

MSP
#3**ONLINE ACCOUNTS: The IRS's Focus on Online Service Delivery Does Not Adequately Take Into Account the Widely Divergent Needs and Preferences of the U.S. Taxpayer Population****RESPONSIBLE OFFICIALS**

Kenneth Corbin, Commissioner, Wage and Investment Operating Division
Paul Mamo, Director, Office of Online Services

TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Challenge the IRS's Position and Be Heard*
- *The Right to Confidentiality*
- *The Right to a Fair and Just Tax System*

DEFINITION OF PROBLEM

Since 2009, the National Taxpayer Advocate has advocated for and supports the IRS development of an online account application for taxpayers and their authorized representatives.² However, with approximately 41 million U.S. taxpayers without broadband at home and almost 14 million with no internet access at all at home, the IRS must continue to fully staff other service channels and it needs to upgrade its telephone technology to 21st century capabilities.³ Taxpayers have a *right to quality service* and those taxpayers who want or need to interact with the IRS in a two-way conversation by telephone or face-to-face service should receive the same level of quality service as those who use the online self-help tools. The population of the United States is large and diverse in its taxpayer service needs, and a one-size-fits-all approach is not appropriate for a tax collection agency. Moreover, voluntary compliance and trust in the tax system are best promoted by person-to-person contact. In TAS's 2016 and 2017 survey on Taxpayers' Varying Abilities and Attitudes, approximately 50 percent disagreed with

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

2 See National Taxpayer Advocate 2009 Annual Report to Congress 95-109 (Most Serious Problem: *The IRS Lacks a Servicewide e-Services Strategy*).

3 Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra*; Most Serious Problem: *Telephones: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment*, *supra*; Literature Review: *Improving Telephone Service Through Better Quality Measures*, vol 2, *infra*.

the statement “I feel secure sharing personal financial information over the Internet.”⁴ Thus, a multi-faceted, omnichannel service strategy based on the needs and preferences of taxpayers is required.⁵

As the IRS focuses on providing self-service tools for taxpayers, the National Taxpayer Advocate has the following concerns:

- The IRS’s decision to prioritize online services over other service channels is resource-driven rather than based on research on taxpayer needs and preferences and the impact on compliance;
- Secure Access e-Authentication is a critical fraud prevention measure, but the 30 percent verification rate proves that it creates a barrier to entry for all taxpayer populations, not just the elderly and low income;⁶
- The low participation rates of the Taxpayer Digital Communications (TDC) pilot conducted by several IRS organizations illustrate the need to maintain and improve traditional service channels;
- The IRS should explore establishing a method for taxpayers to electronically submit documents or payments to the IRS which involves a less rigorous level of e-authentication; and
- The IRS has failed to make the policy decision to restrict third party access to current and future online applications.

ANALYSIS OF PROBLEM

Background

The IRS launched the online account application in Fall 2016.⁷ The IRS adds additional features in increments. Currently, the application is limited to individual use and provides the following capabilities:⁸

- Details about current balance, with the balance broken down by year and tax type;
- Frequently asked questions about the account balance, with information on how to dispute a balance shown;
- Ability to view payments made within the past 18 months;
- Ability to make payments or apply for an installment agreement;
- Messages reminding the user of approaching filing and payment due dates;
- Ability to view a snapshot of tax record data for the current tax year; and

4 Research Study: *A Further Exploration of Taxpayers’ Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

5 Organisation for Economic Co-operation and Development (OECD), *Technologies for Better Tax Administration: A Practical Guide for Revenue Bodies* 26 (2016) (“While many individuals and businesses are shifting to working digitally across many of the interactions they have, there are groups with legitimate needs that may never operate digitally (including the elderly and those with limited access to broadband services due to their geographic location for instance). Additionally, there are industries that have less access to technology, or that resist or feel less confident interacting with the tax administration through digital channels, that will still require support.”).

6 IRS response to TAS information request (Nov. 22, 2017).

7 IRS News Release 2016-155, *IRS Launches New Online Tool to Assist Taxpayers with Basic Account Information* (Dec. 1, 2016); Luca Gattoni-Celli, *Olson Details IRS Online Account Requirements, Remains Skeptical*, 2016 TNT 96-5, *Tax Notes Today*, (May 18, 2016).

8 IRS response to TAS fact check (Dec. 19, 2017); IRS response to TAS information request (Nov. 22, 2017); Meeting with IRS Office of Online Service on Online Account Project Status Overview (Nov. 7, 2017); TAS user testing of online account application (Nov. 3, 2017).

