

**MSP  
#16****REVENUE PROTECTION: Ongoing Problems with IRS Refund Fraud Programs Harm Taxpayers by Delaying Valid Refunds****RESPONSIBLE OFFICIALS**

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**DEFINITION OF PROBLEM**

Return integrity programs are designed to detect and prevent civil fraud in tax returns before the IRS issues refunds to taxpayers, as part of the overall revenue protection strategy. The National Taxpayer Advocate identified problems with these programs as early as 2005. However, despite improvements, issues within the return integrity strategies persist and continue to harm taxpayers.<sup>1</sup>

- The IRS eliminated the Pre-Refund Program Executive Steering Committee (ESC) at the end of fiscal year (FY) 2012. This left no overarching governance of the design or implementation of revenue protection strategies or filters to detect fraud, and inhibited an integrated approach, resulting in potentially duplicative or over-inclusive filters.
- Filters delayed 308,868 refunds due to “false positive” signs of fraudulent activity in filing season 2013.<sup>2</sup>
- If certain letters informing taxpayers of the status of refunds caught in filters are returned as undeliverable, the IRS destroys them, and the taxpayers may never learn the status of their cases or receive their refunds.<sup>3</sup>
- Many taxpayers caught in the Automated Questionable Credit (AQC) program do not receive letters informing them of the status of their accounts and what to do next.<sup>4</sup>
- Taxpayers caught in the bank/external leads program only received letters informing them that their financial institutions could not process their direct-deposit refunds from the IRS and to allow an additional ten weeks to receive them in about 12 percent of cases.<sup>5</sup>

1 See National Taxpayer Advocate 2005 Annual Report to Congress 25 (Most Serious Problem: *Criminal Investigation Refund Freezes*); National Taxpayer Advocate 2005 Annual Report to Congress vol. 2 (*Criminal Investigation Refund Freeze Study*).

2 IRS Return Integrity & Correspondence Services (RICS), Update of the Taxpayer Protection Program (TPP) (Oct. 31, 2013); IRS Return Integrity & Correspondence Services (RICS), Update of the Taxpayer Protection Unit (TPU) (Oct. 31, 2012).

3 IRM Exhibit 3.13.62-55 (May 10, 2013) and IRM 25.25.5.5 (Oct. 1, 2013). The letters classified as “just destroy” are the CP05 (*We’re holding your refund until we finish reviewing your tax return*), CP05A (*We need more information to determine whether you’re due a refund*), 4115C (*Information Regarding Your Refund*), and 4464C (*Questionable Refund 3rd Party Notification*).

4 IRS response to TAS research request (Oct. 15, 2013). As of October 15, 2013 RICS had issued 82,109 4800C letters and has 111,670 cases in inventory.

5 Refund Fraud & ID Theft Global Report, July 2013; CP 53A, *A Message About Your Request*, for an Electronic Deposit Refund, SNIP CP53A data as of cycle 201344. Through September 30, 2013, the Refund Fraud & ID Theft Global Report reports bank/external leads affecting 171,189 accounts, but the IRS sent only 20,409 letters to taxpayers.

- TAS receipts of Integrity Verification and Operation (IVO) cases have increased over 45 percent for the year to date from FY 2012 to FY 2013.<sup>6</sup>
- In about 80 percent of cases closed in FY 2013, taxpayers who contacted TAS about delayed refunds flagged by the Electronic Fraud Detection System (EFDS) received full or partial relief from the IRS.<sup>7</sup>
- The IRS's failure to implement the new Return Review Program (RRP) on schedule could lead to a crash of EFDS until the aged system could be repaired, which would force the IRS to decide whether to stop issuing refunds in the event of crash, or issue billions of dollars in potentially fraudulent refunds without screening.<sup>8</sup>

The continued failure of the IRS to address problems in return integrity programs burdens taxpayers who filed legitimate returns, but have been wrongly ensnared in a myriad of filters from various units of the IRS.<sup>9</sup> The failure of these units to coordinate may result in duplicate, over-inclusive, and unnecessary filters that are not routinely reviewed for accuracy or continued need. With the elimination of the return integrity steering committee, problems associated with fraud detection filters will not be discussed at a servicewide level and may create additional burden.

