

CORRESPONDENCE AUDITS: Low-Income Taxpayers Encounter Communication Barriers That Hinder Audit Resolution, Leading to Increased Burdens and Downstream Consequences for Taxpayers, the IRS, TAS, and the Tax Court

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

Many taxpayers experience difficulties with correspondence audits. Once a return is selected for examination, the IRS notifies the taxpayer by letter. Correspondence audit letters fail to provide a point of contact – the taxpayer is not given a direct phone number or the name of an IRS employee to contact. If no response to the initial contact letter is received, the IRS generally makes no effort to contact the taxpayer before making an adjustment, issuing a notice of deficiency, and closing the case.¹ Taxpayers wishing to speak with someone regarding an audit are limited to calling a representative on a toll-free line. This process creates significant challenges for taxpayers and practitioners who need to reach the IRS to discuss their cases. Getting through on the IRS's toll-free lines is difficult and time-consuming. If the IRS initiates a call to the taxpayer or practitioner in response to correspondence, the taxpayer or practitioner is often unavailable. Getting back in touch with the IRS can be nearly impossible due to the IRS's inability to leave detailed phone messages.

In fiscal year (FY) 2019, more than half of the taxpayers subject to correspondence audits had total positive incomes (TPIs) below \$50,000, and most of these low-income taxpayers claimed the Earned Income Tax Credit (EITC).² These taxpayers often face particular challenges navigating the correspondence audit process. The IRS correspondence audit process is structured to expend the least amount of resources to conduct the largest number of examinations – resulting in the lowest level of customer service to taxpayers having the greatest need for assistance. Correspondence audits produce the lowest agreement rate, the highest no-response rate, and the highest volume of cases assessed by default.³ The resulting high volume of unagreed cases leads to use of downstream resources for resolution activities that include audit reconsideration, appeals, litigation, and involvement of other IRS functions such as TAS and Collection. By devoting additional resources at the beginning of the correspondence audit process, the IRS could provide an appropriate level of customer service during the audit, avoiding unnecessary downstream costs and reducing the burden on our nation's least affluent and most vulnerable taxpayers. More importantly, by providing sufficient service to the population having the greatest need of assistance, the IRS could resolve these low-income audits earlier, preventing future compliance issues.

EXPLANATION OF THE PROBLEM

In response to taxpayer complaints about the inability to contact IRS staff directly, section 3705(a) of the IRS Restructuring and Reform Act of 1998 (RRA 98) required that IRS correspondence “include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee.” However, more than 20 years later, the IRS still has not meaningfully implemented this provision regarding its correspondence audit programs. This makes it difficult and frustrating for taxpayers or their representatives to reach a single point of contact at the IRS who is accountable and knowledgeable when seeking answers to questions about their audit or the information they submitted. The IRS correspondence audit program, as designed, leaves taxpayers solely dependent on toll-free phone services that operate with limited availability or paper correspondence with uncertain timeframes.⁴ The inability to reach a single point

of contact diminishes the customer experience, creates IRS inefficiency, hinders opportunities to engage and educate our nation's taxpayers, and decreases potential for developing and building trust with the IRS.

The correspondence audit process works single-year, single-issue cases that the IRS believes it can easily resolve via mail, using an automated process to achieve efficiencies. The current process enables the IRS to complete a high volume of correspondence audits with a limited number of examiners, while providing limited (and often insufficient) levels of customer service.⁵ Limited taxpayer interaction hinders low-income taxpayer audit participation and is a barrier toward achieving mutual audit resolution. In FY 2019, the IRS conducted the highest volume of individual audits on low-income taxpayers via correspondence.⁶

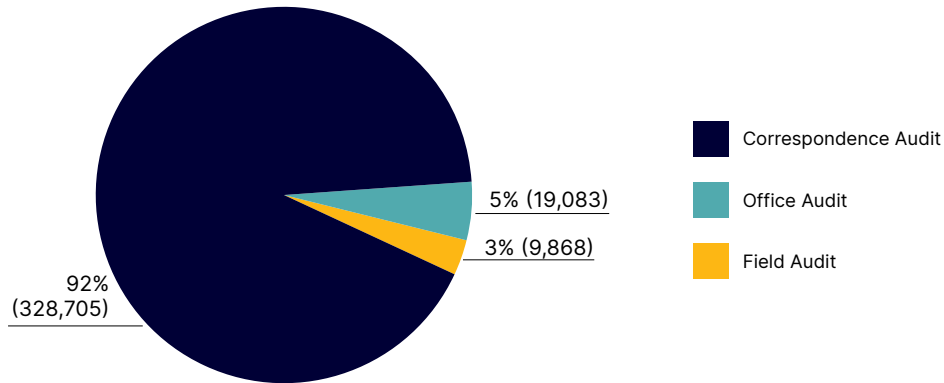
IRS compliance data reveals that 53 percent of the individual audits conducted by the IRS in FY 2019 were completed on taxpayers with TPIs below \$50,000, with 82 percent of these taxpayers filing returns that claimed the anti-poverty EITC.⁷ Taxpayers in this income range are less likely to be represented by tax professionals and are more likely to have difficulty reaching the IRS for assistance.⁸ The IRS makes little effort to reach these taxpayers if they are unresponsive or if their IRS correspondence is returned as undeliverable, and these taxpayers experience little or no personal interaction throughout the audit process.⁹

The IRS must improve the correspondence audit process to increase taxpayer engagement at this income level, to resolve audit issues, and to eliminate downstream consequences for the taxpayer and the IRS. By increasing access to assistance and personal interaction during the audit process, the IRS can increase low-income taxpayer audit participation, educate taxpayers for increased compliance, and reduce the use of IRS resources unnecessarily expended to resolve disputed examination determinations. Improved communication during the audit process is needed to reduce barriers that hinder low-income taxpayers, eliminate the unnecessary use of IRS resources, and ensure the protection of taxpayer rights, specifically the *right to a fair and just tax system*.¹⁰

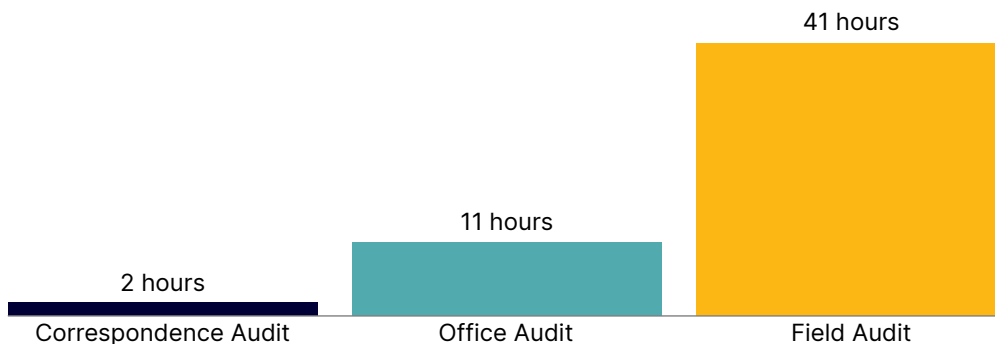
ANALYSIS

The IRS typically conducts audits on low-income taxpayers via correspondence. As shown in Figure 2.9.1, the IRS conducted 92 percent of the FY 2019 audits on low-income taxpayers through correspondence, while only eight percent of these audits were assigned to field offices where examiners conduct audits in person.¹¹ Low-income taxpayer correspondence audits most frequently involved EITC and other refundable credits that require consideration of complex factors including a taxpayer's income, marital status, and relationship to dependents or children claimed.¹² Navigating these audits can be complex for low-income taxpayers, who are more likely to experience lower literacy rates and often possess limited English proficiency.¹³ Low-income households are more likely to be unbanked, which can impact a taxpayer's ability to substantiate income and expenses, and tend to be more transitory, a factor that negatively affects a taxpayer's ability to receive and respond to IRS correspondence in a timely manner.¹⁴ Though the IRS views correspondence audit issues as "non-complex," this is an inaccurate description of the complexity of the issues that taxpayers must navigate when reconciling the various filing status and refundable credit implications in the IRC. For example, low-income taxpayers are less likely to have "traditional family" households. Low-income children are more likely to live with either a single parent, in a multigenerational household, in a cohabiting household, or in a family with at least one non-biological child – rendering the application of the "qualifying child" rules much more complicated for low-income taxpayers.¹⁵ Seemingly, the IRS's expectation is that low-income taxpayers can navigate the IRS's automated correspondence audit process unaided or with limited personal interaction. Audit results do not support this expectation.