- Ability to view and download transcripts for the past four tax years (including return transcripts, account transcripts, wage and income transcripts, and record of account transcripts).⁹

The IRS plans to develop the following capabilities in future increments:¹⁰

- Verify identity on the online account — the application, ID Verify, will enable potential victims of identity theft to self-report tax return details to either verify their information or confirm that identity theft has occurred;¹¹
- View more than 18 months of past payments; and¹²
- Access copies or images of correspondence and notices.¹³

In addition, during usability testing of the online account, users expressed an interest in the IRS adding the following features to the account:¹⁴

- The ability to file taxes directly with the IRS;¹⁵
- Live Chat;
- The ability to retrieve tax records, including third party information reports;¹⁶ and
- Graphs of data to show how income and taxes have changed over time.

Further, the IRS Office of Online Services (OLS) is in the process of developing a prototype for the online account for third parties such as preparers (tentatively referred to as “Tax Pro”). The prototype version of Tax Pro shared with TAS in June 2017 included the following capabilities:¹⁷

- View a list of current clients for whom the practitioner holds a valid authorization;
- View a list of the most recent updates, upcoming deadlines and activity history;
- View a list of recent correspondences with the IRS, including document attachments;
- Add a client by submitting an online request to a client for an authorization such as a Power of Attorney (POA), Tax Information Authorization (TIA), or Reporting Agent Authorization (RAA); and
- Print a blank form or upload a signed form.

9 For a description of the different types of transcripts, see IRS, *Transcript Types and Ways to Order Them*, available at <https://www.irs.gov/individuals/tax-return-transcript-types-and-ways-to-order-them> (last visited Dec. 6, 2017).

10 IRS response to TAS information request (Nov. 22, 2017).

11 ID Verify will ultimately help the IRS determine whether to continue processing a flagged return. IRS response to TAS fact check (Dec. 19, 2017); Meeting with IRS Office of Online Service on Online Account Project Status Overview (Nov. 7, 2017).

12 TAS encourages the IRS to include at least two years of payments to assist the taxpayer in filing claims for refunds. See IRC § 6511.

13 As of December 19, 2017, the IRS has not approved nor made any decisions regarding timeframes or specific notices or correspondence that will be available on the application. This feature is currently on a list of potential future capacities. IRS response to TAS fact check (Dec. 19, 2017); IRS response to TAS information request (Nov. 22, 2017).

14 IRS response to TAS information request (Nov. 22, 2017) (Mediabarn conducted a series of user testing experiences in 2017 to test various prototypes of the online account).

15 The National Taxpayer Advocate has recommended that the IRS develop a platform to allow taxpayers to file directly with the agency at no cost. See, e.g., National Taxpayer Advocate 2004 Annual Report to Congress 471-77 (Key Legislative Recommendation: *Free Electronic Filing for All Taxpayers*).

16 The National Taxpayer Advocate has recommended in the past that the IRS provide a platform for taxpayers to view or download third party information reports. See, e.g., National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2, at 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*).

17 IRS Office of Online Services email to TAS (June 21, 2017).

The IRS conducted focus groups on Tax Pro during the 2017 IRS Nationwide Tax Forums, during which tax professionals, not just limited to Circular 230 practitioners, tested the account and provided suggestions on how to make it more navigable, easy to understand, and recommended future capabilities. The results of the focus groups were generally positive. A few noteworthy recommended features include:¹⁸

- Providing an “action list” of upcoming items to complete;
- The capability to perform tax research within the account; and
- The capability to upload documents other than the authorization forms.

The IRS’s Decision to Prioritize Online Services Over Other Service Channels is Resource-driven Rather than Based on Research on Taxpayer Needs and Preferences and the Impact on Compliance

Given the current budget environment, it is understandable that the IRS points taxpayers toward less costly self-service options. However, migration toward more online interaction between the IRS and taxpayers, at the expense of personalized services, will not save resources in the long term. The National Taxpayer Advocate has long advocated that the IRS develop the online account application, but only supports such development if it is only one component of a omnichannel service strategy.¹⁹

Digital interaction is not appropriate for certain populations, nor is it suitable for taxpayers with anything but simple and straightforward transactions and information needs. Once a taxpayer faces enforcement action, it is imperative that the IRS assist the taxpayer by learning the taxpayer’s particular facts and circumstances to help bring him or her into compliance and to educate the taxpayer on how to avoid making similar mistakes in the future. The IRS can only accomplish this through personalized services. Further, if taxpayers face too many obstacles in their attempted interactions with the IRS, their frustrations will mount and their willingness to voluntarily comply in the future may suffer. Thus, the IRS has developed a strategy that places too much emphasis on the online account, without adequately

The IRS has developed a strategy that places too much emphasis on the online account, without adequately addressing the service needs and preferences of taxpayers or the compliance consequences of their failing to have their needs met.

