



OVERSEAS TAXPAYERS

Taxpayers Outside of the United States Face Significant Barriers to Meeting Their U.S. Tax Obligations

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

All taxpayers face barriers to accessing information and services from the IRS, a situation only exacerbated by the COVID-19 pandemic.¹ At all times, however, overseas taxpayers face additional burdens at virtually every step of the process in complying with their U.S. tax obligations. This group includes U.S. citizens and resident aliens living or working abroad, as well as foreign individuals and businesses with U.S. tax obligations. These taxpayers are subject to highly complicated rules for determining whether they need to file a U.S. tax return and, if so, the correct amount of their U.S. tax liability. They also face barriers in obtaining Taxpayer Identification Numbers (TINs), electronically filing tax and information returns, and accessing assistance from both the IRS and private industry.

EXPLANATION OF THE PROBLEM

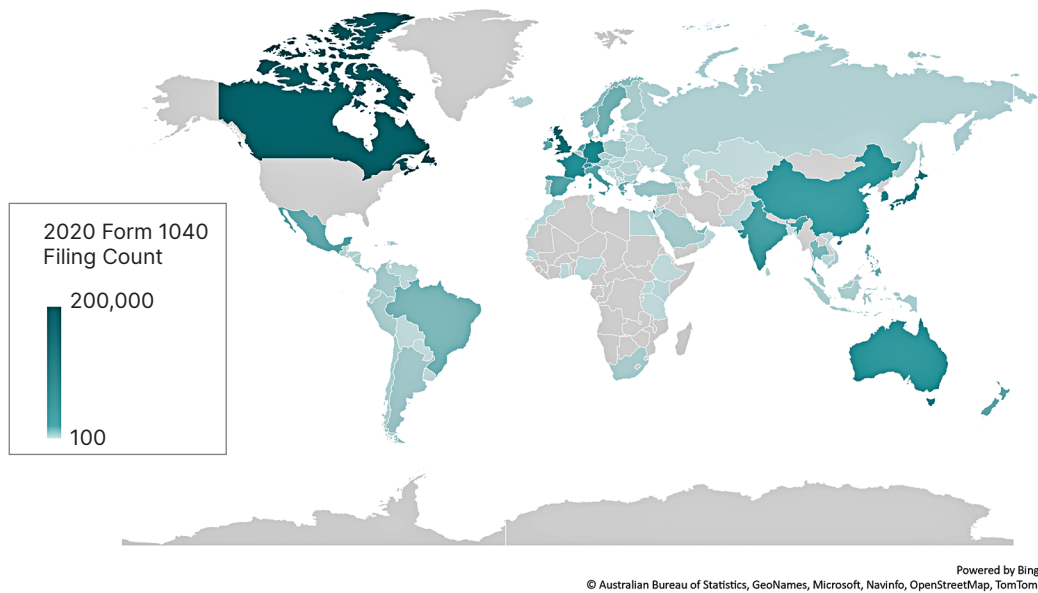
Who Is Impacted. The U.S. Department of State estimates that there are approximately nine million U.S. citizens living abroad.² This diverse group includes approximately 196,000 military personnel stationed all over the world,³ 9,000 overseas State Department employees,⁴ and 163,000 U.S. students attending school abroad.⁵ It also includes U.S. citizens who move abroad to work for a foreign company, “digital nomads” who move abroad but continue to work remotely for their U.S.-based employer, and U.S. citizens who move overseas after retirement. The population of U.S. citizens abroad also includes so-called accidental Americans, individuals who hold U.S. citizenship despite being born outside of the United States or with an otherwise tenuous connection with the United States; a study commissioned by American Citizens Abroad estimates there may be nearly half a million such individuals.⁶

According to the Federal Voting Assistance Program, the foreign country with the largest number of U.S. citizen residents is Canada, followed by the United Kingdom, Israel, France, and Australia.⁷ Because U.S.

tax obligations apply to U.S. citizens and U.S. resident aliens located anywhere in the world, these taxpayers abroad are subject to U.S. tax on their worldwide income, regardless of their country of residence. And these U.S. tax obligations may be in addition to tax obligations imposed by their country of residence.

FIGURE 2.10.1⁸

Country of Residence of Form 1040 Filers Living Overseas



U.S. citizens and resident aliens residing abroad are not the only overseas taxpayers with U.S. tax obligations. Foreign individuals and businesses with U.S.-source income or operations may also have U.S. tax obligations. This group includes not only multinational businesses but also foreign citizens, often referred to as non-resident aliens, with U.S.-source income such as interest, dividends, rents, royalties, pensions, annuities, or compensation for personal services.⁹ For example, this group might include an Australian citizen who worked temporarily in the United States during the tax year, a Mexican citizen with U.S.-source interest or dividend payments, or a Chinese retiree who worked in the United States and who is now receiving U.S.-source pension or annuity payments.¹⁰

Challenges Faced: Overseas taxpayers face heightened barriers to their ability to meet their U.S. tax obligations. The laws to which they are subject are extremely complex, yet they have access to less support and fewer resources than taxpayers in the United States. As the IRS acknowledged in the Taxpayer First Act Report to Congress, foreign taxpayers are less able to access IRS services by phone, online, or in person; their e-file rates are significantly lower; and limited availability of tax products in languages other than English hampers their ability to understand their complex tax obligations.¹¹

ANALYSIS

Complex Tax Laws and Inadequate Service Make Compliance Challenging Even for Conscientious Taxpayers

The Laws Applicable to U.S. Taxpayers Abroad Are Very Complicated

Overseas taxpayers are subject to an alphabet soup of confusing and complicated tax law provisions, such as GILTI,¹² FIRPTA,¹³ PFIC,¹⁴ and FATCA.¹⁵ While some of these regimes are applicable primarily to large

businesses and high-income taxpayers, complexity abounds for both U.S. citizens and residents abroad and foreign persons with U.S. tax obligations.

One of the most commonly claimed tax benefits available to U.S. citizens and resident aliens living abroad is the foreign earned income and housing exclusion in IRC § 911. In tax year (TY) 2020, for example, over 260,000 taxpayers living overseas filed a Form 2555, Foreign Earned Income, to claim this benefit.¹⁶ This provision allows eligible taxpayers to exclude from gross income a certain amount of income earned overseas and the value of certain overseas housing benefits provided by an employer. To be eligible for the foreign earned income and housing exclusion, taxpayers must determine that their tax home is in a foreign country, that they had foreign earned income, and that they were a *bona fide* resident of a foreign country or were physically present in a foreign country for the requisite number of days.¹⁷ Taxpayers must apply a complex set of rules to determine the location of their tax home, whether or not certain days count in meeting the *bona fide* resident or substantial presence test, whether different types of income are eligible for exclusion, and, for the housing exclusion, country- and even city-specific limitations on the exclusion amount.¹⁸

Another common tax benefit claimed by U.S. citizens abroad is the foreign tax credit, which allows an eligible taxpayer to claim a credit against U.S. tax for certain taxes paid to a foreign government.¹⁹ For TY 2020, nearly 250,000 overseas taxpayers filed a Form 1116, Foreign Tax Credit, to claim this benefit.²⁰ The rules governing the foreign tax credit are so complex that the IRS has created the 32-page Publication 514, Foreign Tax Credit for Individuals – in addition to the 24-page instructions to the Form 1116, Foreign Tax Credit – to assist individual taxpayers in determining their eligibility for and the amount of their foreign tax credit.