## ANALYSIS OF PROBLEM

### Background

The return integrity process is complex and multifaceted. A tax return must travel a long path with many potential roadblocks before the IRS accepts it as filed. The main goal of IVO is to stop fraudulent refunds before they are issued by identifying potentially false returns, usually through wages or withholding reported on the returns. The IRS does this primarily with the Electronic Fraud Detection System, which was built in the 1990s. EFDS runs all individual tax returns through various filters to identify characteristics that may indicate a high risk of fraud.<sup>10</sup>

Once EFDS completes the initial screening and flags a return as having a high likelihood of fraud, the IRS freezes the taxpayer's refund for 11 weeks so IVO can attempt to verify wages and withholding. The IRS sends a letter to the taxpayer explaining that income, withholding, or tax credits are being reviewed and the refund is being held pending this review.<sup>11</sup>

6 Data obtained from Business Performance Management System (BPMS) (Oct. 1, 2012; Oct. 1, 2013). IVO is an IRS unit within the Wage and Investment (W&I) operating division, the purpose of which is to support civil fraud detection and prevention. TAS received 18,012 cases in FY 2012 and 26,136 cases in FY 2013.

7 Data obtained from BPMS (Oct. 1, 2013).

8 Privacy Impact Assessment (PIA) 250 (Oct. 2, 2012), available at: [http://www.irs.gov/pub/irs-utl/RRP\\_TS\\_pia.pdf](http://www.irs.gov/pub/irs-utl/RRP_TS_pia.pdf). A PIA is a process for examining the risks and ramifications of using information technology to collect, maintain and disseminate information in identifiable form about members of the public and agency employees.

9 Filters are created and implemented by at least three distinct IRS units: Criminal Investigation (CI); Privacy, Governmental Liaison and Disclosure (PGLD); and RICS.

10 Based on prior years' returns, including those involving "verified" fraud, models are built and implemented for detecting fraud. Incoming returns requesting refunds are passed through the knowledge base and scored for likelihood of fraud. Returns that are flagged are diverted into a workload for further inspection before any refund is issued. IRS, Kenneth A. Kaufman, *An Analysis of Data Mining in the Electronic Fraud Detection System* (Apr. 28, 2010).

11 Notice CP 05, *Information Regarding Your Refund*.

One way the IRS attempts to verify information during this period is to compare it with the Information Returns Master File (IRMF). The IRMF is populated with third-party reporting data such as wage and withholding reported on Form W-2, *Wage and Tax Statement*, and most Forms 1099, *U.S. Information*

*Return*.<sup>12</sup> If the return information cannot be automatically verified through the IRMF database, the next step is manual verification. IVO employees will attempt to contact the employers listed on the return to verify the wages and withholdings reported.<sup>13</sup> If the employer verifies the information and IVO is satisfied that the return is valid, the IRS will release the refund.

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*If certain letters informing taxpayers of the status of refunds caught in filters are returned as undeliverable, the IRS destroys them, and the taxpayers may never learn the status of their cases or receive their refunds.*

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The IRS formed an Information Returns Acceleration team in 2012 to develop a way for the IRS to obtain W-2 information from the Social Security Administration (SSA) earlier in the processing season to verify wages claimed on returns with information reported by payors. The team also continued to utilize the Disc program, where multiple major employers submit a copy of W-2 data directly to the IRS by mid-March to allow the IRS to match potentially fraudulent information returns to the employer database. Both programs are a step in the right direction by allowing the IRS to verify income and withholding information before releasing a refund.

If IVO cannot verify the return information through IRMF or employer contact, the IRS sends a letter to the taxpayer requesting documentation to substantiate the information.<sup>14</sup> Finally, if IVO cannot verify the return information before the 11-week hold expires, the IRS will make the hold permanent.<sup>15</sup>

A taxpayer caught in a variety of filters may believe he or she has been audited multiple times.

- A return could possess certain characteristics of identity theft and be stopped by the Taxpayer Protection Program (TPP) until the taxpayer verifies that he or she is not an identity thief;<sup>16</sup>
- The same return could then be selected for a pre-refund audit of a claimed Earned Income Tax Credit (EITC); or
- A return can be selected for income and withholding verification, and then also be audited.

<sup>12</sup> Under present law, issuers who file these forms electronically have until March 31 to file them with the government. Issuers send Forms 1099 directly to the IRS and Forms W-2 directly to the Social Security Administration (SSA), which in turn sends information extracted from the forms to the IRS each week, starting in late March. Internal Revenue Code (IRC) §§ 6051(a), 6049(a), 6042(a); see *IRS Instructions for Forms W-2 and W-3, Wage and Tax Statement and Transmittal of Wage and Tax Statements*; Social Security Administration, *Employer W-2 Filing Instructions & Information*, available at <http://www.ssa.gov/employer/gen.htm> (last visited Oct. 24, 2012). For a more detailed discussion of third-party information reporting and its uses, see National Taxpayer Advocate 2012 Annual Report to Congress (Status Update: *The Preservation of Fundamental Taxpayer Rights Is Critical as the IRS Develops a Real-Time Tax System*).