¹⁸ IRS response to TAS information request (Nov. 22, 2017).

¹⁹ See, e.g., National Taxpayer Advocate 2013 Annual Report to Congress, vol. 2, at 67-96 (Research Study: *Fundamental Changes to Return Filing and Processing Will Assist Taxpayers in Return Preparation and Decrease Improper Payments*). An omnichannel environment is one in which the level of service, responsiveness, and quality of service received on any one channel is equally high across channels. In addition, a taxpayer could seamlessly transition from one channel to another. Most Serious Problem: *Telephones: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment*, *supra*; Literature Review: *Improving Telephone Service Through Better Quality Measures*, vol 2, *infra*.

Over the years TAS has conducted several important research studies and surveys of different taxpayer populations, which the IRS has completely ignored because the survey findings do not jive with the direction the IRS wishes to pursue.

addressing the service needs and preferences of taxpayers or the compliance consequences of their failing to have their needs met.²⁰

Accordingly, the IRS needs to incorporate research on taxpayer needs and preferences into its 2018–2022 IRS Strategic Plan. Over the years, TAS has conducted several important research studies and surveys of different taxpayer populations, which the IRS has completely ignored because the survey findings do not jive with the direction the IRS wishes to pursue.²¹ Moreover, we can offer a plethora of suggestions based on the dozen National Taxpayer Advocate Public Forums on Taxpayer Needs and Preferences we hosted throughout the country in 2016.²² During these Public Forums, TAS specifically solicited comments about needs and preferences for the IRS's online account application from the various panels of witnesses representative of each community visited.²³

In 2016 and 2017, TAS conducted a nationwide survey of U.S. taxpayers about their needs, preferences, and experiences with IRS taxpayer service conducted entirely by telephone (landline and cell phone).²⁴ The findings of this survey confirm the need to maintain an omnichannel service strategy. For example,

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- 20 IRS response to TAS information request (Nov. 22, 2017). The IRS has contracted third parties to conduct usability testing for the individual online account and has been responsive to the user comments and suggestions regarding messaging, display, navigability, and features of the application. The IRS also conducted focus groups of the TaxPro prototype during the 2017 IRS Nationwide Tax Forums. It has also conducted online surveys of individual taxpayers which provide some evidence of how already-online taxpayers would like to interact with the IRS about some activities. However, it has not conducted comprehensive analysis of the online needs or taxpayer service needs of the U.S. taxpayer population, and it has ignored the significant work that the TAS has conducted in this regard. For a detailed discussion of the research, see National Taxpayer Advocate 2016 Annual Report to Congress 17-23, 123-24; National Taxpayer Advocate 2015 Annual Report to Congress 61-62.
- 21 For a description of TAS's research on taxpayers' service needs and preferences, see National Taxpayer Advocate 2016 Annual Report to Congress 17-23 (Special Focus: *IRS Future State: The National Taxpayer Advocate's Vision for a Taxpayer-Centric 21st Century Tax Administration*); National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences is Critical as the IRS Develops an Online Account System*). See also, Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra*; National Taxpayer Advocate 2015 Annual Report to Congress, vol. 2, 101-10 (Research Study: *Understanding the Hispanic Underserved Population*); National Taxpayer Advocate 2014 Annual Report to Congress, vol. 2, 1-26 (Research Study: *Low Income Taxpayer Clinic Program: A Look at Those Eligible to Seek Help From the Clinics*); National Taxpayer Advocate, *Characteristics of Low Income Taxpayers and Implications for Tax Administration*, Presentation to the Services & Enforcement Executive Steering Committee (Jan. 8, 2015).
- 22 For a more detailed discussion of the Public Forums, see National Taxpayer Advocate FY 2017 Objectives Report to Congress 1-52 (Preface: *National Taxpayer Advocate's Introductory Remarks, Including an Update on the National Taxpayer Advocate Public Forums on Taxpayer Needs and Preferences*).
- 23 For details on the National Taxpayer Advocate Public Forums on Taxpayer Service Needs and Preferences, including submitted written statements from panelists as well as full transcripts of the forums, see <https://taxpayeradvocate.irs.gov/public-forums> (last visited Apr. 20, 2017).
- 24 See Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra*; See National Taxpayer Advocate 2016 Annual Report to Congress, vol. 2, at 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*).

survey results detailed below show that a significant percentage of taxpayers may not be able to access the internet or do not feel skilled at conducting research on the interest.

