Priority Guidance Plan (PGP), it is important to remember that it is issued jointly with Treasury and is a living document that is updated on a quarterly basis as projects are completed and others are added. Items are generally added to the PGP if they are expected to be completed during the plan year. Thus, any changes to the PGP process would require Treasury's input.

Additionally, partnering with key external stakeholders such as the Federation of Tax Administrators and the Council for Electronic Revenue Communication Advancement board of directors affords the IRS opportunities to further explore transparency. Our quarterly meetings allow us to maintain and build relationships, provide a strategic forum to share high-level key messages and emerging issues, and gather feedback to improve services.

TAXPAYER ADVOCATE SERVICE COMMENTS

The National Taxpayer Advocate understands the enormous challenges the COVID-19 pandemic has caused the IRS over the past three years. The recent increase in funding through the passage of the Inflation Reduction Act will aid the IRS in addressing many of these challenges and ideally transform the IRS into a more modern tax administration agency. The immediate steps the IRS took after passage of the IRA put the agency on the right path to implementing these funds. However, as the IRS moves forward with this implementation process, it is critical that it is fully transparent as to how these funds will be applied, particularly in the area of enforcement; it is equally important that the IRS measures the performance of the outcomes of how these funds have been applied. The IRS can take an important step toward embracing transparency by ensuring that the Strategic Operational Plan is made available to the public and by providing a real and meaningful opportunity for the public to offer its observations and opinions on the plan.

The National Taxpayer Advocate acknowledges that the IRS has made several significant changes over the years to provide taxpayers with more information regarding the processing of their returns and when they can expect their refunds and is pleased that it continues to make strides in this direction. Yet, too many taxpayers – far too often – feel in the dark about when their return will be processed and what might be causing delays. The IRS could ease these concerns by providing taxpayers with more information on either its Where’s My Refund? tool or the taxpayer’s Online Account about reasons for delays. For example, the IRS could inform a taxpayer that it is reviewing his or her return for possible identity theft or errors and provide timeframes or action items. The more information the IRS provides taxpayers and the more transparent it is, the less likely taxpayers are to call the IRS to inquire about refund delays.

The IRS offers a multitude of resources for taxpayers to access and use when complying with their tax obligations, and it needs to ensure that this information is consistent and easy to access. Most taxpayers likely believe that they can rely on information created by the IRS and posted on its website and are not aware of the different degrees to which they can rely upon certain information. Thus, at a minimum, the IRS should clearly identify on its guidance the extent to which taxpayers can rely upon it.

Transparency is a bedrock principle of tax administration and the foundation upon which voluntary compliance through self-assessment rests. Although the IRS has made progress, it needs to do more to ensure that it is fully transparent by providing timely, easily accessible information to taxpayers. Silence is not golden when taxpayers and representatives are looking for guidance, assistance, or answers.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Make the operational plan, due six months from the enactment of the Inflation Reduction Act, available to the public by posting it on [IRS.gov](https://www.irs.gov) and allow for stakeholder comments on the plan and future improvements.
2. Commit to providing to the public and oversight organizations regular reports regarding the allocation of the increased funding and include performance metrics that show the results of how the IRS has applied the funds.
3. Improve Where’s My Refund?, IRS2Go, and online accounts by providing taxpayers increased functionality, including specific information about the cause of their refund delay and an estimated date when the IRS might issue their refund.
4. Post a filing season dashboard and provide weekly information throughout the year on the filing season statistics, including the total number of returns in inventory, number of returns held beyond normal processing times, number of returns in suspense status, and the anticipated timeframes for working through them, while acknowledging that the situation is fluid and timeframes may change along with circumstances.
5. Clearly state on all guidance the extent to which the taxpayer can rely upon it either for penalty relief or in an audit.
6. In conjunction with IRS Chief Counsel, update the PGP to be a living document that specifies the type of guidance the IRS is developing, the issues it will address, the current status of the guidance, and the estimated date of completion.