Most low-income correspondence audits (82 percent) typically involve refundable credits and are conducted by the IRS's Wage and Investment (W&I) Division.¹⁶ The remaining low-income correspondence audits (ten percent) are conducted by the IRS's Small Business/Self-Employed (SB/SE) Division.¹⁷

FIGURE 2.9.1¹⁸**FY 2019 Individual Taxpayer Closed Audits – TPI Less Than \$50,000**

The IRS conducts its correspondence audits with limited or no taxpayer interaction. The average direct time an IRS employee charged to low-income taxpayer correspondence audits in FY 2019 was about two hours, while office and field examiners spent an average of 11 and 41 hours on their exams, respectively, as shown in Figure 2.9.2.¹⁹ With its Automated Correspondence Examination system, the IRS automatically processes correspondence audit cases from creation to statutory notice to closing without any tax examiner involvement when a taxpayer does not send a written reply to IRS correspondence.²⁰

FIGURE 2.9.2²¹**FY 2019 Individual Taxpayer Closed Audits – Average Hours Spent to Audit Returns With TPI Less Than \$50,000**

The automated nature of IRS correspondence audits highlights the importance of comprehensible IRS correspondence reaching these taxpayers. More significantly, it highlights the importance of taxpayers reaching the IRS to seek clarification of the notice or audit process. Since low-income taxpayer audits most often involve issues related to taxpayer claims for EITC and other refundable credits, the IRS should provide low-income taxpayers more direct access to personalized IRS service throughout the audit process.

IRS correspondence audit notices direct taxpayers to call correspondence audit toll-free telephone numbers that have historically provided insufficient Levels of Service.²² The IRS does not assign low-income taxpayers' audits to singular examiners who will work the case and serve as the taxpayer's point of contact. As shown

in Figures 2.9.3 and 2.9.4, only a portion of the calls made to the correspondence audit toll-free phone lines reached an examiner. This is primarily because IRS correspondence audit resources cannot service the inquiries generated from the volume of audits conducted. Frustrated taxpayers may abandon their refundable credit claims when they cannot receive timely or useful assistance from the IRS.

FIGURE 2.9.3, W&I Correspondence Audits Opened Compared With W&I Correspondence Audit Toll-Free Telephone Service Provided²³

Fiscal Year	Audits Opened	Calls Received	Calls Answered	Level of Service
2016	462,654	1,351,822	489,295	40.2%
2017	481,664	1,484,849	541,043	40.2%
2018	447,566	1,440,366	517,395	40.2%
2019	319,558	1,098,142	392,227	40.7%

FIGURE 2.9.4, SB/SE Correspondence Audits Opened Compared With SB/SE Correspondence Audit Toll-Free Telephone Service Provided²⁴

Fiscal Year	Audits Opened	Calls Received	Calls Answered	Level of Service
2016	301,567	412,853	241,225	65.8%
2017	348,985	435,512	236,213	60.8%
2018	298,466	468,569	245,140	60.8%
2019	289,334	317,737	162,730	59.9%

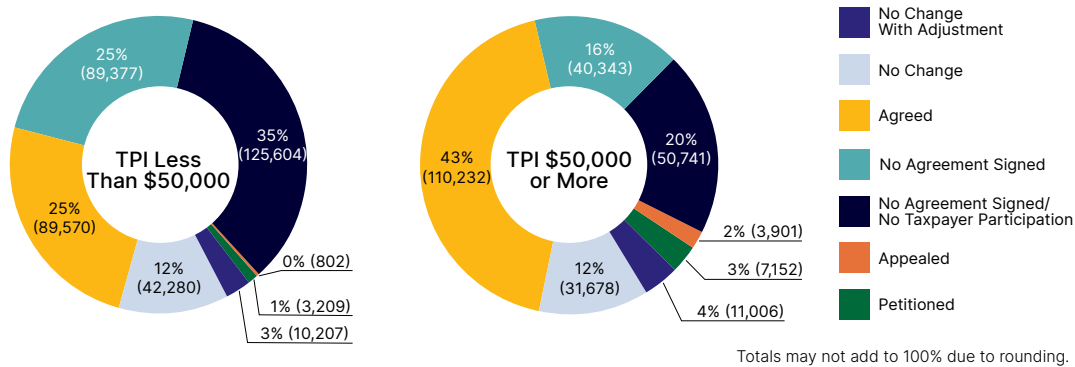
The IRS uses its Enterprise Planning Scenario Tool (EPST) to determine the number of audits it will conduct.²⁵ This tool determines the number of planned audits based on the number of full-time equivalent (FTE) employees assigned to the IRS's correspondence audit programs without regard to the volume of calls these audits will generate.²⁶ The staff conducting these audits must also staff the correspondence audit toll-free telephones. The IRS then determines the level of toll-free telephone service this staff can deliver.²⁷ Thus, the IRS formulates the telephone Level of Service apart from determining the number of audits it intends to conduct rather than using the past years' telephone inquiry volumes and service levels achieved.²⁸

In FY 2019, W&I devoted 96 percent of its correspondence audit resources to completing correspondence audits *but devoted only four percent of its resources to responding to the telephone inquiries these audits generated.*²⁹ Similarly, SB/SE applied 95 percent of its resources toward audit completion *and five percent to responding to caller inquiries.*³⁰ Given that the W&I and SB/SE resources applied toward fielding FY 2019 correspondence audit toll-free phone inquiries produced about 40 and 60 percent Levels of Service, respectively, a minimum increase of six percent and three percent full-time employees would achieve a more appropriate level of telephone service for correspondence audit toll-free phone lines.³¹ Absent the allocation of additional phone resources, corresponding reductions in correspondence audits would be necessary to achieve Levels of Service that would more realistically meet taxpayer needs and protect their *right to be informed.*

Taxpayers call the IRS to learn more about their audits, yet they cannot get that information easily. Low-income taxpayer audits reflect the lowest audit agreement rate, the highest no-response rate, and the highest volume of tax assessments made by default, as shown in Figure 2.9.5. Only 25 percent of low-income individual taxpayers agreed with their audit findings, while 60 percent of these taxpayers did not sign an agreement at the conclusion of the examination.³²

FIGURE 2.9.5³³

FY 2019 Individual Taxpayer Closed Audits – Disposition by Income Level



The IRS Closes 35 Percent of Low-Income Audits Without a Response From the Taxpayer

In FY 2019, the IRS closed nearly 361,000 audits of individual taxpayers with income below \$50,000. Similar to prior years, it closed 35 percent of these audits without a response from the taxpayer. About 14 percent of these nonresponsive taxpayers may have been unaware of the IRS audit because the IRS's initial audit contact notices were returned as undeliverable.³⁴ Higher income taxpayers didn't respond to audit contact notices only 20 percent of the time, with less than six percent of these audit-related correspondences being returned undeliverable.³⁵

The discrepancy in the IRS's ability to deliver mail to and achieve responses from lower income taxpayers undergoing *correspondence* audits is directly related to the audit procedures employed by the IRS. When the IRS does not receive a response from taxpayers undergoing correspondence audits – the audits most often experienced by low-income taxpayers – Internal Revenue Manual procedures advise that the case will simply “be moved into the next step in the examination process.”³⁶ So, in essence, one and done. If the taxpayer does not respond to the initial letter, the IRS will typically issue a second correspondence audit letter that includes the IRS's examination report proposing adjustments to the taxpayer's tax return that reduce or eliminate a credit or propose additional tax, penalties, and interest. If no response is received, the IRS automatically issues a notice of deficiency.³⁷ The notice of deficiency advises the taxpayer of his or her right to petition the Tax Court and satisfies the IRS's requirement to provide notice to the taxpayer before making an assessment on the taxpayer's account if no petition is filed (assessment by default). When IRS correspondence is returned to the IRS as undeliverable, examiners conduct further research of the IRS's internal data to determine if the IRS received notification of an updated address.³⁸ This rule comes with a caveat: “In no event should databases or information outside of IRS systems be consulted for addresses.”³⁹ This may be a good cost-cutting measure, but it is not good customer service or a procedure that supports protecting taxpayer rights. Typically, the notice of deficiency is issued prior to the filing of the subsequent tax return that may contain a change of address.