A significant number of U.S. citizens abroad are also subject to information reporting requirements under the Foreign Account Tax Compliance Act (FATCA), the Bank Secrecy Act (which requires filing a Report of Foreign Bank and Financial Accounts (FBAR)),²¹ or both. These regimes both come with the risk of large monetary penalties. Specified persons, which include U.S. citizens, resident aliens, and certain non-resident aliens, are subject to FATCA and required to attach Form 8938, Statement of Specified Foreign Assets, to their income tax return if they have specified foreign financial assets exceeding specified thresholds.²² There is no single reporting threshold for FATCA; instead, the asset value at which reporting is required depends on whether or not the individual is living in the United States or abroad and whether the individual files a joint return with a spouse.²³

The FBAR reporting regime requires U.S. citizens and residents to report each foreign account in which they have a financial interest or over which they have signature or other authority when the combined value of those accounts exceeds \$10,000 at any time during the calendar year.²⁴ While there is a uniform reporting threshold for FBAR, the definition of foreign financial accounts is complex and could include assets that are not obviously financial accounts, such as foreign pensions.²⁵ Individuals subject to FBAR must file FinCEN Form 114, Report of Foreign Bank and Financial Accounts, separately from their tax return by submitting it electronically through the Financial Crimes Enforcement Network's (FinCEN's) Bank Secrecy Act E-Filing System.²⁶

While the rules for determining who is subject to these reporting regimes and what assets are subject to reporting are complex, the stakes are very high from the perspective of penalties. In FATCA, civil penalties begin at \$10,000 for taxpayers who fail to file a complete Form 8938 and max out at \$50,000.²⁷ In FBAR, non-willful violations of reporting requirements are subject to penalties of up to \$10,000 (adjusted yearly for inflation);²⁸ willful violations are subject to penalties of up to the greater of 50 percent of the account balance or \$100,000 (adjusted for inflation), whichever is higher.²⁹ Both FATCA and FBAR violations might also give rise to criminal penalties. While the purpose of these regimes may be to prevent tax avoidance by requiring reporting of “offshore” holdings, they can be a substantial financial trap for the unwary, particularly for “accidental Americans” who were born and reside overseas.³⁰

U.S. citizens and resident aliens are not alone in facing tax compliance challenges. Foreign persons with income or activities connected with the United States must follow complicated rules to determine whether their income is from U.S. sources or is effectively connected with the conduct of a U.S. trade or business, and subject to U.S. tax. Different rules apply for determining whether different types of income must be included in the U.S. gross income of non-resident aliens and how that income is taxed. For example, whether pension benefits paid to a non-resident alien are considered U.S.-source income depends on what percentage of the benefits are attributable to services performed in the United States.³¹ To the extent the pension benefits paid to a non-resident alien are subject to U.S. tax, the benefits are considered income effectively connected with a U.S. trade or business and taxed at the rates that apply to U.S. persons.³² By contrast, U.S. Social Security benefits – 85 percent of which non-resident aliens are required to include in their U.S. gross income – are considered fixed or determinable annual or periodic income and subject to tax at a flat rate of 30 percent.³³ Taxpayers must apply complicated rules like these for each type of income – such as interest, dividends, rents, royalties, or compensation for personal services – to determine whether the income is U.S.-source and includable in U.S. gross income. Taxpayers must then apply another complicated set of rules for each type of income to determine whether they can exclude some or all of that type of income. To further add to the complexity, overlaying the generally applicable rules are an entirely different set of rules set forth in various tax treaties between the United States and foreign countries.³⁴ Whether a foreign individual will ultimately be subject to U.S. tax will depend to a large extent on their country of residence and the terms of the tax treaty, if any, between that country and the United States.

Overseas Taxpayers Have Little Support in Understanding Complicated Tax Laws

Despite the extreme complexity of the tax laws that apply to this population, taxpayers abroad have access to very limited support from the IRS. As of 2015, the IRS had closed its last four overseas tax attaché offices, in London, Frankfurt, Paris, and Beijing.³⁵ As the National Taxpayer Advocate noted in her 2015 Annual Report, these closures deprived overseas taxpayers of valuable and necessary services.³⁶ Domestic taxpayers have the option of making an appointment at a local Taxpayer Assistance Center (TAC) but, with the closure of the last overseas attaché offices, taxpayers living overseas no longer have access to face-to-face customer service. In 2014 and 2015, the attachés collectively hosted 19 formal outreach events focusing on topics like filing requirements, FBAR, the foreign tax credit, and tax law changes; they were attended by approximately 1,500 individuals.³⁷ In fiscal year (FY) 2014 alone, the London attaché office received over 5,000 taxpayer visits, and the Frankfurt office had over 3,000 phone contacts.³⁸ Taxpayers who relied on these services, especially older, less digitally savvy taxpayers, struggled to find alternative assistance,³⁹ and the closure of these offices cut the IRS off from a valuable source of feedback about issues facing taxpayers abroad.⁴⁰

Overseas taxpayers also lack access to affordable tax preparation services. The Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs provide free tax preparation assistance for qualifying taxpayers. However, during the most recent filing season, only 11 full service VITA sites operated overseas, and they were all on U.S. military bases.⁴¹ No VITA and TCE sites offer virtual tax preparation services to taxpayers located outside the United States.⁴² Overseas taxpayers report struggling to locate paid tax return preparers in their country of residence.⁴³ Although the IRS website includes a directory of credentialed tax professionals in a large number of foreign countries, it is difficult to locate on the website.⁴⁴ Taxpayers who do locate a preparer who is qualified to assist with their U.S. return must often pay high fees to have even a basic U.S. tax return prepared and will likely need to engage a different preparer to assist them in meeting their tax obligations in their country of residence.⁴⁵

Another challenge, particularly for non-resident aliens, is that most IRS tax products continue to be in English only. Although the IRS's multilingual initiative has made significant progress in making tax information available in more languages, there is still much progress to be made. So far, only 71 tax products have been translated into one or more foreign languages.⁴⁶ While some products important to taxpayers abroad, like Publication 519, U.S. Tax Guide for Aliens, have been translated into multiple languages – Korean, Russian,

Spanish, Vietnamese, and Chinese (Simplified and Traditional) – other products of relevance to overseas taxpayers, such as the Forms 1040-NR, U.S. Nonresident Alien Income Tax Return, and W-7, Application for U.S. Individual Taxpayer Identification Number, are available only in English and Spanish.⁴⁷ Other commonly used forms, like Forms 2555, Foreign Earned Income, and 1116, Foreign Tax Credit, are available only in English.⁴⁸

Ultimately, taxpayers who are unable to find the assistance that they need in understanding their U.S. tax obligations, either from the IRS or from paid preparers, are more likely to seek assistance from unreliable sources like social media, or they may avoid filing at all.

Taxpayers Living Overseas Face Delays and Other Challenges in Obtaining Taxpayer Identification Numbers

One prerequisite to filing a tax return with the IRS is obtaining a TIN. For entities, that means obtaining an Employer Identification Number (EIN). For individuals who are not eligible to receive a Social Security number (SSN), that means obtaining an Individual Taxpayer Identification Number (ITIN). Individuals who need an ITIN might include foreign nationals with U.S. filing requirements, non-citizen spouses or dependents of U.S. citizens or U.S. resident aliens living abroad, or foreign investors in U.S. businesses who need an ITIN to avail themselves of tax treaty benefits. Even without COVID-19 delays, the processing time for TIN applications can be long, and, for ITIN applicants, the process is very burdensome. Inability to obtain a TIN can ultimately hamper taxpayers' ability to comply with their U.S. tax obligations.