The survey has shown that approximately 41 million U.S. taxpayers have no broadband access at all in their homes.²⁵ Taxpayers with internet service connections slower than broadband will likely experience delays when attempting to access large files or complex web pages — including irs.gov which has over 135,000 web pages.²⁶ Vulnerable populations, including low income taxpayers, elderly taxpayers, and taxpayers with disabilities, are especially impacted by this issue, as illustrated in the chart below:

FIGURE 1.3.1, No Broadband Access by Demographic Group²⁷

Taxpayer Population	Estimated Percentage
Not Low Income	21.8%
Low Income	35.5%
Senior	41.7%
Disabled	31.2%

In addition, almost 14 million U.S. taxpayers have no internet access at all at home, most significantly an issue in the vulnerable populations.²⁸

As illustrated below, the vulnerable populations also feel less skilled conducting internet research.

FIGURE 1.3.2, Percentage of Survey Respondents Who Disagreed with the Statement “I am skilled at doing research on the Internet.”²⁹

Taxpayer Population	Estimated Percentage
Not Low Income	7.0%
Low Income	14.1%
Senior	22.9%
Disabled	17.8%

Further, the study confirmed that the web is suitable for certain types of service needs. For example, the survey showed that taxpayers were more likely to be satisfied using the web channel to obtain a form than any of the other channels. In fact, 76 percent of respondents indicated that they used the web as the first channel to obtain a form or publication. In addition, approximately 42 percent of respondents

25 See Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

26 IRS response to TAS fact check (Dec. 19, 2017). Prior to the recent irs.gov launch, organizations across the agency conducted a content cleanup effort in to reduce redundant, inaccurate, or outdated content on the website. IRS.gov now has a total of over 140,000 web pages, static files (e.g., PDFs), and other content items.

27 See Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

28 See National Taxpayer Advocate 2016 Annual Report to Congress, vol. 2, 1-30 (Research Study: *Taxpayers' Varying Abilities and Attitudes Toward IRS Taxpayer Service: The Effect of IRS Service Delivery Choices on Different Demographic Groups*).

29 Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

used the web as their first channel (compared to 37 percent using the phone) to obtain information about an IRS notice or letter. The IRS should review the results of this survey to understand the service needs and preferences of taxpayers before they make any long term strategic decisions on taxpayer services.³⁰

In addition to the above-noted research, the IRS, in collaboration with the TAS, should undertake a comprehensive study of taxpayer needs and preferences by taxpayer segment, using surveys (telephone, online, and mail), focus groups, town halls, public forums, and research studies. These initiatives should be designed to determine taxpayer needs and preferences, and not be biased by the IRS's own desired direction.

Secure Access e-Authentication Is a Critical Fraud Prevention Measure, but the 30 Percent Verification Rate Proves it Creates a Barrier to Entry for All Taxpayer Populations, Not Just the Elderly and Low Income

To gain access to the online account application, taxpayers are required to pass a multi-factor e-authentication process, called Secure Access.³¹ For calendar year 2017 through September 30 (before the IRS suspended Secure Access due to the Equifax breach, discussed below), only about 30 percent of the taxpayers who attempted to verify their identity through Secure Access in order to use the online account were able to do so.³²

While it is crucial to protect the integrity of taxpayer data, Secure Access e-authentication creates a barrier to access during normal operation of the program. We are not suggesting that the IRS reduce its security protections. To the contrary, we believe protecting the security of taxpayer information is absolutely essential. The IRS must recognize that providing necessary security has implications for how many taxpayers will be able to access online accounts and how many will need to use other service channels, such as telephones or taxpayer assistance centers (TACs).

The IRS suspended Secure Access in mid-October until early December due to the data breach at Equifax, the company contracted by the IRS to verify taxpayers' identities for the program. This suspension impacted several online applications, including the online account, the TDC Secure Messaging system, Get Transcript, Identity Protection Personal Identification Number (IP PIN) issuance, and e-services for practitioners. For the online account program and TDC pilot, existing account holders were not impacted, but the suspension of Secure Access prevented new users from creating accounts.³³ This is clearly disruptive at best, but it may also drive taxpayers away from IRS online applications if they fear that their confidential information is in jeopardy of being hacked.