<sup>13</sup> IRM 21.9.1.8(1) (May 4, 2012). The IRS employs several methods to contact employers for verification of wages, adhering to the employer preference if one exists. Letters are sent annually to certain large employers, requesting them to provide wage information on a computer disc. Requests for verification are automatically generated by fax; phone calls are made based on employer preference.

<sup>14</sup> IRM 21.9.1.8(1) (May 4, 2012). Letter 4115 requests income documentation from the taxpayer/employee (e.g., copies of checks, bank statements, pay statements, check stubs, and employer letters).

<sup>15</sup> Email from AMTAP analyst (Sept. 28, 2011).

<sup>16</sup> IRM 21.9.1.14, *Taxpayer Protection Program* (June 4, 2013). For a full discussion of the National Taxpayer Advocate's concerns about identity theft, see Most Serious Problem: *The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers*, *supra*.

The lack of integration of IRS filters can create multiple delays in releasing the refund and significantly increase taxpayer burdens and frustration with the IRS.

### **The National Taxpayer Advocate Continues to Identify Return Integrity Programs as a Most Serious Problem.**

Return integrity programs first made the National Taxpayer Advocate's list of the most serious problems facing taxpayers in 2005 and were discussed in a corresponding research study.<sup>17</sup> The National Taxpayer Advocate has recommended many improvements to limit the burden these programs cause for taxpayers seeking legitimate refunds, while still protecting the IRS's very valid need to reduce and prevent fraud. While the IRS has altered return integrity programs and strategies, it has failed to implement many of these recommendations.<sup>18</sup>

TAS monitors the IRS's progress on all recommendations in the National Taxpayer Advocate's Annual Reports to Congress, documenting whether the IRS agreed to take action and what it has done. In the three reports where various return integrity programs were cited as most serious problems facing taxpayers, the National Taxpayer Advocate made 21 recommendations to improve the programs.<sup>19</sup> The IRS agreed to fully or partially implement nine of the 14 recommendations in the 2011 and 2012 Annual Reports and declined to accept five others.<sup>20</sup>

### **The National Taxpayer Advocate Disagrees with the Elimination of the Pre-Refund Program Executive Steering Committee.**

The IRS eliminated the Pre-Refund Program Executive Steering Committee at the end of FY 2012. This left the IRS with no overarching governance of the design or implementation of revenue protection strategies or filters and inhibited an integrated approach, resulting in potentially duplicative or over-inclusive filters. The committee provided a forum where decision makers from various parts of the IRS could not only inform other areas of new programs, but also allowed the parties to raise concerns. It provided the IRS, including TAS, a forum to work as one to identify and prevent fraud. Dismantling the ESC was a step in the wrong direction. By not addressing fraud globally and in a collaborative manner, the IRS is missing opportunities to share information and prevent innocent taxpayers from being caught in fraud filters.

17 See National Taxpayer Advocate 2005 Annual Report to Congress (Most Serious Problem: *Criminal Investigation Refund Freezes*); National Taxpayer Advocate 2005 Annual Report to Congress vol. 2 (Criminal Investigation Refund Freeze Study).

18 See National Taxpayer Advocate 2005 Annual Report to Congress (Most Serious Problem: *Criminal Investigation Refund Freezes*); National Taxpayer Advocate 2011 Annual Report to Congress (Most Serious Problem: *The IRS's Wage and Withholding Verification Procedures May Encroach on Taxpayer Rights and Delay Refund Processing*); and National Taxpayer Advocate 2012 Annual Report to Congress (Most Serious Problem: *Despite Some Improvements, the IRS Continues to Harm Taxpayers by Unreasonably Delaying the Processing of Valid Refund Claims That Happen to Trigger Systemic Filters*).

19 See National Taxpayer Advocate 2005 Annual Report to Congress (Most Serious Problem: *Criminal Investigation Refund Freezes*); National Taxpayer Advocate 2011 Annual Report to Congress (Most Serious Problem: *The IRS's Wage and Withholding Verification Procedures May Encroach on Taxpayer Rights and Delay Refund Processing*); and National Taxpayer Advocate 2012 Annual Report to Congress (Most Serious Problem: *Despite Some Improvements, the IRS Continues to Harm Taxpayers by Unreasonably Delaying the Processing of Valid Refund Claims That Happen to Trigger Systemic Filters*).