Taxpayers who need an ITIN to file a return, claim a credit, or pay taxes must apply for the ITIN, either on their own or on behalf of a dependent, by submitting Form W-7. They must submit Form W-7 on paper, and, unless an exception applies, a copy of the tax return on which the applicant's ITIN is required must accompany it.⁴⁹ The applicant must also provide original supporting identity documents, such as a birth certificate or passport.⁵⁰ Taxpayers must mail these highly sensitive documents, along with the application, to the IRS.⁵¹ Alternatively, a taxpayer may provide copies of the required identity documents, but the copies must have been certified by the issuing agency.⁵²

Taxpayers who are uncomfortable mailing sensitive identity documents to the IRS or who cannot obtain certified copies of the requisite identity documents have the option of using a Certifying Acceptance Agent (CAA) to authenticate their identity documents and submit the authenticated copies to the IRS ITIN Unit.⁵³ However, CAA services are not always convenient. As the Taxpayer Advocacy Panel pointed out in its 2021 Annual Report, a taxpayer might have to travel hundreds of miles to a CAA, potentially to another country.⁵⁴ Access to CAA services is unlikely to improve in the near term, either. The IRS announced a one-year moratorium on new CAA applications starting on August 15, 2022.⁵⁵ Even if taxpayers have access to a CAA, their services are not generally provided free of charge. As of the 2021 filing season, 67 VITA/TCE partners offered CAA services.⁵⁶ Of those, only one operated outside of the United States, on the Ramstein Air Force Base in Germany.⁵⁷ U.S.-based taxpayers who need to apply for an ITIN may submit their application in person by making an appointment at a TAC, which can verify original documents free of charge and submit verified copies of those documents to the IRS ITIN Unit.⁵⁸ But this option is not available to taxpayers abroad.

As of the week of September 10, 2022, the average processing timeframe for ITIN applications submitted with a return was 60 days and 49 days for applications submitted without a return.⁵⁹ However, because this time is measured from the date when the IRS receives the application to the date when an employee enters the ITIN into the system and puts the taxpayer's original documents in the mail to be returned, it doesn't capture the full length of the application process from the perspective of the taxpayer.⁶⁰ For example, this cycle time doesn't include the time during which the application was in the mail to or from the IRS.⁶¹ It also doesn't account for any time that the application is in suspense awaiting additional information from the

taxpayer, even though IRS guidelines assume that it will take 45 days to receive a response from the taxpayer.⁶² Taxpayers applying for an ITIN could easily be without their passport for months.

The process for applying for an EIN is less arduous than applying for an ITIN, but the fastest and easiest method for obtaining an EIN is not available to businesses with foreign owners. The IRS offers four methods for obtaining an EIN: (1) submitting a Form SS-4, Application for Employer Identification Number, by mail, (2) submitting Form SS-4 by fax, (3) applying by telephone, or (4) applying online.⁶³ In FY 2021, the IRS issued approximately 7.7 million EINs, 93 percent of which it issued through the online application tool, which provides the applicant with an EIN almost instantaneously.⁶⁴ However, to use the online application tool, the responsible party for the entity must have an SSN or ITIN.⁶⁵ Foreign responsible parties who do not have an SSN or ITIN must submit their application by mail or by fax or must call a non-toll-free telephone number to request an EIN.⁶⁶ For FY 2021, the Level of Service on that telephone line was 40 percent.⁶⁷

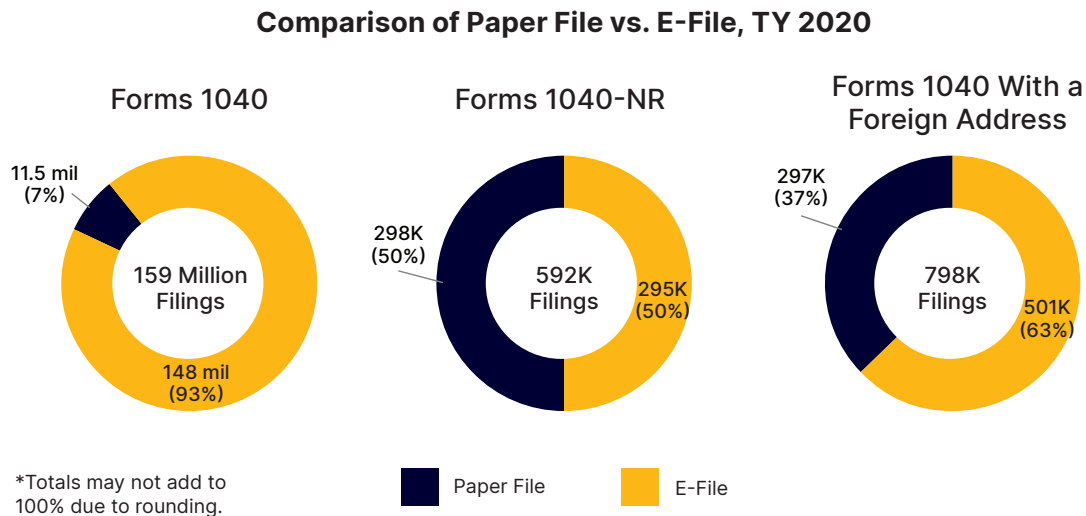
According to the IRS website, the IRS processes faxed EIN requests within four business days and mailed requests within four weeks.⁶⁸ As of the week of September 17, 2022, the IRS was actually exceeding these processing timeframes, working faxed applications within two days of receipt and working mailed applications within 21 days of receipt.⁶⁹ However, the IRS also acknowledged that COVID-19 had significant impacts on its EIN inventory, preventing it from providing an average processing time for faxed and mailed EIN applications over FYs 2020 and 2021.⁷⁰ While current processing of EIN requests submitted by mail and by fax appear to be consistent with the timeframes on the IRS website, future disruptions could again cause delays for overseas taxpayers, delays they would not face if they were able to use the online application tool.

Delays in receiving a TIN can negatively impact taxpayers in a variety of ways. Businesses cannot meet their filing obligations until they receive an EIN. For individuals, delays in issuing or renewing ITINs can result in the disallowance of credits and other tax benefits.⁷¹ Such delays can also cause problems with reporting and recouping of tax withholding. For example, when a foreign person sells real property located in the United States, proceeds from the sale are subject to income tax withholding under the Foreign Investment in Real Property Tax Act (FIRPTA).⁷² Generally, the buyer of the property must withhold the appropriate amount of tax, remit the tax to the IRS, and file Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests, by the 20th day after the date of the transfer.⁷³ Form 8288 must include the seller's TIN.⁷⁴ The IRS uses this information to match the withholding reported on Form 8288 with the withholding reported by the seller on the seller's U.S. income tax return. However, if the seller doesn't already have an ITIN, it is virtually impossible for the seller to obtain an ITIN within the 20-day period between the sale and Form 8288 due date. Furthermore, it is extremely difficult for the IRS to connect the FIRPTA withholding credit to the correct income tax return and to give the seller credit for the withholding when the seller's ITIN is not included on the original Form 8288.