30 Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

31 For more details about the multi-factor e-authentication requirements, see National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences Is Critical as the IRS Develops an Online Taxpayer Account System*).

32 IRS response to TAS fact check (Dec. 19, 2017); IRS response to TAS information request (Nov. 22, 2017). The verification rate drops to 27 percent when excluding those taxpayers who opted to receive an activation code by mail rather than by mobile phone. The mail option is particularly relevant to taxpayers who have pay-as-you-go mobile phones or a business/family plan mobile phone not associated with the taxpayer's name. See IRS, *Secure Access: How to Register for Certain Online Self-Help Tools*, <https://www.irs.gov/individuals/secure-access-how-to-register-for-certain-online-self-help-tools> (last visited Nov. 26, 2017).

33 Steven Overly, *IRS Temporarily Suspends Contract with Equifax*, POLITICO (Oct. 12, 2017).

Before the Equifax data breach, taxpayers were already apprehensive about sharing their personal financial information over the internet. Specifically, in TAS's 2016 and 2017 survey on Taxpayers' Varying Abilities and Attitudes, approximately 50 percent disagreed with the statement "I feel secure sharing personal financial information over the Internet."

Before the Equifax data breach, taxpayers were already apprehensive about sharing their personal financial information over the internet. Specifically, in TAS's 2016 and 2017 survey on Taxpayers' Varying Abilities and Attitudes, approximately 50 percent disagreed with the statement "I feel secure sharing personal financial information over the Internet."³⁴ This episode likely increased the apprehension found by the TAS survey. It also solidifies the need to fully staff other service channels, because if one service channel is unexpectedly suspended, the users of the suspended channel should have other options to communicate with the IRS.

The Low Participation Rates of the TDC Pilot Conducted by Several IRS Organizations Illustrate the Need to Maintain and Improve Traditional Service Channels

Several organizations within the IRS, including Small Business/Self Employed (SB/SE) Exam, Large Business and International (LB&I), and TAS, conducted a pilot of the TDC Secure Messaging system beginning as early as December 2016.³⁵ The SB/SE and TAS pilots used the same e-authentication requirements as the online account, Secure Access.³⁶ TDC enables the participating IRS organizations to send and receive electronic webmail, along with certain digital documents (including uploaded scanned or photographed documents), to and from taxpayers through a secure portal. Taxpayers can communicate within the system using computers, smartphones or tablets.³⁷

TAS's TDC pilot included unrepresented taxpayers with Earned Income Tax Credit (EITC) or levy cases. Fewer than ten taxpayers opened accounts out of the more than 700 taxpayers who were offered to participate in the pilot. Many pilot participants (both TAS case advocates and taxpayers) noted that the e-authentication requirements were the main reason for not opening an account. They also noted that it was simply easier to fax the information rather than scan and upload. Many taxpayers either deemed the process too burdensome or did not have the necessary information to pass Secure Access.³⁸

34 Research Study: *A Further Exploration of Taxpayers' Varying Abilities and Attitudes Toward IRS Options for Fulfilling Common Taxpayer Service Needs*, vol. 2, *infra* (95 percent confidence level).

35 SB/SE Exam began piloting TDC in December 2016 and TAS began the pilot in April 2017. Karen Shiller, SB/SE Commissioner, *Changing the Face of Taxpayer Communication in Exam* (May 2016). TAS is conducting the pilot in the following four offices: Dallas, Nashville, New Orleans, and Cleveland. The TAS pilot only includes unrepresented taxpayers involved in Earned Income Tax Credit (EITC) or levy cases. IRS SERP Alert 17A0048, *Secure Messaging Pilot for SBSE Correspondence Exam (TDC)* (Feb. 6, 2017); IRS SERP Alert 16A0336, *Secure Messaging Pilot for SBSE Correspondence Exam (TDC)* (Dec. 20, 2016); Luca Gattoni-Celli, *IRS Plans to Launch Secure Messaging Pilots for Exams*, TAS, 2017 TNT 24-5, *TAX NOTES TODAY* (Feb. 2, 2017). In August 2017, the Office of Appeals launched a 90-day pilot of a new web-based virtual conference option for taxpayers and their representatives. In late October, Appeals decided to extend the pilot through the end of February 2018. However initial results of the pilot were not available as of the date Appeals responded to the TAS fact check. IRS Office of Appeals response to TAS fact check (Dec. 12, 2017).