IRS *field* audit procedures for resolving no-response cases and undeliverable mail are more extensive. In these cases, examiners must determine why the taxpayer is not responding, and follow-up attempts must be made to contact the taxpayer – to include contacting the taxpayer by phone.⁴⁰ When an initial contact letter or certified correspondence is returned undeliverable, field examiners may research the IRS's internal data to determine if an updated address exists. Should this prove unsuccessful, field examiners may also consult external sources to obtain additional information that may be useful for locating a more current address. If the examiner is still unsuccessful, he or she takes more steps to locate the taxpayer, including completing a

Form 4759, Address Information Request - Postal Tracer, and even making third-party contacts to obtain additional address information.⁴¹

IRS correspondence audit programs should not be an all-or-nothing approach. By incorporating procedures that would require correspondence examiners to consult some select information outside of IRS systems to locate taxpayers whose mail has been returned as undeliverable, and by requiring at least one constructive follow-up attempt to reach unresponsive taxpayers or taxpayers whose mail has been returned as undeliverable, the IRS may see an increase in low-income taxpayer audit participation and a corresponding decline in no-response cases, audit reconsideration cases, and cases petitioned to the U.S. Tax Court.⁴²

IRS Procedures Should Facilitate Taxpayer Follow-Up

Reaching taxpayers is not always easy. A recent Pew Research Center study found that eight out of ten Americans won't answer their cellphones for unknown callers, perhaps limiting the IRS's ability to make successful taxpayer contacts – even if it tried.⁴³ When taxpayers don't answer the phone, the IRS is often unable to leave messages or send emails that would contain enough information to explain whom the taxpayer needs to contact and why.⁴⁴

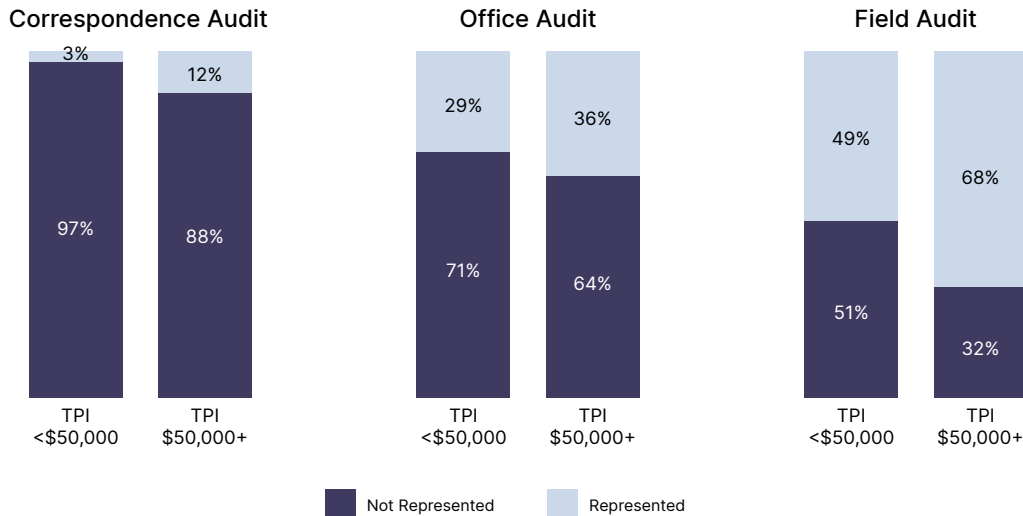
Since 1998, the IRS has provided an area within the signature section of Form 1040, U.S. Individual Income Tax Return, for taxpayers to voluntarily provide a phone number. Starting with the 2019 Form 1040, the IRS requested a taxpayer's email address. Although taxpayers may provide this helpful information, it is rarely used by correspondence examiners to resolve undeliverable mail issues or to contact unresponsive taxpayers. This is not only because IRS procedures do not require correspondence examiners to do so but also because contact attempts are often unproductive when taxpayers don't answer their phone or anticipate a call from the IRS.⁴⁵ Use of email could resolve this contact dilemma.

Under IRS procedures, employees cannot leave phone messages that contain tax or other confidential information without obtaining prior approval from the taxpayer.⁴⁶ Also, despite asking taxpayers to voluntarily provide an email address, the IRS does not authorize the use of email to contact unresponsive taxpayers undergoing correspondence audits or taxpayers whose mail has been returned undeliverable.⁴⁷ The IRS should reconsider these procedures or conduct a study as to the impact of using email to engage taxpayers earlier in the process.

TAS has conducted several studies of EITC audit processes.⁴⁸ The findings of these studies repeatedly showed that lack of sufficient communication was a key factor hindering taxpayers' resolution of their audits. Besides requiring follow-up contacts, the IRS should implement procedures to allow all examiners to securely contact taxpayers using the telephone and email information taxpayers already include on their Form 1040 and include an area for taxpayers to authorize the IRS to leave phone and email messages (something perhaps as simple as a box to check). Improving the IRS's ability to securely contact taxpayers via phone and email could increase low-income taxpayer audit participation, reduce the volume of cases closed as no-response, and decrease requests for audit reconsideration.

Lower Income Taxpayers Are Less Likely to Be Represented by Tax Professionals

Limited personal interaction is particularly impactful to low-income taxpayers who must rely solely on the IRS's correspondence audit toll-free telephone services for answers to their audit and tax-related questions. FY 2019 audit data showed that although 55 percent of the low-income taxpayers audited used a tax professional to prepare their returns, they had the lowest rate of professional representation during the audit process.⁴⁹ Nearly half of the individual audits the IRS conducted were correspondence audits on low-income taxpayers, and only three percent of these taxpayers retained professional representation during the audit process, as shown in Figure 2.9.6.⁵⁰

FIGURE 2.9.6⁵¹**FY 2019 Individual Taxpayer Closed Audits – Representation by Type of Audit****Increased IRS Interaction With Unrepresented Taxpayers Is Necessary**

TAS has long advocated for increased personal interaction and the assignment of correspondence audit cases to examiners who could serve as the taxpayer's single point of contact for questions and concerns.⁵² The IRS has repeatedly rejected calls for one-to-one interaction and the direct assignment of correspondence audit cases, indicating these recommendations were not feasible.⁵³ The IRS cites the volume of cases in relationship to the number of examiners as a significant barrier to altering its existing approach, noting that "in FY 2019, only 442 SB/SE Correspondence Examiners were responsible for conducting 224,238 correspondence examinations" and adding that "assigning these cases to one examiner would not add value to the process but would limit the ability to utilize the automatic process to achieve efficiencies."⁵⁴ Similarly, W&I indicated that in FY 2019, 652 examiners were responsible for completing 335,131 correspondence audits.⁵⁵ Given the volume of correspondence audits conducted and the limited staff assigned, the IRS must prioritize its work to maximize taxpayer participation in audits. Absent a change in the number of audits conducted or the allocation of additional resources to IRS's correspondence audit programs, incorporating personal contact and assigning cases to an examiner who can serve as the taxpayer's point of contact may be a heavy lift, but it is necessary from a customer service perspective. Once a taxpayer contacts the IRS, an examiner should be assigned as the taxpayer's point of contact for the entire audit process.