Overseas Taxpayers Face Barriers to E-Filing

E-filing is crucial to avoiding refund delays and the numerous other negative outcomes associated with paper processing backlogs.⁷⁵ Unfortunately, international individual taxpayers face additional obstacles and, therefore, e-file at substantially lower rates than domestic individuals. For example, in TY 2020, only 63 percent of taxpayers residing overseas e-filed their Forms 1040.⁷⁶ For Forms 1040-NR, the e-file rates were even lower at 50 percent.⁷⁷ By contrast, the overall e-file rate for TY 2020 was 93 percent.⁷⁸

The IRS noted in the Taxpayer First Act Report that the disparity between domestic and international e-file rates presented a tremendous opportunity to increase use of the IRS e-file program by international taxpayers.⁷⁹ Although the report didn't identify any potential root causes for the disparity,⁸⁰ we have identified several possibilities. As discussed in the previous section, taxpayers who need to apply for an ITIN must submit a paper ITIN application or Form W-7. Taxpayers who apply for an ITIN cannot electronically file a return during the same calendar year that the IRS assigns their ITIN.⁸¹ This means that all new ITIN applicants are essentially prevented from e-filing.

FIGURE 2.10.2⁸²

Another possible barrier to e-filing could be the need to attach self-created statements to returns. For example, U.S. citizen taxpayers and resident aliens married to non-resident aliens may elect to file jointly with their non-resident alien spouse.⁸³ To make the joint filing election, the taxpayers must attach a taxpayer-generated election statement to their return.⁸⁴ The IRS's Modernized E-File System accepts PDF attachments to returns. However, if the software that the taxpayer uses doesn't accommodate taxpayer-generated statements, he or she cannot e-file his or her return. Overseas taxpayers must often attach other self-generated statements, such as those reporting income from a foreign employer or other source not reported to the IRS through standard information reporting channels.⁸⁵ E-file may also be unavailable for the form the taxpayer needs to file. While the IRS has made significant progress in expanding the number of tax forms that taxpayers can e-file, some forms, such as the Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, must still be filed exclusively on paper.⁸⁶

Lower e-filing rates may also be attributable to other software limitations. Overseas taxpayers report struggling to find tax return preparers with knowledge in U.S. tax law. The IRS website offers a searchable directory of e-file providers, but unlike the preparer directory, this directory does not allow the user to search by foreign country or to otherwise locate foreign e-file providers.⁸⁷ The ability of an overseas taxpayer to use commercial software is also limited by the variety of forms that each vendor supports. For example, many large commercial software vendors do not support the filing of Forms 1040-NR. Even the IRS Free File Fillable Forms application doesn't offer taxpayers the option of filing Form 1040-NR.⁸⁸ Similarly, taxpayers abroad who meet Free File eligibility criteria may be unable to use the Free File program because the Free File provider whose services they qualify for doesn't support a form that they need.⁸⁹ While several Free File participants do support Forms 1040-NR, 1116, and 2555,⁹⁰ each Free File participant has different eligibility criteria, and supported forms for each offer are not listed on the IRS website.⁹¹ This can make it extremely challenging for taxpayers to determine whether there is a Free File offer that will meet their needs. Overseas users also report challenges in accessing Free File because vendors require U.S.-based credentials, like a U.S. telephone number.⁹² VITA and TCE sites, which offer free e-filing of returns that are within the scope of service for the VITA/TCE program, have a limited overseas presence, operating only on U.S. military bases.⁹³

Foreign businesses also face barriers to meeting their information return filing obligations. Beginning in September 2021, the IRS replaced Form 4419, Application for Filing Information Returns Electronically (FIRE), with a new online-only application platform.⁹⁴ Taxpayers use this platform to obtain a Transmitter Control Code (TCC) and access FIRE, the IRS's information return filing system. To better protect the

integrity of the information return system, a FIRE user must create a Secure Access account to access the new application platform.⁹⁵ This requires the user to verify his or her identity with ID.me, a third-party vendor. Until recently, users were required to provide an SSN to have their identity validated by ID.me for access to IRS applications.⁹⁶ As of December 4, 2022, ID.me will also validate the identity of users with an ITIN who are seeking access to IRS applications.⁹⁷ This is a positive change that will expand access to both FIRE and other IRS online applications for foreign taxpayers. However, it does not provide a solution for entities with foreign responsible officials who do not have and are not eligible for an SSN or an ITIN.⁹⁸ As a consequence, such entities cannot create a new Secure Access account, obtain a new TCC, or get access to the FIRE system. Eventually, the IRS will require all FIRE users, including those who already have a TCC, to validate their identities using the IRS authentication process.⁹⁹ This means that more foreign FIRE users are potentially at risk of losing access to the FIRE system, too. These limitations on access are particularly consequential given that the law requires taxpayers to file many information returns electronically and that the IRS and Treasury recently proposed regulations that would lower the threshold for mandatory e-filing and expand the number of forms required to be electronically filed.¹⁰⁰

Customer Service Challenges Are Magnified for Taxpayers Abroad

Many taxpayers struggle to access the resources they need, whether it's responding to a notice, accessing information online, or reaching a live human on the phone. And these customer service challenges have been further magnified by the pandemic. For overseas taxpayers, though, customer service challenges have long been a regular facet of the taxpayer experience.

Unlike domestic taxpayers who have access to a variety of toll-free lines, the IRS provides *one* telephone line for taxpayers outside of the United States, and it is not toll-free.¹⁰¹



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In apparent recognition of time differences between the United States and overseas taxpayers' locations, the international line offers extended hours; it is staffed from 6 a.m. to 8 p.m. Eastern Time for tax law questions, and from 6 a.m. to 11 p.m. Eastern Time for all other inquiries.¹⁰² Free, real-time, over-the-phone-interpretation services are also available in over 350 languages.¹⁰³ However, during FY 2021, the Level of Service on the international line was 40 percent and, for callers who were eventually connected with an employee, the average time they waited for assistance was 17 minutes.¹⁰⁴ While 17 minutes isn't an exorbitant amount of time to be waiting in the queue, it could easily be costly for a taxpayer calling from overseas. Because customer callback isn't available on the international line, taxpayers must stay in queue and don't have the option of requesting a call back instead.¹⁰⁵

Even if taxpayers can reach an IRS employee, they often find that the employee is unable to help them with their particular issue.¹⁰⁶ The IRS doesn't post any information on its website about what tax law issues are within the scope of service on the international line, so there is no way for taxpayers to determine prior to calling and waiting on hold whether the IRS customer service representative will be able to answer their question or otherwise provide the assistance that they need.

Taxpayers outside of the United States face challenges receiving and responding to IRS postal correspondence. In FY 2021, the IRS issued over 1.3 million notices and other correspondence to foreign addresses.¹⁰⁷ The law requires the IRS to send many IRS notices, such as notices of deficiency and notices of federal tax lien, by postal mail.¹⁰⁸ But postal systems and address conventions vary widely by country, and mail delivery takes longer, in some cases significantly longer, to reach its destination when the recipient is in a foreign country. However, IRS system limitations may be contributing to the problem. Although the IRS has a variety of instructions and job aids for use by employees in correctly inputting foreign addresses, its information technology infrastructure is ultimately designed to accommodate domestic addresses.¹⁰⁹ Foreign address information must be input into fields formatted for domestic addresses.¹¹⁰ When correspondence for an overseas taxpayer is generated, there is no programming in place that specifically identifies the address as foreign and makes any corresponding adjustments to the way the address is formatted or printed.¹¹¹

Mail delays can prevent the taxpayer from responding within the designated period or otherwise taking timely action as required by the IRS notice or letter. In some cases, mail arrives after the response deadline. For example, a taxpayer might receive a letter seeking additional information in connection with the processing of his or her amended return. If the letter provides a response date within 30 days, and that 30-day period has already passed when the taxpayer receives the letter, the taxpayer might conclude that it is too late to respond and decline to pursue the issue further. Even if the IRS is willing to accept the late response, the taxpayer does not know this. The IRS can – and should – remedy this problem by revising IRS correspondence and employee procedures to allow a longer response time for taxpayers residing outside of the United States.