36 The LB&I TDC pilot did not include e-authentication requirements because alternate authentication was deemed reliable and less burdensome to the participants. LB&I response to TAS fact check (Dec. 15, 2017).

37 TAS Communications, Stakeholder Liaison, and Online Services TAS *Focus Group Report: Taxpayer Digital Communication (TDC) Pilot* (Nov. 2017).

38 *Id.*

The SB/SE Exam pilot includes taxpayers who claimed itemized deductions, claimed an education credit, and who were selected for a correspondence exam. The pilot uses TDC as an alternative communications channel for correspondence exams where examiners need to receive documents and other explanations from individual filers or their representatives to substantiate filing claims. Preliminary results from the pilot show almost 24 percent of the taxpayers who were sent an invitation to participate in the pilot attempted to create an account (2,194 attempts to create an account out of 9,149 invitations to participate in the pilot). Of the taxpayers who responded at all to the invitation to participate in the pilot, the rate was nearly 48 percent (2,194 attempts to create an account out of the 4,598 taxpayers who responded through any channel).³⁹ Of those attempts to create an account, less than half (971 out of 2,194) succeeded in opening an account.⁴⁰ The top reasons provided for not opening an account were as follows:⁴¹

- The program was perceived to be too much trouble;
- The taxpayer did not see the stuffer;
- The taxpayer thought the offer was a scam;
- The taxpayer could not pass e-authentication requirements;
- The taxpayer is “too old fashioned” to use the online service; and
- The taxpayer could not access the website.

LB&I’s pilot uses TDC to facilitate fee disputes with pharmaceutical companies resulting from their annual branded prescription drug compliance filings, required under the Affordable Care Act (ACA). Due to the nature of the pilot, the LB&I TDC pilot did not include e-authentication requirements because alternate manual authentication was deemed reliable and less burdensome to the participants.⁴² Of the 115 offers to participate in the pilot, about 16 companies opened an account (with 56 total users).

The results of the TDC pilot provide useful information on the ability of taxpayers to participate in the IRS online applications with Secure Access e-authentication requirements. The initial results of the pilots show a low participation rate, which further supports the need for the IRS to maintain high levels of service on traditional service channels such as phone and in-person at the TACs.

TAS’s Taxpayer Digital Communication pilot included unrepresented taxpayers with Earned Income Tax Credit or Levy cases. Fewer than ten taxpayers opened accounts out of the more than 700 taxpayers who were offered to participate in the pilot.

39 IRS response to TAS fact check (Dec. 19, 2017); SB/SE response to TAS fact check (Dec. 18, 2017).

40 IRS response to TAS information request (Nov. 22, 2017).

41 The SB/SE Exam pilot involved attaching a stuffer to the first page of the initial contact letter. A week later, SB/SE Exam also mailed Letter 5919, reminding taxpayers secure messaging was an option. IRS response to TAS information request (Nov. 22, 2017).

42 IRS response to TAS fact check (Dec. 19, 2017); LB&I response to TAS fact check (Dec. 15, 2017); IRS response to TAS information request (Nov. 22, 2017).

The IRS Should Explore Establishing a Method for Taxpayers to Electronically Submit Documents or Payments to the IRS Which Involves a Less Rigorous Level of E-authentication

During the TAS TDC pilot, participants raised concerns about the unnecessarily burdensome e-authentication requirements where the taxpayer merely wanted to electronically submit documents.⁴³ They raised a valid point — When confidential taxpayer information is only flowing *into* the IRS, there is little risk that the IRS will wrongly disclose information.

For example, when a taxpayer is submitting documentation for an audit or providing evidence of economic hardship for TAS, the taxpayer is not receiving information from the IRS. In such circumstances, it seems unnecessarily burdensome to require the user of the online application to pass the strict multi-factor requirements of Secure Access.⁴⁴ A taxpayer submitting documentation by mail or fax is not subject to authentication requirements, because the IRS does not disclose confidential tax return information in this one-way inbound communication.