Endnotes

- 1 See National Taxpayer Advocate 2022 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 3 (Legislative Recommendation: Revamp the IRS Budget Structure and Provide Sufficient Funding to Improve the Taxpayer Experience and Modernize the IRS's Information Technology Systems), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_PurpleBook_01_StrengthRights_2.pdf.
- 2 An Act to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14 (commonly referred to as the "Inflation Reduction Act of 2022"), Pub. L. No. 117-169, 136 Stat. 1818 (2022).
- 3 "[I]t is important to understand the difference between providing data, which is often difficult to decipher, and providing information which makes the tax story understandable. The real challenge is to take a very complex situation – which is largely particular to the individual group – and make it understandable to a wider audience." Quattrochi, Zahira, Group Head of Tax at Anglo American, presenting at KPMG's Responsible Tax Project webinar (June 24, 2021), <https://responsibletax.kpmg.com/article/understanding-tax-transparency>.
- 4 Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818 (2022). The Inflation Reduction Act appropriates the funding as follows: \$3.2 billion for taxpayer services; \$45.6 billion for enforcement; \$25.3 billion for operations support; and \$4.8 billion for business systems modernization (amounts have been rounded).
- 5 Memorandum from Janet L. Yellen, Sec'y of the Treasury, to Charles P. Rettig, Comm'r, Internal Revenue (Aug. 17, 2022), https://www.taxcontroversy360.com/wp-content/uploads/2022/08/2022-27034_TNT_Docs_treasury.pdf (last visited Dec. 13, 2022). For example, Secretary Yellen directed the IRS to not increase the audit rates of taxpayers earning under \$400,000 annually, stating "that audit rates will not rise relative to recent years for households making under \$400,000 annually."
- 6 Government Accountability Office (GAO), GAO-22-106032, *Tax Compliance: IRS Audit Trends for Individual Taxpayers Vary by Income* (2022). Even prior to the passage of the Inflation Reduction Act, GAO noted some raised concerns about who the IRS selects for audit, stating that, "Because audit rates for higher-income taxpayers have seen a larger decline than audit rates for lower-income taxpayers, the tax community has raised concerns about whether IRS is equitably selecting taxpayers for audit." *Id.* at 1.
- 7 IRS, IR-2019-159, IRS Releases New Tax Gap Estimates; Compliance Rates Remain Substantially Unchanged from Prior Study (Sept. 26, 2019), <https://www.irs.gov/newsroom/irs-releases-new-tax-gap-estimates-compliance-rates-remain-substantially-unchanged-from-prior-study>.
- 8 Memorandum to Charles P. Rettig, IRS Commissioner, from Janet L. Yellen, Secretary of the Treasury, IRS Operational Plan (Aug. 17, 2022). The Inflation Reduction Act contained a similar provision before it was stricken during the Byrd process. Cong. Pascarelli, Chair, Subcommittee on Oversight, made a similar request that the IRS provide him with an outline of how it intends to use the additional resources by August 30, 2022. See Letter from Rep. Bill Pascarelli, Jr., Chair, Subcomm. on Oversight, to Charles P. Rettig, Comm'r, Internal Revenue (Aug. 16, 2022), https://pascarelli.house.gov/uploadedfiles/2022.08.16_bp_to_irs_re_ira_.pdf (last visited Dec. 13, 2022).
- 9 Email from IRS Commissioner Charles P. Rettig to all IRS and TAS employees, "New Office to Oversee Landmark Legislation" (Aug. 19, 2022).
- 10 Letter from Sen. Mike Crapo, Ranking Member, Comm. on Fin. et al., to Charles P. Rettig, Comm'r, Internal Revenue 8 (Sept. 22, 2022), <https://www.finance.senate.gov/download/sfc-gop-letter-to-commr-rettig-wrt-80b-funding> (last visited Dec. 13, 2022).
- 11 See Most Serious Problem: *Processing Delays: Paper Backlogs Caused Refund Delays for Millions of Taxpayers*, *supra*.
- 12 IRS response to TAS information request (Oct. 19, 2022). This sum represents the total number of successful and unsuccessful Where's My Refund? query attempts.
- 13 See IRS, What to Expect for Refunds This Year, <https://www.irs.gov/refunds/what-to-expect-for-refunds-this-year> (last visited July 14, 2022).
- 14 The IRS has provided several tools through which taxpayers can check their refund status, including Where's My Refund?, Where's My Amended Return?, and the IRS2Go app. Where's My Refund? now provides refund information for the 2021, 2020, and 2019 tax years. Taxpayers should still view their Online Account to see payment history, prior year adjusted gross income, or other tax records. See IRS, Where's My Refund?, <https://www.irs.gov/refunds> (last visited Oct. 31, 2022). See also Most Serious Problem: *Online Access for Taxpayers and Tax Professionals: Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS*, *supra*.
- 15 IRS response to TAS information request (Oct. 19, 2022). Under IRC § 6213, the IRS is allowed to make an assessment upon discovering a mathematical or clerical error without having to use deficiency procedures. Unfortunately, the IRS won't be able to specify on Where's My Refund? the nature of the math error that allows for the adjustment because the IRS states such an explanation is "Official Use Only."
- 16 IRS, Joint Operations Center (JOC), Snapshot Reports: Product Line Detail for the 800-829-1040 telephone line (Sept. 30, 2022). See also Most Serious Problem: *Telephone and In-Person Service: Taxpayers Continue to Experience Difficulties and Frustration Obtaining Telephone and Face-to-Face Assistance to Resolve Their Tax Issues and Questions*, *supra*.
- 17 IRS response to TAS information request (Oct. 19, 2022).
- 18 See IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited Sept. 7, 2022).
- 19 See IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited Nov. 1, 2022), at "Filed a Tax Return" (updated Oct. 28, 2022).
- 20 See IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited Oct. 24, 2022). The section entitled, "What you need to do" states, "If you filed electronically and received an acknowledgement, you do not need to take any further action other than promptly responding to any requests for information. If you are due a refund, filed on paper more than six months ago, and Where's My Refund? does not indicate we received your return, you should resubmit your tax return, electronically if possible."
- 21 Letter from Sen. Ron Wyden, Chair, U.S. Senate Comm. on Fin., to Charles P. Rettig, Comm'r, Internal Revenue (Sept. 13, 2022). "Keep taxpayers better informed electronically. The IRS has been expanding the information available to taxpayers and