In some circumstances, however, the response timeframe is set forth by statute, making mailing delays consequential. For example, IRC § 6213(b)(1) creates an exception to the general rule that, before assessing a deficiency, the IRS must issue to the taxpayer a statutory notice of deficiency giving the taxpayer the opportunity to dispute the deficiency in the U.S. Tax Court. In the case of mathematical and clerical errors, as defined in IRC § 6213(g)(2), the IRS may assess the resulting deficiency without having to issue a deficiency notice. Instead, the IRS must provide notice of the assessment to the taxpayer, and the taxpayer then has 60 days to contest the assessment.¹¹² If the taxpayer contests the assessment within the designated period, the IRS must abate it and issue the taxpayer a deficiency notice if it intends to assess the deficiency again.¹¹³ However, if the taxpayer doesn't contest the assessment within the 60-day period, the taxpayer loses the right to have the assessment abated.¹¹⁴ With statutory notices of deficiency, the IRC recognizes that taxpayers located outside the United States need more time to receive and respond to correspondence; IRC § 6213(a) gives taxpayers located outside of the United States 150 days from the mailing date of the deficiency notice, instead of the standard 90 days, to file a petition with the Tax Court. But no such exception exists for math error notices issued to taxpayers overseas. The lack of an extended response time for math error notices issued to taxpayers located abroad meaningfully disadvantages those taxpayers. In FY 2021, over 63,000 taxpayers with foreign addresses received at least one math error notice, so the population at risk is far from trivial.¹¹⁵

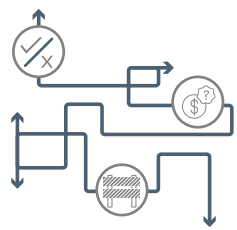
Postal problems and delays also appear to interfere with the ability of overseas taxpayers to receive refunds. During FY 2021, the IRS issued over 13,000 taxpayers with foreign addresses a replacement refund check.¹¹⁶ The IRS also issued nearly 70,000 letters to taxpayers with foreign addresses alerting them that their refund check had expired and instructing them to request a new one.¹¹⁷ Even if foreign taxpayers can receive their mail, they often report challenges cashing checks mailed to them by the IRS. Outside stakeholders reported that banks in a variety of countries were unable or unwilling to cash checks issued by the U.S. Treasury, leaving taxpayers without access to their tax refund.¹¹⁸ The IRS has recently taken steps to facilitate direct deposit refunds to taxpayers abroad. In March 2022, the IRS switched to using the International Treasury Service (ITS) for international direct deposit.¹¹⁹ Unlike with the prior platform, there are no longer any limits on the refund amount the IRS can deposit directly, and ITS does not require the taxpayer to maintain an

account with a U.S. intermediary or third-party domestic bank.¹²⁰ The transition to ITS is a positive change with the potential to alleviate some problems overseas taxpayers are having in accessing their refunds.

The IRS recently implemented another policy change with the potential to alleviate customer service burdens on taxpayers outside of the United States by expanding access to online tools and applications. To access public-facing IRS applications, the IRS requires individuals to authenticate their identity. In 2021, the IRS implemented the Secure Access Digital Identity platform as the new identity proofing and authentication solution.¹²¹ And, until December 4, 2022, individuals who did not have an SSN could not authenticate their identity using the identity proofing solution offered by the current IRS vendor, ID.me.¹²² As a result, foreign individuals without an SSN could not access IRS applications that require a taxpayer to authenticate his or her identity. However, as of December 4, 2022, ID.me began authenticating the identity of ITIN holders so that those individuals could access IRS online applications that require identity proofing.¹²³ Such applications include IRS Online Account, which provides self-help solutions for taxpayers who need to designate a representative, make a payment, manage a payment plan, or access certain IRS notices and letters; the Get IP PIN portal, which taxpayers use to request or retrieve an Identity Protection Personal Identification Number (IP PIN); and the online Identity and Tax Return Authentication portal, which taxpayers whose returns are identified as potentially fraudulent can use to verify their identity with the IRS.¹²⁴ While it is too soon to evaluate the full impact of this change in policy, this is a step in the right direction toward improving the taxpayer experience for taxpayers living overseas.

CONCLUSION AND RECOMMENDATIONS

The tax law, as it applies to taxpayers outside of the United States, is extremely complex and procedurally and administratively difficult. Whether it's determining what income taxpayers need to report, what forms they need to file, or whether there is even a requirement to file, U.S. citizens abroad and foreign persons with U.S. tax obligations must navigate a landscape of complex rules, nuanced analyses, and exceptions to exceptions. At the same time, these taxpayers have limited access to IRS support and resources.



U.S. citizens abroad and foreign persons with U.S. tax obligations must navigate a landscape of complex rules, nuanced analyses, and exceptions to exceptions. At the same time, these taxpayers have limited access to IRS support and resources.

They face barriers to obtaining TINs and to electronically filing returns. They have even more limited access to telephone customer service than domestic taxpayers, and they face long delays in receiving IRS correspondence through the mail, if it arrives at all.

Some burdens on overseas taxpayers, such as time differences and postal delays, are beyond the control of the IRS to resolve. And others, like tax law complexity, would require a significant act of Congress. We also recognize that the need to authenticate the identity of individuals who interact with the IRS is critical to preventing identity theft and protecting the integrity of the tax system. However, there are meaningful steps that the IRS can and should take to better accommodate the needs of taxpayers outside of the United States and to better facilitate their ability to meet their U.S. tax obligations. First and foremost, the IRS must develop a comprehensive agencywide customer service strategy for both U.S. citizens and resident aliens abroad and foreign individuals with U.S. tax obligations. As part of this strategy, the IRS should address how the agency can better support overseas taxpayers in understanding their U.S. tax obligations. The IRS should

build on existing informational resources, including forms, publications, and FAQs, that can be helpful for overseas taxpayers and create a true “one-stop shop” for taxpayers outside of the United States on [IRS.gov](https://www.irs.gov). The IRS should also look to partner with the Department of State to more effectively connect with taxpayers who need tax information. Overseas taxpayers often look to U.S. embassies and consulates for assistance with issues involving the U.S. government. The IRS could leverage that channel of communication by partnering with the Department of State to post U.S. tax information or links to [IRS.gov](https://www.irs.gov) on State Department webpages.

The IRS also needs to do more to help with electronic filing by taxpayers abroad. Many overseas taxpayers cannot electronically file because of e-file system and software limitations. While the IRS has made great progress in expanding the number of forms taxpayers can e-file, it should continue to expand the number of forms that taxpayers can file electronically. The IRS should conduct a study, which includes outreach to private industry, to better understand why overseas taxpayers are e-filing at such low rates and how to remove the barriers causing this. The IRS should also be sure to include common international forms, such as Forms 1040-NR, 1116, and 2555, in the design for the free online filing platform it has announced plans to study.¹²⁵