While Secure Access is absolutely essential to protect taxpayer information on many online applications where the user can gain access to confidential tax return information, we do not believe the risk is as high when the taxpayer is submitting information to the IRS, but the IRS does not disclose information to the taxpayer. There is likely a lower risk that an identity thief would take the initiative to submit documents, or especially payments, to the IRS in the taxpayer's name. The IRS should evaluate the feasibility of creating a method to electronically submit documents or payments to the IRS with reduced e-authentication standards. The platform could be the digital equivalent to faxing or mailing documents to the IRS. It is our understanding that the IRS already tested a program with lower e-authentication requirements with the IRS ID.me authentication pilot. The pilot involved potential identity theft victims submitting confidential information online to verify their identity.⁴⁵ The third-party vendor performing the verification required significantly less information than the current Secure Access requirements. Unlike Secure Access, the pilot did not request loan account numbers or require the participant to have a text-enabled phone plan associated with the taxpayer's name or address.⁴⁶ While the verification rate for the pilot was only approximately 50 percent, it is still significantly higher than the verification rate experienced by Secure Access. We are not recommending that the IRS use the same e-authentication procedure as the ID.me authentication pilot, but we believe it is merely one example of a way the IRS could reduce the burden on taxpayers, especially when the flow of information is one-way, from the taxpayer to the IRS.

Since 2005, the National Taxpayer Advocate has recommended that the IRS restrict third party access to online account applications to only those practitioners subject to IRS oversight under Circular 230.

43 TAS Communications, Stakeholder Liaison, and Online Services, *TAS Focus Group Report: Taxpayer Digital Communication (TDC) Pilot* (Nov. 2017).

44 For a detailed description of the information required to pass Secure Access requirements, see IRS, *Secure Access: How to Register for Certain Online Self-Help Tools*, <https://www.irs.gov/individuals/secure-access-how-to-register-for-certain-online-self-help-tools> (last visited Dec. 5, 2017).

45 For information about the ID.me pilot, see IRS, *Identity Verification Service*, <https://www.irs.gov/identity-theft-fraud-scams/idverify> (last visited Dec. 20, 2017).

46 A3 Executive Governance Board, *Authentication, Authorization, and Access (A3): Presentation to the A3 EGB*, Slide 7 (Nov. 9, 2017); IRS, *Identity Verification Service*, <https://www.irs.gov/identity-theft-fraud-scams/idverify> (last visited Dec. 20, 2017).

The IRS Has Failed to Make the Policy Decision to Restrict Third Party Access to Current and Future Online Applications

Before the IRS progresses too much further designing features for existing and future online applications, it must make critical policy decisions regarding third party access to these applications. Since 2005, the National Taxpayer Advocate has recommended that the IRS restrict third party access to online account applications to only those practitioners subject to IRS oversight under Circular 230.⁴⁷ Such practitioners include attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents.⁴⁸ In addition, pursuant to Revenue Procedure 2014-42, preparers who have obtained the voluntary Annual Filing Season Program (AFSP) Record of Completion can represent taxpayers before the IRS during an examination of a tax return or claim for refund they prepared.⁴⁹ To receive the record of completion, the preparer must consent to be subject to the duties and restrictions relating to practice before the IRS in § 10.51 of Circular 230 for the entire period covered by the record of completion.⁵⁰ Therefore, preparers who have the voluntary record of completion are subject to Circular 230. Once the IRS strengthens the testing requirements in the AFSP, the IRS should expand online account access to those preparers who obtain the AFSP record of completion.⁵¹ The IRS can monitor and enforce this requirement, because it has the preparer tax identification numbers (PTINs) for these individuals.

The IRS has not taken any definitive actions to support the restriction of third party access. In fact, when the IRS conducted focus group sessions on Tax Pro during each of the 2017 IRS Nationwide Tax Forums, it did not attempt to limit participation to only Circular 230 practitioners.⁵² If the IRS does not make these policy decisions soon, online account development might progress to a point where it would be difficult to undo any launched capabilities that are inconsistent with this very important taxpayer protection. It could also wrongly create expectations of non-Circular 230 professionals if it invites these professionals to test the prototype of the application.

Without instituting safeguards on third party access to the system, the IRS could inadvertently perpetuate preparer misconduct. Uncredentialed preparers could gain access, interact with the IRS on the taxpayer's behalf, and potentially address notices, proposed adjustments, or even proposed correctable errors without the taxpayer's consent or knowledge.⁵³ Although the vast majority of return preparers are conscientious and ethical, the IRS has ample evidence and experience showing that there

47 See, e.g., National Taxpayer Advocate 2005 Annual Report to Congress 249-59 (Most Serious Problem: *Accessibility of E-Services For Tax Practitioners*).

48 31 U.S.C. § 10.3.