The IRS has harnessed the use of some technology in its effort to improve the customer experience. Since 2016, the IRS has offered taxpayers its Online Account application and increased its capabilities.⁵⁶ The IRS should increase its Online Account capabilities to include the ability to upload correspondence and attach documents, chat with an IRS representative, or change a mailing address.⁵⁷ Online Account could provide an alternative for taxpayers unable to reach live assistance over the correspondence audit toll-free phone service – provided taxpayers can frame their inquiry to generate a helpful response. W&I recently introduced customer callback on its correspondence audit toll-free phones to reduce customer hold time, and SB/SE is scheduled to implement customer callback in January 2022. Additionally, the SB/SE correspondence audit program has implemented Taxpayer Digital Communications (TDC) to allow taxpayers to interact with the IRS electronically.⁵⁸ W&I is tentatively scheduled to implement the use of TDC in FY 2022, allowing more low-income taxpayers to interact with IRS electronically during the correspondence audit process.⁵⁹ Most recently, the IRS implemented a new Documentation Upload Tool (DUT) that will allow all correspondence audit

taxpayers to submit documentation through a smartphone or computer device.⁶⁰ Though Online Account, customer callback, TDC, and DUT all will positively complement the correspondence audit process, they are not substitutes for personal interactions that could increase low-income taxpayer participation in the audit process, build trust, and engage and educate low-income taxpayers.

Costs to the IRS of Not Assisting Taxpayers During the Correspondence Audit Process

Low agreement, high no-response rates result in additional downstream costs for the IRS and additional burden to low-income taxpayers.⁶¹ Some of these costs include the cost of audit reconsiderations, the cost of TAS involvement in case resolution, and costs expended by Appeals and IRS Counsel to ultimately bring these unagreed cases to resolution. And the IRS may further expend unnecessary collection resources to pursue the collection of tax debts not owed to the IRS.

The downstream per-hour cost associated with unagreed audit activities is generally higher than the per-hour cost of simply providing increased customer service during the correspondence audit process. As shown in Figure 2.9.7, the average per-hour cost of a W&I and SB/SE Tax Examiner is approximately \$24.80 an hour – a cost duplicated when audits must be revisited for audit reconsideration purposes. When taxpayers seek TAS assistance, the average cost of this assistance is \$34.88 per hour. When TAS provides the taxpayer with audit reconsideration assistance, the average cost to the IRS rises to \$59.68 an hour, to accommodate both the cost of TAS assistance and the cost of the tax examiner who must reconsider the initial audit determination. Though the liability may be in dispute, IRS collection activity may commence and continue until the liability is resolved through full payment, a payment arrangement, or the abatement of the disputed tax assessed, representing yet another potentially unnecessary cost to the IRS. Should Appeals and Counsel involvement become necessary, the per-hour cost is greater still.

The cost of unagreed correspondence audits is difficult to capture. Figure 2.9.7 reflects only a portion of these costs. Some costs not included are the cost of the IRS toll-free telephone assistant who answers a call from a taxpayer seeking information on how to dispute the assessment long after the audit has closed or the cost of the Submission Processing examiner receiving a claim filed to reverse a disputed correspondence audit assessment. Although this discussion focuses on low-income taxpayer correspondence audits, 80 percent of the individual audits conducted by IRS in FY 2019 were conducted via correspondence.⁶² The downstream costs and communication barriers associated with the correspondence audit process are not strictly limited to low-income filers and can apply to all audits completed by correspondence.

FIGURE 2.9.7, FY 2019 Downstream Costs Associated With Unagreed Low-Income Audits⁶³

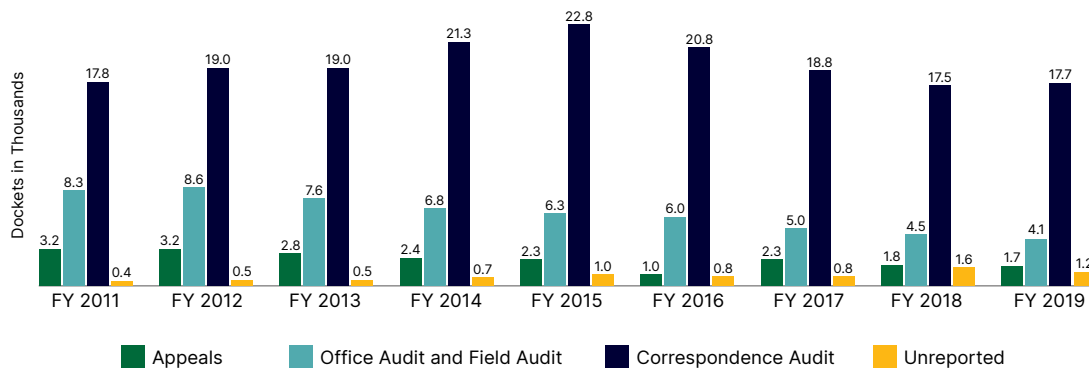
Downstream Process	Resource Type	Average Direct Resolution Cost Per Hour
Automated Collection Service	Tax Examiner – Automated Collection System (ACS)	\$21.62
W&I Correspondence Audit Reconsideration	W&I Tax Examiner	\$24.80
SB/SE Correspondence Audit Reconsideration	SB/SE Tax Examiner	\$24.79
TAS Involvement for Resolution	TAS Case Advocate	\$34.88
Field Collection	Revenue Officer	\$32.36
Appeals Involvement for Resolution	Appeals Officer	\$55.77
IRS Counsel Involvement for Resolution	Counsel Attorney	\$83.77

Tax Court Petitions and Appeals Involvement

The highest volume of petitions filed with the U.S. Tax Court resulted from audits conducted via correspondence, as shown in Figure 2.9.8.⁶⁴ Of the 24,700 petitioned cases in FY 2019, 17,700 were the product of a correspondence audit. Although a small fraction of the 24,700 petitions were tried and decided by the U.S. Tax Court (about one percent), most were resolved through settlement agreements reached with the taxpayer by the IRS Independent Office of Appeals (43 percent) and the IRS Office of Chief Counsel (25 percent); another portion (26 percent) was defaulted or dismissed.⁶⁵ Though IRS Appeals and Counsel consider the hazards of litigation and have settlement authority not granted to tax examiners, likely some portion of the 17,700 correspondence audit cases could have been brought to mutual resolutions if personal interactions were incorporated into the correspondence audit process.

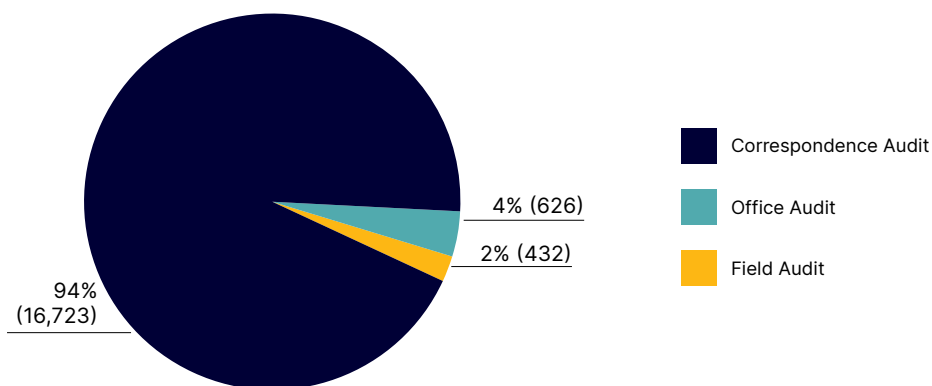
FIGURE 2.9.8⁶⁶

Source of Cases Petitioned to Tax Court for FYs 2011-2019



Audit Reconsideration

An audit reconsideration is an administrative process the IRS uses to reevaluate the results of a prior audit where a tax credit was reversed, or an additional tax was assessed and remains unpaid. If the taxpayer disagrees with the original determination, he or she must provide new information not previously considered during the original examination.⁶⁷ As shown in Figure 2.9.9, 94 percent of the audit reconsiderations conducted by the IRS in FY 2019 resulted from correspondence audits. Forty-four percent of the correspondence audit reconsiderations requested in FY 2019 resulted from original correspondence audits closed because the IRS had no record of a response from the taxpayer or because the taxpayer's audit-related correspondence was returned to the IRS as undeliverable.⁶⁸

FIGURE 2.9.9⁶⁹**Individual Taxpayer Audits Reconsidered in FY 2019 by Original Audit Type**

By implementing a follow-up contact to reach non-responsive taxpayers, conducting more thorough research to locate taxpayers whose mail had been returned undeliverable, and making it easier for taxpayers to reach an examiner who can address questions and concerns that arise during the audit process, the IRS could reduce the volume of audit reconsideration cases received.⁷⁰