The IRS needs to do more to improve customer service for overseas taxpayers. Expanding online identity proofing to include users with ITINs was a big step in the right direction, making many online tools available to foreign taxpayers for the first time. However, the IRS still needs to ensure that foreign entities whose responsible officials do not have and are not eligible for an SSN or ITIN are able to access the FIRE system and file their information returns electronically. The IRS should implement customer callback on the international line and provide more detailed information on [IRS.gov](https://www.irs.gov) about the scope of services available on the international telephone line. It must do more to provide face-to-face customer service options for overseas taxpayers. This should include the option to make a virtual TAC appointment and should allow the taxpayer to receive all the services provided by an in-person TAC visit, including identity proofing for individuals whose returns the IRS flagged for potential identity theft and review of identity documents for ITIN applications. The IRS should also consider building on the success of existing programs, like VITA and TCE, and look to partner with the State Department and other agencies to host VITA sites overseas. The IRS might also build on the success of its Taxpayer Experience Day initiative and offer something similar at U.S. embassies or consulates abroad. While the challenges facing taxpayers living overseas will continue to be great, the IRS must do more to reduce the burden on these taxpayers and to better support them in their attempts to comply with U.S. law.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Develop a comprehensive customer service strategy for both U.S. citizens and resident aliens abroad and foreign individuals with U.S. tax obligations.
2. Explore ways to partner with the U.S. Department of State to make tax information available through State Department platforms and to provide tax customer service at U.S. embassies and consulates.
3. Conduct a study to identify barriers to e-filing for overseas taxpayers. The IRS should use the results to formulate a strategy to reduce those barriers and to increase e-file rates by taxpayers located outside of the United States.
4. Deploy an identity proofing solution available to individuals who do not have and are not eligible for an SSN or ITIN and who need to access the FIRE system.
5. Offer customer callback on the international telephone line and provide more detailed information on the IRS website about the services offered on the international telephone line.
6. Revise correspondence and employee procedures to give overseas taxpayers an extended timeframe within which to provide responses to all requests for information or to otherwise take action.
7. Offer virtual TAC appointments to taxpayers overseas. These appointments should offer all services available to taxpayers in the United States, including identity verification for individuals whose returns were flagged for possible ID theft and verification of identity documents for ITIN applicants.

Legislative Recommendation to Congress

The National Taxpayer Advocate recommends that Congress:

1. Amend IRC § 6213(b)(2)(A) to allow taxpayers 120 days to request an abatement of tax when a math error notice is mailed to them outside the United States.

RESPONSIBLE OFFICIALS

Kenneth Corbin, Commissioner, Wage and Investment Division

Nikole Flax, Commissioner, Large Business and International Division

Kathleen Walters, Chief Privacy Officer, Privacy, Governmental Liaison and Disclosure

IRS COMMENTS

The IRS continues to address service challenges strategically and operationally for overseas taxpayers. The IRS Taxpayer First Act Report to Congress identified a Taxpayer Experience Strategy, including an international strategy, for reaching underserved communities and the IRS FY 2022-2026 Strategic Plan identifies as a specific objective, addressing the needs of underserved communities, including international taxpayers, to improve their ability to participate in the tax system.

Furthermore, the funding provided under the Inflation Reduction Act (IRA) will allow the agency to significantly improve service to all taxpayers, including those located overseas. We are currently in the process of planning our strategic priorities and will have more specifics to share in the coming months. As we make additional progress on taxpayer service tools, including online account and digital services, this will afford additional opportunities for issue resolution for taxpayers located overseas.

The IRS provides a variety of services and resources tailored to the needs of overseas taxpayers. The International Call Center, staffed Monday through Friday, answers tax law and account related calls from overseas taxpayers. There is also a separate number specifically for tax professionals or software providers calling about an e-file issue that is not account related. Assistors on these lines have the option of conferencing in an interpreter, if necessary. The IRS will evaluate the ability to implement Customer Callback options for international callers based on available technology and in conjunction with the overall Taxpayer Experience Strategy.

The IRS website ([IRS.gov](https://www.irs.gov)) houses online tools and information for both individual and business overseas taxpayers. Landing pages are present for both individual and business taxpayers that include a wealth of information regarding tax administration. For example, the Interactive Tax Assistant self-directed tool allows taxpayers to find answers to eight common individual tax questions such as claiming the Foreign Tax Credit, Earned Income Exclusion, and Individual Tax Identification Number eligibility, and we continually explore adding additional tax law topics. Taxpayers may also use the Online Account feature to secure account balances, make payments, and view or establish payment agreements. The IRS is exploring virtual appointments via Web Service Delivery for taxpayers outside the United States. Currently, Web Service Delivery is a pilot program designed to test our capability to provide an additional service channel to this taxpayer segment.

In 2022, the IRS conducted virtual Volunteer Income Tax Assistance (VITA) training at 22 military bases in Europe and Asia. The military established regular VITA sites in Kosovo, Japan, Korea,

United Kingdom, Netherlands, and Germany that generated 3,497 returns. The IRS also had stand-alone Facilitated Self-Assistance sites in Italy, Kuwait, Korea, Turkey, Saudi Arabia, Egypt, and Germany. Additionally, we take proactive steps for international taxpayers such as updating foreign addresses from e-filed returns and assisting with identity theft. During FY 2022, the IRS proactively issued over 1,700 identity protection personal identification numbers to taxpayers with foreign addresses who experienced identity theft or who were at risk. In addition, during FY 2022, over 1,000 foreign taxpayers were able to protect their account by voluntarily opting into the identity protection personal identification numbers program.

The IRS imposed a moratorium on the Certifying Acceptance Agent program in August 2022. The Certifying Acceptance Agents assist with the Individual Tax Identification Number application process by authenticating identity documents and submitting applications. The moratorium will allow us to implement significant modernization efforts resulting in more efficient processing of properly submitted applications that will shorten processing times from months to weeks.

While it is true that e-filing rates for taxpayers residing overseas are lower than taxpayers overall, the IRS has made strides in this area. According to the Taxpayer First Act Report to Congress, only 48.8% of taxpayers residing overseas e-filed, but in 2020, the number was 63%, reflecting an increase of 15 percentage points. The IRA requires the IRS to conduct a study, which includes outreach to private industry, to better understand why overseas taxpayers e-file at lower rates, and how to remove barriers. These findings will allow the IRS to identify steps to improve the e-file rate and international taxpayer experience, consistent with the overarching objective in the IRS FY 2022-2026 Strategic Plan to address the needs of underserved international taxpayers.

TAXPAYER ADVOCATE SERVICE COMMENTS

The National Taxpayer Advocate recognizes that the IRS currently provides some services and resources specifically directed at taxpayers living overseas. The IRS has also recently implemented changes with the potential to improve customer service for overseas taxpayers, such as making identity proofing available to taxpayers with ITINs and transitioning to the ITS system for international direct deposit payments. We are pleased to see that the IRS already has plans to implement some of our recommendations, like an e-file study and virtual TAC service for taxpayers abroad. Ultimately, however, taxpayers living overseas continue to face significant barriers to meeting their tax obligations. While recent changes are encouraging, our recommendations reflect the importance of continuing to find ways to better meet the overall needs of these taxpayers.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Develop a comprehensive customer service strategy for both U.S. citizens and resident aliens abroad and foreign individuals with U.S. tax obligations.

2. Explore ways to partner with the U.S. Department of State to make tax information available through State Department platforms and to provide tax customer service at U.S. embassies and consulates.
3. Conduct a study to identify barriers to e-filing for overseas taxpayers. The IRS should use the results to formulate a strategy to reduce those barriers and to increase e-file rates by taxpayers located outside of the United States.
4. Deploy an identity proofing solution available to individuals who do not have and are not eligible for an SSN or ITIN and who need to access the FIRE system.
5. Offer customer callback on the international telephone line and provide more detailed information on the IRS website about the services offered on the international telephone line.
6. Revise correspondence and employee procedures to give overseas taxpayers an extended timeframe within which to provide responses to all requests for information or to otherwise take action.
7. Offer virtual TAC appointments to taxpayers overseas. These appointments should offer all services available to taxpayers in the United States, including identity verification for individuals whose returns were flagged for possible ID theft and verification of identity documents for ITIN applicants.