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- practitioners on IRS.gov, the “Where’s my Refund?” tool, the “Where’s my Amended Return?” tool, and in online accounts. These tools save many from the frustration of having to call or write to the IRS.”
- 22 TAS Recommendations and IRS Responses, TAS Recommendation 4-1 (2021), <https://www.taxpayeradvocate.irs.gov/news/directory-entry/2021-msp-04-transparency-and-clarity/> (last visited Nov. 1, 2022). “The IRS is in the process of launching a “Filing Season Processing Times” page on IRS.gov to regularly provide updated information for the most commonly filed individual and business tax return types, letters, notices, and other forms.”
- 23 See Most Serious Problem: *Online Access for Taxpayers and Tax Professionals: Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS*, *supra*.
- 24 See IRS, IRS Operations During COVID-19: Mission-Critical Functions Continue, at “Victims of Identity Theft who Sent a Form 14039 or Form 14039-B, Identity Theft Affidavit” (updated Sept. 16, 2022), <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue> (last visited Oct. 24, 2022).
- 25 See Most Serious Problem: *Telephone and In-Person Service: Taxpayers Continue to Experience Difficulties and Frustration Obtaining Telephone and Face-to-Face Assistance to Resolve Their Tax Issues and Questions*, *supra*; IRS, JOC, Snapshot Reports: Product Line Detail for the 800-829-1040 telephone line (Sept. 30, 2022).
- 26 See Most Serious Problem: *Online Access for Taxpayers and Tax Professionals: Inadequate Digital Services Impede Efficient Case Resolution and Force Millions of Taxpayers to Call or Send Correspondence to the IRS*, *supra*.
- 27 IRS response to TAS information request (Oct. 19, 2022).
- 28 *Id.*
- 29 IRC § 6532(a)(2).
- 30 IRC § 6514(a)(2). “A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void ... (2) In the case of a claim filed within the proper time and disallowed by the Secretary, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.”
- 31 See Treas. Reg. § 1.6664-4(b) (certain facts and circumstances, such as consulting IRS guidance including publications, FAQs, or instructions, may be considered by the IRS to demonstrate that the taxpayer reasonably relied upon this guidance and acted in good faith).
- 32 Although items published in the Bulletin do not have the force and effect of Treasury Regulations, they may nonetheless be used as precedents. This includes Revenue Rulings and Revenue Procedures.
- 33 IRS, IR-2021-202, IRS Updates Process for Frequently Asked Questions on New Tax Legislation and Addresses Reliance Concerns (Oct. 15, 2021), <https://www.irs.gov/newsroom/irs-updates-process-for-frequently-asked-questions-on-new-tax-legislation-and-addresses-reliance-concerns> (last visited Sept. 12, 2022).
- 34 *Id.* This announcement goes on to say that FAQs will now be announced in a news release and posted on IRS.gov in a separate Fact Sheet. These Fact Sheet FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of Fact Sheet FAQs will be maintained on IRS.gov.
- 35 The statement in the FAQ Fact Sheet refers to Treas. Reg. § 1.6664-4(b) and is consistent with the analysis in the prior comment, which describes what facts and circumstances may be taken into account when the IRS is considering reasonable cause relief.
- 36 See, e.g., IRS Fact Sheet FS-2022-32, IRS Revises the 2021 Child Tax Credit and Advance Child Tax Credit Frequently Asked Questions (July 2022), <https://www.irs.gov/pub/taxpros/fs-2022-32.pdf> (last visited Sept. 6, 2022).
- 37 Internal Revenue Manual 32.1.1.4.1, Priority Guidance Plan (Aug. 2, 2018).
- 38 *Id.*
- 39 Treasury Department Priority Guidance Plan, 2021-2022 Fourth Quarter Update, (Aug. 17, 2022), <https://www.irs.gov/pub/irs-utl/2021-2022-pgp-4th-quarter-update.pdf>.
- 40 See IRS, Changes to the 2021 Partnership Instructions for Schedules K-2 and K-3 (Form 1065), <https://www.irs.gov/forms-pubs/changes-to-the-2021-partnership-instructions-for-schedules-k-2-and-k-3-form-1065> (last visited Nov. 14, 2022).