TAS Involvement for Resolution

TAS assists taxpayers experiencing hardship, taxpayers seeking help to resolve tax problems not resolved through normal channels, or taxpayers who believe that an IRS system or procedure is not working as it should.⁷¹ In FY 2019, TAS received requests for assistance from about 15,000 low-income taxpayers with issues arising from EITC-related IRS correspondence audits, making this issue the second highest volume issue that brought taxpayers to TAS.⁷² In addition, TAS received requests for assistance from about 1,300 low-income taxpayers with non-EITC-related IRS audits and approximately 1,600 low-income taxpayers with the audit reconsideration of previous EITC-related audit determinations.⁷³ An analysis of TAS results for these low-income taxpayer cases showed that by working directly with an assigned TAS Case Advocate, 55 percent of these taxpayers received the full relief (resolution) sought with their IRS-related difficulty, while another 12 percent received partial relief. Thus, the interaction and assistance provided by an assigned TAS Case Advocate resulted in full or partial resolution in 67 percent of these cases received in TAS.⁷⁴

TAS is often able to assist low-income taxpayers by helping them explore an array of documentation to substantiate an audited item in question and by ensuring that the documentation submitted is appropriately and timely reviewed by an IRS examiner. Though these cases meet TAS's case criteria, using downstream resources such as TAS could be reduced by providing increased access to assistance during the correspondence audit process, thus freeing up TAS resources for resolution of more complex, less process-driven issues. TAS resources are yet another cost to consider when assessing the total cost of audit resolution and taxpayer burden.

Collection

Nearly 88,000 of the low-income taxpayers audited during FY 2019 via correspondence were placed into a collection stream requiring the use of IRS collection resources to make payment arrangements, contest collection actions, or evaluate the taxpayer's ability to pay. Although the use of collection resources to collect audit assessments is not unique to low-income taxpayers, low-income correspondence audits produced the highest percentage (45 percent) of taxpayers who remain in currently not collectible status as of October 28, 2021.⁷⁵

FIGURE 2.9.10, Collection Activity for FY 2019 Correspondence Audit Assessments for Individual Taxpayers With Total Positive Income of Less Than \$50,000

Collection Activity	Count
Taxpayers Who Were Ever in ACS or Field Collection After Audit	87,801
Taxpayers Who Entered Into an Installment Agreement After Audit	24,849
Taxpayers Who Submitted an Offer in Compromise After Audit	440
Taxpayers Who Filed Bankruptcy After Audit	1,481
Taxpayers Currently in Currently Not Collectible Status	39,238
Taxpayers Who Requested a Collection Due Process Hearing	238
Taxpayers Who Requested an Equivalency Hearing	40

Taxpayer Burden

According to *Administrative Burden*, a recently published book that analyzes the impact of administrative burden on individuals participating in government programs, significant burdens or “costs” associated with participation in government assistance programs often involve learning costs associated with determining eligibility, psychological costs that encompass an individual’s need for autonomy, the perceived justice associated with those burdens, and compliance costs that involve access to the assistance needed to comply with the laws.⁷⁶

The IRS, the tax preparation industry, and other organizations have educated and assisted low-income taxpayers with *claiming and reporting* EITC and other refundable credits; however, there are few resources available when these low-income taxpayers must later *substantiate* these credits during the audit process.⁷⁷ Though it may be easy to dismiss unresponsive taxpayers as irresponsible, “the stresses of poverty may ... amplify the effects of burdens, making people who feel threatened or exhausted more likely to make poor long-term choices” and more likely to view their financial choices from a short-term perspective.⁷⁸ Low-income taxpayers may not respond to audit requests for documentation due to their perception of the burden involved in substantiating the credit amount rather than an inability to qualify for the credit.

A robust picture of the correspondence audit process from a stakeholder perspective is in the following statement that TAS received:

...There is no agent to talk to. You receive the notification you are being examined and request for documents. You better send your documents certified, or they will not acknowledge receipt of them. Even though they have your documents they will ignore them and send you a Revenue Agent’s Report. You may get 15 days to appeal from the date of the letter. The mail service is so bad the 15-day deadline is likely already expired when you receive the RAR [Examination Report] report and letter so you can’t file a timely appeal request.

Shortly thereafter, you get a 90-day letter notice of deficiency. So, you file a petition as a *pro se* taxpayer in the tax court. Hopefully the tax court sends your case to appeals and you get a chance to finally talk to somebody. The whole process may be resolved in a year if you are lucky. This is a very bad result for the taxpayer and the Internal Revenue Service. The taxpayer incurs additional representation cost, tax court filing fee, and penalty and interest on any balance due amounts. It’s bad for IRS because instead of trying to resolve the issues at the initial examination it ties up the resources of the tax court and appeals. You might wind up in appeals anyway, but there isn’t a need for the extra step and the resulting delays that will occur...⁷⁹

Legislative Considerations for Assisting Low-Income Taxpayers

Low-income taxpayer correspondence audits can involve a variety of issues, but many involve the verification of EITC and other refundable credits. The IRS conducts these audits almost exclusively via correspondence, ignoring the complexity of computational, legal, and factual issues the taxpayer must navigate. Both TAS and the IRS agree with the need for legislative changes to simplify the refundable credits' eligibility criteria.⁸⁰ Simplified requirements would help taxpayers understand the refundable credits for which they are eligible, reduce overclaims, and make the audit process simpler, faster, and less burdensome for the IRS and for taxpayers.⁸¹

Besides legislation geared toward simplifying refundable credit eligibility, both TAS and the IRS agree with the need for Congress to consider legislation that would provide the IRS increased oversight of paid tax return preparers.⁸² Granting the IRS the authority to require minimum standards for an estimated 400,000 paid tax return preparers without credentials could reduce the number of unscrupulous preparers filing erroneous and fraudulent tax returns – an action that would benefit both low-income taxpayers who often fall prey to preparer misconduct associated with refundable credits and the IRS charged with resolving these overclaims – most often through the correspondence audit process.⁸³

CONCLUSION AND RECOMMENDATIONS

As discussed, in FY 2019, 55 percent of low-income taxpayers relied on tax professionals to prepare their return, but only three percent of these low-income taxpayers received professional assistance during the correspondence audit process.⁸⁴ Only 25 percent of these low-income taxpayers agreed with correspondence audit determinations.⁸⁵ This low agreement rate often leads to using additional or higher cost downstream resources to achieve final resolution. The IRS should consider the totality of the low-income taxpayer's interactions with the agency and design its correspondence audit programs to meet taxpayer needs. Providing increased access to service and integrating personal interactions during the correspondence audit process provides for overall efficiency. Providing service that reduces taxpayer burden while promoting taxpayer education and compliance outweighs short-term gains recognized by using automated correspondence to drive cases to closure.

Preliminary Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Assign the case to an individual examiner who can serve as the taxpayer's point of contact once a taxpayer contacts the IRS in response to his or her initial correspondence audit contact letter and provide the examiner's direct phone number.
2. Increase phone staffing to deliver an 80 percent minimum correspondence audit toll-free telephone Level of Service.
3. Implement additional external resources to locate taxpayers whose correspondence audit-related mail has been returned undeliverable, similar to resources the IRS uses in its field examinations.
4. Implement a personal contact attempt to reach non-responsive taxpayers and taxpayers whose mail has been returned undeliverable.
5. Add a consent mechanism to Form 1040, U.S. Individual Income Tax Return, that would allow taxpayers to authorize the IRS to leave telephone messages or make email contacts to reach taxpayers.
6. In collaboration with TAS, establish a working group to explore the root causes that contribute to the low response rates of low-income taxpayers undergoing the correspondence audit process and implement a pilot program to decrease the high default and non-response rates.
7. Conduct a proof-of-concept project that would assign correspondence audit cases to an examiner who could serve as the taxpayer's single point of contact once the taxpayer sends in correspondence or reaches a correspondence audit assistor by phone. This project should involve data collection to

determine if the IRS-perceived barriers to correspondence audit case assignment are valid, while also measuring customer satisfaction and responsiveness results.

8. Implement the use of new Online Account features such as text chat, document upload, and address change options in the correspondence audit programs.