Legislative Recommendation to Congress

The National Taxpayer Advocate recommends that Congress:

1. Amend IRC § 6213(b)(2)(A) to allow taxpayers 120 days to request an abatement of tax when a math error notice is mailed to them outside the United States.

Endnotes

- 1 See National Taxpayer Advocate 2021 Report to Congress (Most Serious Problems 1, 3, 5-8), <https://www.taxpayeradvocate.irs.gov/reports/2021-annual-report-to-congress/most-serious-problems/>.
- 2 See U.S. Department of State, Bureau of Consular Affairs, *Consular Affairs by the Numbers* (rev. Jan. 2020), <https://travel.state.gov/content/dam/travel/CA-By-the-Number-2020.pdf> (last visited Nov. 9, 2022).
- 3 Defense Manpower Data Center, Number of Military and DoD Appropriated Fund (APF) *Civilian Personnel Permanently Assigned By Duty Location and Service/Component* (as of June 30, 2022), https://dwp.dmdc.osd.mil/dwp/api/download?fileName=DMDC_Website_Location_Report_2206.xlsx&groupName=milRegionCountry (last visited Nov. 1, 2022).
- 4 See U.S. Department of State, *HR Fact Sheet*, https://www.state.gov/wp-content/uploads/2019/05/HR_Factsheet0319.pdf (last visited Sept. 12, 2022).
- 5 National Association for Foreign Student Affairs, Association of International Educators, *Study Abroad Participation by State: Academic Year 2019-2020*, <https://www.nafsa.org/sites/default/files/media/document/State-by-State-19-20-study-abroad-statistics.pdf> (last visited Nov. 9, 2022). These statistics reflect the suspension of study abroad programs in March 2020. The number of U.S. students studying abroad during previous periods was significantly higher.
- 6 District Economics Group, *Residence-Based Taxation Discussion: Model Development and Budget Analysis, 2022 Through 2031* (July 15, 2022).
- 7 Federal Voting Assistance Program, *State of the Overseas Voter*, <https://www.fvap.gov/info/reports-surveys/overseas-citizen-population-analysis> (last visited Nov. 17, 2022).
- 8 Compliance Data Warehouse (CDW) Information Return Transaction File (IRTF), IRTF Taxpayer Info Database (Oct. 12, 2022).
- 9 See IRS, Pub. 519, U.S. Tax Guide for Aliens (Apr. 20, 2022).
- 10 *Id.*
- 11 IRS, Pub. 5426, Taxpayer First Act Report to Congress (Jan. 2021).
- 12 Global intangible low-taxed income. See IRC § 951A.
- 13 Foreign Investment in Real Property Tax Act. See IRC § 1445.
- 14 Passive foreign investment company. See IRC 1297.
- 15 Foreign Account Tax Compliance Act. See IRC § 6038D.
- 16 IRS, CDW, IRTF, IRTF Entity Database (Oct. 12, 2022).

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- 17 IRC § 911
- 18 *Id.* See also IRS, Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad (Jan. 26, 2022); IRS, Instructions to Form 2555, Foreign Earned Income (Nov. 1, 2021).
- 19 IRC § 901.
- 20 IRS, CDW, IRTF, IRTF Entity Database (Oct. 12, 2022).
- 21 The Bank Secrecy Act is not a part of the IRC. See 31 U.S.C. 5311, *et seq.* However, in 2003, FinCEN delegated FBAR enforcement authority to the IRS. Specifically, the IRS is responsible for investigating possible civil FBAR violations, assessing and collecting civil FBAR penalties, and issuing administrative rulings on FBAR issues. See 31 C.F.R. § 1010.810(g) and IRS, Pub. 5569, Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide (Mar. 2022).
- 22 See IRC § 6038D(a) & (b); Treas. Reg. § 1.6038D-2(a).
- 23 IRC § 6038D(a); Treas. Reg. § 1.6038D-2(a).
- 24 31 U.S.C. § 5314 and 31 C.F.R. § 1010.350.
- 25 See IRS, Pub. 5569, Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide (Mar. 2022). See also 31 C.F.R. § 1010.350.
- 26 See IRS, Pub. 5569, Report of Foreign Bank & Financial Accounts (FBAR) Reference Guide (Mar. 2022).
- 27 IRC § 6038D(d).
- 28 31 U.S.C. § 5321(a)(5)(B)(i); 31 C.F.R. § 1010.821.
- 29 31 U.S.C. §§ 5321(a)(5)(C), (D)(ii).
- 30 American Citizens Abroad, Letter to Secretary of the Treasury, Janet Yellen, *et. al.* (Aug. 11, 2022). See also National Taxpayer Advocate 2011 Annual Report to Congress 195-198 (Most Serious Problem: *U.S. Taxpayers Abroad Face Challenges in Understanding How the IRS Will Apply Penalties to Taxpayers Who Are Reasonably Trying to Comply or Return into Compliance*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011_ARC_MSP-7-12.pdf.
- 31 IRS, Pub. 519, U.S. Tax Guide for Aliens (Apr. 20, 2022).
- 32 *Id.*
- 33 *Id.*
- 34 See IRS, Pub. 901, U.S. Tax Treaties (Oct. 12, 2016). See also IRS, United States Income Tax Treaties - A to Z, <https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z> (last visited on Nov. 9, 2022).
- 35 National Taxpayer Advocate 2015 Annual Report to Congress 72-81 (Most Serious Problem: International Taxpayers: The IRS's Strategy for Service on Demand Fails to Compensate for the Closure of International Tax Attaché Offices and Does Not Sufficiently Address the Unique Needs of International Taxpayers), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15_Volume1_MSP_07_International-TP-Service.pdf. Despite the closure of these offices, IRS publications continue to suggest that assistance from local offices is available. For example, Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, states that "additional contacts for taxpayers who live outside the United States are available at [IRS.gov/uac/Contact-My-Local-Office-Internationally](https://www.irs.gov/uac/Contact-My-Local-Office-Internationally)." However, when taxpayers click the link, they informed that "Taxpayer Service, formerly offered at the foreign posts of duty, is no longer available."
- 36 *Id.*
- 37 *Id.*
- 38 *Id.*
- 39 Feedback from external stakeholder provided during call with TAS (Aug. 30, 2022).
- 40 National Taxpayer Advocate 2015 Annual Report to Congress 72-81 (Most Serious Problem: *International Taxpayers: The IRS's Strategy for Service on Demand Fails to Compensate for the Closure of International Tax Attaché Offices and Does Not Sufficiently Address the Unique Needs of International Taxpayers*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15_Volume1_MSP_07_International-TP-Service.pdf.
- 41 During the 2021 filing season, an additional ten VITA sites overseas also offered Facilitated Self-Assistance tax preparation. However, these additional sites were also located on U.S. military bases. IRS response to TAS information request (Oct. 13, 2022).
- 42 IRS response to TAS information request (Oct. 13, 2022).
- 43 Feedback from external stakeholder provided during call with TAS (Aug. 30, 2022).
- 44 IRS, Directory of Federal Tax Return Preparers with Credentials and Select Qualifications, <https://irs.treasury.gov/rpo/rpo.jsf> (last visited Sept. 12, 2022).
- 45 Feedback from American Citizens Abroad (ACA), provided during call with TAS (Sept. 7, 2022). ACA estimated that return preparation fees for individual U.S. returns for U.S. citizens abroad are generally between \$2,000 and \$3,000 and significantly higher for small business owners. By contrast, according to the National Society of Accountants, the average fee to have a Form 1040 prepared in the U.S. in 2021 was \$323 for a return with itemized deductions and \$220 for a return without itemized deductions. National Society of Accountants, *2020-2021 Income and Fees of Accountants and Tax Preparers in Public Practice Survey Report* 18, https://higherlogicdownload.s3.amazonaws.com/NSACCT/725010a8-142f-4092-8b5d-077c2618c728/UploadedImages/Membership/IncomeandFeeSurvey/NSA2020-2021_IncomeandFees_FullStudy.pdf (last visited Nov. 4, 2022).
- 46 IRS response to TAS information request (Oct. 13, 2022). This total treats forms and their separate instructions as a single tax product. If forms and their instructions were treated as separate tax products, the total would be 100.
- 47 *Id.*
- 48 *Id.*
- 49 IRS, Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (Dec. 22, 2021).
- 50 *Id.*
- 51 *Id.*
- 52 *Id.*
- 53 *Id.*
- 54 Taxpayer Advocacy Panel, Taxpayer Advocacy Panel 2021 Annual Report (Mar. 2022).