49 Rev. Proc. 2014-42, § 4.05(2)(a), I.R.B. 2014-29 (July 14, 2014).

50 Rev. Proc. 2014-42, I.R.B. 2014-29 (July 14, 2014).

51 The National Taxpayer Advocate supports providing access to certain preparers, but only if they have satisfied robust minimum competency standards, which include a one-time "entrance" examination to ensure basic competency in return preparation and continuing education courses to ensure preparers keep up to date with the many frequent tax-law changes. The current voluntary Annual Filing Season Program does not satisfy this threshold. For a detailed description of these recommendations, see National Taxpayer Advocate 2016 Annual Report to Congress 121-37 (Most Serious Problem: *Online Accounts: Research into Taxpayer and Practitioner Needs and Preferences is Critical as the IRS Develops an Online Taxpayer Account System*); National Taxpayer Advocate 2015 Annual Report to Congress 64-70 (Most Serious Problem: *Preparer Access to Online Accounts: Granting Uncredentialed Preparers Access to an Online Taxpayer Account System Could Create Security Risks and Harm Taxpayers*).

52 IRS response to TAS information request (Nov. 22, 2017).

53 For more detail on the National Taxpayer Advocate's position on the proposed correctable error legislation, see The National Taxpayer Advocate's 2014 Annual Report to Congress: Hearing Before the H. Comm. on Oversight and Government Reform, Subcomm. on Government Operations, 114th Cong. 34-5 (2015) (written testimony of Nina E. Olson, National Taxpayer Advocate).

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is a subset of return preparers who are negligent or commit refund fraud.⁵⁴ We received overwhelming support for this recommended restriction at the 2016 National Taxpayer Advocate Public Forums conducted around the country.⁵⁵

CONCLUSION

The National Taxpayer Advocate believes that the IRS online account application is an essential addition to a omnichannel service delivery approach. The application benefits those taxpayers and representatives who have the ability to access the program and who prefer this service channel. However, not all taxpayers have the ability to access the program due to various reasons, including lack of broadband access, inability to pass the strict multi-factor e-authentication requirements, or simply that their service need is complicated and they need to understand how the rules apply to their particular facts and circumstances. Accordingly, the IRS should continue to provide personalized services to taxpayers. Finally, the IRS should restrict third party access to such application to those practitioners who are subject to IRS oversight pursuant to Circular 230.

54 The National Taxpayer Advocate's 2014 Annual Report to Congress: *Hearing Before the H.R. Comm. on Oversight and Government Reform, Subcomm. on Government Operations*, 114th Cong. 18-20 (Apr. 15, 2015) (written testimony of Nina E. Olson, National Taxpayer Advocate); See National Taxpayer Advocate 2014 Annual Report to Congress 543-44; National Taxpayer Advocate Fiscal Year 2015 Objectives Report to Congress 71-78; National Taxpayer Advocate 2013 Annual Report to Congress 61-74 (Most Serious Problem: *Regulation of Return Preparers: Taxpayers and Tax Administration Remain Vulnerable to Incompetent and Unscrupulous Return Preparers While the IRS Is Enjoined from Continuing its Efforts to Effectively Regulate Return Preparers*).

55 For details on the National Taxpayer Advocate Public Forums on Taxpayer Service Needs and Preferences, including submitted written statements from panelists as well as full transcripts of the forums, see <https://taxpayeradvocate.irs.gov/public-forums> (last visited Mar. 30, 2017).

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Maintain an omnichannel approach to taxpayer service delivery to meet the needs and preferences of taxpayers and representatives who either cannot or prefer not to use the online account application for their particular interaction with the agency.
2. The Commissioner of Wage & Investment, the Director of Online Services, and the National Taxpayer Advocate should jointly undertake a collaborative and comprehensive study of taxpayer needs and preferences by taxpayer segment, using surveys (telephone, online, and mail), focus groups, town halls, public forums, and research studies (including TAS research studies and literature reviews). These initiatives should be designed to determine taxpayer needs and preferences, and not be biased by the IRS's own desired direction. This study should contain recommendations jointly agreed to by the principals for a comprehensive 21st century taxpayer service strategy.
3. Explore establishing a method for taxpayers to electronically submit documents or payments to the IRS which involves a less rigorous level of e-authentication.
4. Restrict third party access to those practitioners subject to Circular 230 oversight. Once the IRS strengthens the AFSP examination requirements, the IRS should permit ASFP Record of Completion holders to gain access to the application.
5. Upgrade phone technology to the 21st century, including call-backs.⁵⁶

⁵⁶ See Most Serious Problem: *Telephones: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment*, *supra*.