Legislative Recommendations to Congress

The National Taxpayer Advocate recommends that Congress:

1. Restructure the EITC to make it simpler for taxpayers and reduce improper payments.⁸⁶
2. Authorize the IRS to establish minimum competency standards for federal tax return preparers.⁸⁷

RESPONSIBLE OFFICIALS

Douglas O'Donnell, Deputy Commissioner, Services and Enforcement

De Lon Harris, Commissioner, Examination and Operations Support, Small Business/Self-Employed Division

Kenneth Corbin, Commissioner, Wage and Investment Division

IRS COMMENTS

Correspondence Exam is critical to fair and balanced tax administration. The IRS designed Correspondence Exam to work single issue (non-complex) and single year cases that can easily be resolved via mail, allowing for broader geographic coverage. The program enables us to handle tax compliance issues in a cost-efficient and prompt manner. It also minimizes taxpayer burden by enabling them to resolve the matter by mail, instead of having to take time off to appear in person.

When we audit a taxpayer via correspondence, we make meaningful efforts to reach them before we resolve their case. If our initial letter is returned to us as undeliverable, we search internal sources to identify the taxpayer's updated address. We give taxpayers approximately 165 days to respond to us before making an adjustment. We issue two letters that allow 30 days each for the taxpayer to respond. If we do not hear back, we then issue a Statutory Notice of Deficiency, which allows taxpayers 105 days to respond before we can close the case. This timeline is extended when the taxpayer chooses to be involved in the audit. Only after a taxpayer does not reply to an examination letter (in writing or with a telephone call), and the suspense period has expired, is the case moved into the next step in the examination process.

Taxpayers calling the Correspondence Exam toll-free line are routed to the next available assistor. Limiting taxpayers' access to one single point of contact could increase taxpayer burden, as taxpayers will no longer have access to all available assistants who answer calls 12 hours per day, five days a week.

We continue to make improvements in Correspondence Exam that make it easier for taxpayers to communicate with us and bring their case to resolution. Regardless of the method in which a taxpayer chooses to interact with IRS, we focus on providing a positive customer experience. For instance, some of our phone lines provide informational pre-recorded messages on who is qualified to claim various credit(s), the documents needed to support the credit, instructions for finding related information on IRS.gov, and how to use the Documentation Upload Tool (DUT) to submit documentation. In January 2021, the IRS implemented a Fast-Track option line for taxpayers responding to a W&I Correspondence Exam who only want to know if the IRS received their

documentation. This option reroutes incoming calls to an assistor to provide taxpayers with expedited information on the receipt and status of their correspondence. In January 2022, the IRS will add a customer callback feature to the SB/SE Correspondence Exam line.

In an effort to modernize services, Correspondence Exam is implementing various digitalization initiatives. We plan to scan responses directly into a taxpayer's file upon receipt, which will allow phone assistants in any site to access this data. In addition, the correspondence exam functions within both SB/SE and W&I implemented the DUT in September 2021, through which taxpayers can upload supporting documents through IRS.gov. We have updated the toll-free phone script to inform taxpayers of the availability of the DUT, and information on using the DUT will be added to a correspondence reply coversheet in early 2022. Increased use of digitalization will improve customer service by increasing data accessibility.

Correspondence Exam continues to improve communications with taxpayers through the expansion of Taxpayer Digital Communications (TDC) secure email to all five SB/SE campuses. Most any taxpayer faced with a correspondence audit has the option to participate. This allows them to submit documents through secure email while communicating with a single point of contact, usually the last tax examiner who worked their case.

We redesigned TDC Letter 566-T, Initial Contact-Secure Messaging, and added a QR code that takes taxpayers to the TDC sign up page, making the process to utilize TDC as easy as possible. We have also improved the process for taxpayers and representatives to authenticate their identity when opting into TDC secure email. The new authentication system – Secure Access Digital Identity (SADI) – makes authentication easier for taxpayers. It is our expectation that as more taxpayers take advantage of TDC, the IRS will continue to see a high level of customer satisfaction, currently at 82.3 percent. We will continue to leverage available technology, as our resources permit, to enhance taxpayers' experience when interacting with the IRS.

TAXPAYER ADVOCATE SERVICE COMMENTS

The IRS views correspondence audits as “non-complex;” however, these audits can be challenging for low-income taxpayers requiring personal interaction to understand and navigate the correspondence audit process. Although IRS electronic communication options will positively complement the correspondence audit process, they are not substitutes for personal interactions that could increase low-income taxpayer participation, build trust, and engage and educate low-income taxpayers. While the tax examiners staffing correspondence audit toll-free telephone lines may be sufficiently trained, this is of little value to taxpayers unable to reach a tax examiner for assistance due to inadequate Levels of Service. Likewise, the length of the timeframe provided for taxpayer response is of little value to taxpayers whose correspondence audit notifications are returned undeliverable or taxpayers unable to respond absent needed assistance. Increased efforts to reach unresponsive taxpayers and taxpayers whose audit notifications have been returned undeliverable, along with increased Levels of Service to include the assignment of correspondence audit cases to a tax examiner who can serve as a

taxpayer's single point of contact, would reduce barriers that hinder low-income taxpayers, eliminate the unnecessary use of IRS resources, and ensure the protection of taxpayer rights.

RECOMMENDATIONS

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

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Legislative Recommendations to Congress

The National Taxpayer Advocate recommends that Congress:

1. Restructure the EITC to make it simpler for taxpayers and reduce improper payments.⁸⁸
2. Authorize the IRS to establish minimum competency standards for federal tax return preparers.⁸⁹