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- 55 IRS, New ITIN Acceptance Agent Program Changes, <https://www.irs.gov/individuals/new-itin-acceptance-agent-program-changes> (last visited Oct. 25, 2022).
- 56 IRS response to TAS information request (Oct. 13, 2022).
- 57 *Id.*
- 58 See IRS, How do I apply for an ITIN?, <https://www.irs.gov/individuals/how-do-i-apply-for-an-itin> (last visited Nov. 1, 2022).
- 59 IRS, ITIN Production Report (Sept. 10, 2022). This is a measure of Forms W-7 worked during the reporting week.
- 60 IRS response to TAS information request (Oct. 13, 2022).
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- 62 *Id.*
- 63 IRS, How to Apply for an EIN, <https://www.irs.gov/businesses/small-businesses-self-employed/how-to-apply-for-an-ein> (last visited Sept. 12, 2022).
- 64 IRS response to TAS information request (Oct. 13, 2022).
- 65 IRS, Apply for an Employer Identification Number (EIN) Online, <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online> (last visited Sept. 12, 2022).
- 66 IRS, How to Apply for an EIN, <https://www.irs.gov/businesses/small-businesses-self-employed/how-to-apply-for-an-ein> (last visited Sept. 12, 2022).
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- 68 IRS, How to Apply for an EIN, <https://www.irs.gov/businesses/small-businesses-self-employed/how-to-apply-for-an-ein> (last visited Sept. 12, 2022).
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- 70 *Id.*
- 71 See National Taxpayer Advocate Fiscal Year 2023 Objectives Report to Congress 23-24 (Systemic Advocacy Objective: Restore Tax Benefits That Were Disallowed Due to Individual Taxpayer Identification Number Renewal Processing Delays), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23_SAO_SystAdvObjs.pdf.
- 72 IRC § 1445.
- 73 IRS, Instructions for Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (Dec. 2021).
- 74 *Id.*
- 75 See Most Serious Problem: *E-File and Free File: E-Filing Barriers and the Absence of a Free, Easy-to-Use Tax Software Option Cause Millions of Taxpayers to Continue to File Paper Tax Returns*, *supra*.
- 76 IRS, CDW, IRTF, IRTF Entity Database (Oct. 12, 2022).
- 77 *Id.*
- 78 *Id.*
- 79 IRS, Pub. 5426, Taxpayer First Act Report to Congress 76 (Jan. 2021).
- 80 IRS, Pub. 5426, Taxpayer First Act Report to Congress (Jan. 2021).
- 81 IRS, Instructions for Form W-7, Application for IRS Individual Taxpayer Identification Number (Dec. 22, 2021).
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- 85 Letter from ACA to National Taxpayer Advocate Erin Collins (July 21, 2022).
- 86 IRS, Instructions to Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts (2021).
- 87 IRS, Authorized IRS e-file Provider Locator Service For Tax Professionals, <https://www.irs.gov/e-file-providers/authorized-irs-e-file-provider-locator-service-for-tax-professionals> (last visited Sept. 19, 2022).
- 88 IRS, Free File Fillable Forms: Program Limitations and Available Forms, <https://www.irs.gov/e-file-providers/free-file-fillable-forms-program-limitations-and-available-forms> (last visited Sept. 12, 2022).
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- 92 Taxpayer Advocacy Panel, Taxpayer Advocacy Panel 2021 Annual Report (Mar. 2022).
- 93 IRS response to TAS information request (Oct. 13, 2022).
- 94 IRS, About Information Returns (IR) Application for Transmitter Control Code (TCC) for Filing Information Returns Electronically (FIRE), <https://www.irs.gov/tax-professionals/about-information-returns-ir-application-for-transmitter-control-code-tcc-for-filing-information-returns-electronically-fire> (last visited Sept. 12, 2022).
- 95 *Id.*
- 96 IRS response to TAS information request (Oct. 13, 2022).
- 97 IRS response to TAS fact check (Dec. 6, 2022).
- 98 See public comment from The Securities Industry and Financial Markets Association on Notice of Proposed Rulemaking, Electronic-Filing requirements for Specified Returns and Other Documents, 86 F.R. 50295 (Sept. 21, 2021).
- 99 IRS, About Information Returns (IR) Application for Transmitter Control Code (TCC) for Filing Information Returns Electronically (FIRE), <https://www.irs.gov/tax-professionals/about-information-returns-ir-application-for-transmitter-control-code-tcc-for-filing-information-returns-electronically-fire> (last visited Sept. 12, 2022).
- 100 Public comment from The Securities Industry and Financial Markets Association on Notice of Proposed Rulemaking, Electronic-Filing requirements for Specified Returns and Other Documents, 86 F.R. 50295 (Sept. 21, 2021).

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- 102 *Id.*
- 103 IRS Tax Tip 2020-125, IRS Expands Multilingual Resources and Services (Sept. 24, 2022).
- 104 IRS response to TAS information request (Oct. 13, 2022).
- 105 *Id.*
- 106 *See, e.g.*, Taxpayer Advocacy Panel, Taxpayer Advocacy Panel 2021 Annual Report (Mar. 2022).
- 107 IRS, CDW, Notice Delivery System (NDS), NDS Notice Database (Oct. 12, 2022).
- 108 *See* IRC § 6212(a); IRC § 6330(a)(2).
- 109 IRS response to TAS information request (Oct. 13, 2022).
- 110 *Id.*
- 111 *Id.*
- 112 IRC § 6213(b)(1), (b)(2)(A).
- 113 IRC § 6213(b)(2)(A).
- 114 If the taxpayer responds after the 60-day period and provides information demonstrating, to the satisfaction of the IRS, that the assessment was erroneous, the IRS will generally abate the assessment. However, taxpayers who respond within the 60-day period are entitled to abatement of the assessment whether or not they provide any evidence.
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- 117 *Id.*
- 118 *See, e.g.*, Taxpayer Advocacy Panel, Taxpayer Advocacy Panel 2021 Annual Report (Mar. 2022).
- 119 IRS response to TAS information request (Oct. 13, 2022).
- 120 *Id.*
- 121 National Taxpayer Advocate Fiscal Year 2023 Objectives Report to Congress 18 (Systemic Advocacy Objective: *Identify and Minimize Electronic Filing Barriers*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/06/JRC23_SAO_SystAdvObjs.pdf.
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- 125 Jacob Bogage, *IRS Move Toward Free e-Filing Could End Years of Corporate Domination*, WASH. POST (Sept. 7, 2022).