Endnotes

- 1 Internal Revenue Manual (IRM) 4.19.13.12, No Response Cases (July 30, 2020).
- 2 IRS, Compliance Data Warehouse (CDW), Audit Information Management System (AIMS) Closed Case Data FY 2019 individual audits and Individual Returns Transaction File (IRTF) (Nov. 2021). IRM 4.1.1.1.6, Terms (Dec. 25, 2017).
- 3 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits (Nov. 2021). Correspondence audits include audits closed by campus tax examiners in either the Wage and Investment (W&I) or Small Business/Self-Employed (SB/SE) Operating Divisions.
- 4 IRM 4.19.13.11, Monitoring Overage Replies (July 20, 2020) (outlining overage procedures, including the IRS goal to “ensure a response is initiated to taxpayers within 30 calendar days of the IRS received date of the correspondence;” issuance of Letter 3500, Interim Letter, to notify the taxpayer of the IRS’s receipt of his or her mail and advise him or her that IRS will respond within 75 days; and a statement that, “[t]here may be times when a default response timeframe of 75 days is not achievable. More time may be needed because of the volume of overaged inventory.”).
- 5 IRS responses to TAS information requests (Aug. 30, 2021; Sept. 1, 2021).
- 6 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Nov. 2021). Correspondence audits include audits closed by campus tax examiners in either W&I or SB/SE.
- 7 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Nov. 2021). See also IRM 4.1.1.1.6, Terms (Dec. 25, 2017) (defining TPI as only total positive values from wages, interest, dividends, other income, distributions, Schedule C net profits, and Schedule F net profits. Losses are treated as a zero). For purposes of this discussion, taxpayers with TPI below \$50,000 are being referred to as “low-income taxpayers.” For a family of four, this amount is significantly below the 250 percent of the Federal Poverty Level ceiling under which taxpayers qualify for the assistance of Low Income Taxpayer Clinics (LITCs). IRC § 7526(b)(1); IRS, Low Income Taxpayer Clinics (LITC), <https://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc> (last visited Dec. 22, 2021).
- 8 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits, IRTF, and Individual Master File (IMF) Transaction History Table (Sept. 2021). Analysis does not include audited non-filed individual tax returns. Representation was defined as a power of attorney being on file with the IRS during the audit. Most low-income taxpayers are audited by W&I examiners. W&I correspondence audit toll-free telephone service typically reflects a 40 percent Level of Service, lower than the 60 percent Level of Service typically experienced on SB/SE correspondence audit toll-free telephone lines. See Figures 2.9.3 and 2.9.4.
- 9 IRM 4.19.13.12, No Response Cases (July 30, 2020).
- 10 See IRS, Taxpayer Bill of Rights, <https://www.irs.gov/taxpayer-bill-of-rights>. See also IRC § 7803(a)(3)(B).
- 11 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits (Sept. 2021). For purposes of this Most Serious Problem, correspondence audits include audits closed by campus tax examiners in either W&I or SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and the Large Business and International (LB&I) Division.
- 12 IRM 4.19.14.1.2, Authority (Dec. 16, 2020).
- 13 National Taxpayer Advocate 2015 Annual Report to Congress 235 (Introduction: *The IRS Can Do More to Improve Its Administration of the Earned Income Tax Credit and Increase Future Compliance Without Unduly Burdening Taxpayers and Undermining Taxpayer Rights*); The Urban Child Institute, *Poverty Can Jeopardize the Development of Literacy and Early Reading Habits* (Aug. 30, 2012), <http://www.urbanchildinstitute.org/articles/research-to-policy/policy/poverty-can-jeopardize-the-development-of-literacy-and-early-reading-habits>; Brookings Institute, *Investing in English Skills: The Limited English Proficient Workforce in U.S. Metropolitan Areas* (Sept. 24, 2014), <http://www.brookings.edu/research/reports/2014/09/english-skills/#/M10580>.
- 14 National Taxpayer Advocate 2015 Annual Report to Congress 235-236 (Introduction: *The IRS Can Do More to Improve Its Administration of the Earned Income Tax Credit and Increase Future Compliance Without Unduly Burdening Taxpayers and Undermining Taxpayer Rights*); Federal Deposit Insurance Corporation (FDIC), *2013 FDIC National Survey of Unbanked and Underbanked Households* 17 (Oct. 2014). For the purposes of this survey, “unbanked” means that no one in the household had a savings or checking account. U.S. Census Bureau, Current Population Survey, 2013 Annual Social and Economic Supplement (Nov. 2013).
- 15 National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3, at 13 (*Special Report to Congress: Making the EITC Work for Taxpayers and the Government*); Elaine Maag, H. Elizabeth Peters & Sarah Edelstein, *Increasing Family Complexity and Volatility: The Difficulty in Determining Child Tax Benefits* 10 (2016).
- 16 See IRM 4.19.14, Liability Determinations, Refundable Credit Strategy (Jan 1, 2021).
- 17 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits (Sept. 2021). For purposes of this Most Serious Problem, correspondence audits include audits closed by campus tax examiners in either W&I or SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and LB&I. Analysis does not include audited non-filed returns.
- 18 *Id.*
- 19 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Sept. 2021). For purposes of this figure, correspondence audits include audits closed by campus tax examiners in W&I or SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and LB&I. Analysis does not include audited non-filed returns.
- 20 National Taxpayer Advocate Fiscal Year 2016 Objectives Report to Congress vol. 2, at 53 (*IRS Responses and National Taxpayer Advocate’s Comments Regarding Most Serious Problems Identified in the 2014 Annual Report to Congress*).
- 21 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits (Sept. 2021). For purposes of this figure, correspondence audits include audits closed by campus tax examiners in W&I or SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and LB&I. Analysis does not include audited non-filed returns.
- 22 See Figures 2.9.3 and 2.9.4.
- 23 National Taxpayer Advocate 2020 Annual Report to Congress 106 (Most Serious Problem: *Correspondence Exams: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits*).
- 24 *Id.*
- 25 National Taxpayer Advocate Fiscal Year 2022 Objectives Report to Congress 108 (Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate’s 2020 Annual Report to Congress*).
- 26 FTE is used to quantify employment as a function of hours worked rather than by the number of individual employees. One FTE is also known as one work year.
- 27 IRS responses to TAS information requests (Aug. 30, 2021; Sept. 1, 2021).

Most Serious Problem #9: Correspondence Audits

- 28 EPST does consider correspondence volume, which could affect the volume of phone calls received.
- 29 IRS response to TAS information request (Sept. 16, 2021).
- 30 IRS response to TAS information request (Sept. 17, 2021).
- 31 IRS responses to TAS information requests (Aug. 30, 2021; Sept. 1, 2021). Resource allocation was extrapolated based on Level of Service achieved with the reported resources utilized.
- 32 Unagreed cases are cases for which the taxpayer has not indicated agreement by signing an examination report or other consent for the assessment of tax.
- 33 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Sept. 2021). Analysis does not include audited non-filed individual tax returns. IRM 4.4.12.5.49.1, No Change Disposal Codes (June 1, 2002), defines a no change as cases closed by the examiner with no additional tax due (disposal code 1 and 2). In the IRS response to TAS fact check (Dec. 10, 2021), SB/SE notes disposal code 1 as an agreed closure. TAS does not agree with SB/SE's definition because these cases do not require agreement from the taxpayer since there is no additional tax liability (see, e.g., IRM 4.10.8.2.2, No Change with Adjustments Report Not Impacting Other Tax Year(s) (Sept. 12, 2014)), and the taxpayer's agreement or disagreement with the adjustment(s) as it pertains to another's year's liability is not known. Treasury Inspector General for Tax Administration (TIGTA) concurs with TAS's definition. See TIGTA, Ref. No. 2018-30-069, *Trends in Compliance Activities Through Fiscal Year 2017*, at 41 (Sept. 13, 2018). Totals may not add to 100 percent due to rounding.
- 34 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Sept. 2021). Analysis does not include audited non-filed returns.
- 35 *Id.*
- 36 IRM 4.19.13.12, No Response Cases (July 30, 2020).
- 37 *Id.*
- 38 IRM 4.19.13.14, Undeliverable Mail (July 30, 2020). The IRS may utilize information presented in a U.S. Postal Service "yellow sticker," allowing a taxpayer the opportunity to update his or her address. IRM 4.19.13.14, Undeliverable Mail (July 30, 2020).
- 39 IRM 4.8.9.8.2.5, Establishing the Last Known Address (July 9, 2013).
- 40 IRM 4.10.2.8.3, No Response/No Show Procedures (Nov. 4, 2016).
- 41 IRM 4.10.2.8.4, Undeliverable Initial Contact Letters (Sept. 9, 2019).
- 42 A "constructive" follow-up is a *bona fide* attempt to reach the taxpayer by phone or email if authorized. This would include more than one attempt to reach the taxpayer by phone, with attempts occurring at different times and on different weekdays, at times most conducive for reaching the taxpayer. As described in IRM 21.5.9.4.3(1)(a), Rejecting Unprocessable Carryback Applications/ Claims (Apr. 14, 2021).
- 43 Colleen McClain, Pew Research Center, *Most Americans Don't Answer Cellphone Calls From Unknown Numbers* (Dec. 14, 2020), <https://www.pewresearch.org/fact-tank/2020/12/14/most-americans-dont-answer-cellphone-calls-from-unknown-numbers/>.
- 44 IRM 10.5.1.6.7.2, Answering Machine or Voicemail (Dec. 31, 2020).
- 45 IRM 4.19.13.14, Undeliverable Mail (July 30, 2020); IRM 10.5.1.6.7.2, Answering Machine or Voicemail (Dec. 31, 2020).
- 46 IRM 10.5.1.6.7.2, Answering Machine or Voicemail (Dec. 31, 2020).
- 47 IRM 4.19.13.12, No Response Cases (July 30, 2020); IRM 4.19.13.14, Undeliverable Mail (July 30, 2020).
- 48 Find TAS EITC Research Studies at <https://www.taxpayeradvocate.irs.gov/research-studies/> under the "Earned Income Tax Credit Studies" menu option.
- 49 IRS, CDW, AIMS, IRTF, and IMF Transaction History for FY 2019 individual audits. Representation was defined as a power of attorney being on file with the IRS during the audit. Paid preparer designation was determined by the presence of a preparer Employer Identification Number (EIN) or Practitioner Tax Identification Number (PTIN) and excludes Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) returns. Analysis does not include audited non-filed returns.
- 50 IRS, CDW, AIMS Close Case Database and IMF Transaction History for FY 2019 (Sept. 2021). Correspondence audits include audits closed by campus tax examiners in W&I or SB/SE. Analysis does not include audited non-filed returns.
- 51 IRS, CDW, AIMS and IMF Transaction History for FY 2019 individual audits where a power of attorney was on file with the IRS during the audit. For purposes of this figure, correspondence audits include audits closed by campus tax examiners in W&I or SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and LB&I. Analysis does not include audited non-filed returns.
- 52 See National Taxpayer Advocate 2020 Annual Report to Congress 102-118 (Most Serious Problem: *Correspondence Exams: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits*); National Taxpayer Advocate 2018 Annual Report to Congress 126-141 (Most Serious Problem: *Correspondence Examination: The IRS's Correspondence Examination Procedures Burden Taxpayers and Are Not Effective in Educating the Taxpayer and Promoting Future Voluntary Compliance*); National Taxpayer Advocate 2014 Annual Report to Congress 134-144 (Most Serious Problem: *Correspondence Examination: The IRS Has Overlooked the Congressional Mandate to Assign a Specific Employee to Correspondence Examination Cases, Thereby Harming Taxpayers*).
- 53 See National Taxpayer Advocate 2020 Annual Report to Congress 116-117 (Most Serious Problem: *Correspondence Exams: Taxpayers Encounter Unnecessary Delays and Difficulties Reaching an Accountable and Knowledgeable Contact for Correspondence Audits*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 2, at 47-52 (Appendix 1: *IRS Responses to Administrative Recommendations Proposed in the National Taxpayer Advocate's 2020 Annual Report to Congress*); National Taxpayer Advocate Fiscal Year 2016 Objectives Report to Congress vol. 2, at 48-51 (*IRS Responses and National Taxpayer Advocate's Comments Regarding Most Serious Problems Identified in the 2014 Annual Report to Congress*).
- 54 IRS response to TAS information request (Sept. 1, 2021).
- 55 IRS response to TAS information request (Aug. 30, 2021).
- 56 Most Serious Problem: *Online Accounts: IRS Online Accounts Do Not Have Sufficient Functionality and Integration With Existing Tools to Meet the Needs of Taxpayers and Practitioners, supra.*
- 57 *Id.*
- 58 IRS responses to TAS information requests (Aug. 30, 2021; Sept. 1, 2021).
- 59 IRS response to TAS information request (Aug. 30, 2021).
- 60 IRS SERP Alert 21A0316 (Sept. 2, 2021).
- 61 Downstream costs include the cost of resources expended to bring unagreed examination cases to a final resolution upon conclusion of the initial IRS audit.

Most Serious Problem #9: Correspondence Audits

- 62 IRS, CDW, AIMS Closed Case Database FY 2019 individual audits (Oct. 2021). Correspondence audits include audits closed by campus tax examiners in W&I and SB/SE.
- 63 IRS responses to TAS information requests (Aug. 30, 2021; Sept. 1, 2021; Nov. 19, 2021); TAS financial data. In the absence of data, IRS Internal Revenue Officer average salary obtained at https://www.glassdoor.com/Salary/IRS-Revenue-Officer-Salaries-E41427_D_KO4,19.htm; ACS Tax Examiner average salary obtained at https://www.glassdoor.com/Salaries/irs-tax-examiner-salary-SRCH_KO0,16.htm?clickSource=searchBtn. See IRS response to TAS information request (Nov. 23, 2021).
- 64 See Office of Chief Counsel FY 2021, Q1 Report to the American Bar Association, 11-16.
- 65 *Id.* Resolution action was not identified for the remaining petitions (approximately five percent).
- 66 See Office of Chief Counsel FY 2021, Q1 Report to the American Bar Association, 11-16.
- 67 IRM 4.13.1.2(1), Definition of an Audit Reconsideration (Dec. 16, 2015).
- 68 IRS, CDW, AIMS Closed Case Database FY 2019 individual audits and Enforcement Revenue Information System (ERIS) Audit Reconsiderations through processing cycle 43 (Oct. 2021). Audit Reconsiderations of Individual Tax Returns by Disposal Code (No Show/No Response and Undelivered Mail Only) and Outcome for W&I and SB/SE Individual Correspondence Audits for FY 2019.
- 69 IRS, CDW, AIMS Closed Case Database FY 2019 individual audits and ERIS Audit Reconsiderations through processing cycle 43 (Oct. 2021). For purposes of this figure, correspondence audits include audits closed by campus tax examiners in W&I and SB/SE; office audits include audits closed by tax compliance officers in SB/SE; and field audits include audits closed by revenue agents in SB/SE and LB&I.
- 70 See EITC Audit Reconsideration Study at <https://www.taxpayeradvocate.irs.gov/research-studies/>. A prior TAS EITC Audit Reconsideration Study reflected that 42 percent of sampled taxpayers requested reconsideration of their EITC audit as a result of initial audits where the taxpayer did not respond or responded late to the IRS audit correspondence. According to the study, about 43 percent of the taxpayers seeking reconsideration obtained favorable audit reconsideration outcomes that allowed the taxpayer to retain about 96 percent of the EITC claimed on his or her original return. The study further showed that taxpayers received dramatically better audit results when contacted by telephone for the requested documentation, with the percentage of taxpayers receiving EITC increasing in direct proportion to the number of telephone contacts held. The study concluded that original audit results did not accurately reflect taxpayer EITC eligibility; rather, they merely showed that “the taxpayer flunked the IRS audit process.”
- 71 IRC § 7803(c)(2) identifies the functions of the National Taxpayer Advocate and TAS.
- 72 Taxpayer Advocate Management Information System (TAMIS), FY 2021 data with primary core issues 610, 630, and 639; IRS, CDW, AIMS and IRTF (Sept. 2021). The actual total was 1,304 for 610, Open Audit (Non-EITC); 14,617 for 630, Open EITC Audit; and 1,570 for 639, EITC Reconsideration.
- 73 TAMIS, FY 2021 data with primary core issues 610, 630, and 639; IRS, CDW, AIMS Closed Case database individual audits and IRTF (Sept. 2021).
- 74 *Id.*
- 75 IRS, CDW, AIMS Closed Case database in FY 2019 individual audits, IMF Transaction History file, IMF Status History file through cycle 43, and IRTF (Nov. 2021).
- 76 Pamela Herd and Donald Moynihan, *Administrative Burden* 23-26 (2018).
- 77 Low-income taxpayers may seek assistance from LITCs. LTC information is available at <https://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc> (last visited Dec. 22, 2021).
- 78 Pamela Herd and Donald Moynihan, *Administrative Burden* 30-31 (2018).
- 79 R. Self, personal communication to Erin Collins, National Taxpayer Advocate (June 9, 2021).
- 80 National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 115-118 (*Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce Improper Payments*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3 (*Special Report to Congress: Making the EITC Work for Taxpayers and the Government*).
- 81 IRS response to TAS information request (Aug. 30, 2021).
- 82 *Id.*; National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 9-11 (*Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3, at 23 (*Special Report to Congress: Making the EITC Work for Taxpayers and the Government*).
- 83 IRS response to TAS information request (Aug. 30, 2021).
- 84 IRS, CDW, AIMS and IMF Transaction History for FY 2019 individual audits. Paid preparer designation was determined by the presence of a preparer EIN or PTIN and excludes VITA and TCE returns. Analysis does not include audited non-filed returns.
- 85 IRS, CDW, AIMS Closed Case Data FY 2019 individual audits and IRTF (Sept. 2021). Analysis does not include audited non-filed individual tax returns.
- 86 National Taxpayer Advocate 2022 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 115-118 (*Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce Improper Payments*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3 (*Special Report to Congress: Making the EITC Work for Taxpayers and the Government*).
- 87 National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 9-11 (*Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3, at 23 (*Special Report to Congress, Making the EITC Work for Taxpayers and the Government*).
- 88 National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 115-118 (*Restructure the Earned Income Tax Credit (EITC) to Make It Simpler for Taxpayers and Reduce Improper Payments*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3 (*Special Report to Congress, Making the EITC Work for Taxpayers and the Government*).
- 89 National Taxpayer Advocate 2022 Purple Book: *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration* 9-11 (*Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers*); National Taxpayer Advocate Fiscal Year 2020 Objectives Report to Congress vol. 3, at 23 (*Special Report to Congress, Making the EITC Work for Taxpayers and the Government*).