20 Annual Report to Congress 2011 Report Card, available at <http://www.irs.gov/Advocate/Annual-Report-to-Congress-Report-Cards>. The seven recommendations made in the 2005 Annual Report to Congress were not reported and tracked in the same manner as the TAS tracking system was not implemented until 2007. The IRS now responds in a standardized manner to Annual Report to Congress recommendations. Therefore, only information on the 14 recommendations in the 2011 and 2012 Annual Reports to Congress is available. (The 2012 Report Card is not finalized, will provide link and potentially update numbers when it is available.)

### Taxpayers are Harmed by Various Uncoordinated Return Integrity Strategies.<sup>21</sup>

#### *The Automated Questionable Credit (AQC) program may be confusing to taxpayers.*

In November 2011, RICS developed and implemented a streamlined statutory notice of deficiency pilot program — the AQC. AQC expanded the IRS's use of automation to prevent improper refunds of questionable withholding and refundable credits.<sup>22</sup> TAS identified and elevated areas of concern, including the possible expansion of math error authority. Significant concerns included a statement in the initial AQC letter to taxpayers that the inquiry is not an audit and the IRS may examine the return again later, leaving the taxpayer with little certainty.<sup>23</sup>

As of October, 2013 RICS had issued over 80,000 4800C letters but has nearly 112,000 cases in inventory received through AQC.<sup>24</sup> TAS reviewed 50 of these cases from TAS inventory; of those, only 16 taxpayers received the 4800C letter informing them of the actions proposed for their accounts and the next steps the taxpayers needed to take.<sup>25</sup>

#### *External Leads Program burdens taxpayers*

In 2011, RICS implemented the External Leads Program, which is responsible for receiving and processing informational leads and funds returned by partner financial institutions and various other sources because the funds were deemed questionable. External leads may involve Treasury checks, direct deposits/Automated Clearing House, refund anticipation loans or checks, and pre-paid debit cards. The program receives leads from over 130 external sources as well as internal leads from throughout the IRS.<sup>26</sup>

Within approximately 15 business days of receiving an external lead, RICS employees begin their research to determine the validity of the refund and will advise the financial institution to return the funds if it cannot determine the refund was valid.<sup>27</sup> The RICS employee is not required to notate the taxpayer's account to show the interception of the refund, and only in limited circumstances must notify the taxpayer before the financial institution returns the funds to the IRS.<sup>28</sup> Consequently, if the taxpayer contacts the IRS about his or her refund, a Customer Service Representative (CSR) cannot identify RICS involvement by reviewing the main tax account database or provide any guidance on what the IRS is doing. In most instances, the CSR refers the taxpayer back to the financial institution, even though it was the IRS that decided the funds must be returned. Additionally, financial institutions are advised to inform their account holders that:

Since it takes several weeks for funds to be processed through accounting, [IRS] phone assistants may not have information regarding the returns. Once appropriate research has been conducted, taxpayers should receive further correspondence from the IRS in most cases.

21 For a discussion of the National Taxpayer Advocate's concerns regarding identity theft fraud programs, see Most Serious Problem: *The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers*, *supra*.

22 TAS, Business Performance Review First Quarter FY 2012.

23 IRS, 4800C, *Questionable Credit 30 Day Contact Letter*.

24 IRS response to TAS research request (Oct. 15, 2013). As of October 15, 2013 RICS had issued 82,109 4800C letters and has 111,670 cases in inventory.

25 TAMIS data, June 12, 2013.

26 Publication 5033, *External Leads Guidelines* (Feb. 2013).

27 *Id.*

28 IRM 25.25.8.2 (Oct. 29, 2013). A notation on the account could be made in Integrated Data Retrieval System (IDRS), the IRS system that allows employees to see activity on taxpayers' accounts, to inform employees of the status of a refund intercepted through the external leads program.

When receiving inquiries, account holders can be advised that funds have been returned to the IRS; however, it takes 6-8 weeks before account information is readily available. There is not a specific IRS phone line for these inquiries.<sup>29</sup>

Through September 30, 2013, the Refund Fraud & ID Theft Global Report reports bank/external leads affecting 171,189 accounts, resulting in \$441,834,298 in stopped refunds.<sup>30</sup> However, the IRS sent only 19,985 letters to taxpayers to tell them that their financial institutions could not process their direct-deposit refunds and to allow an additional ten weeks.<sup>31</sup> RICS also had to alert CSRs to stop referring taxpayers back to their financial institutions.<sup>32</sup>

***Undelivered mail procedures may mean taxpayers never learn about refund delays.***

When corresponding with a taxpayer, the IRS uses the “address of record,” which is generally the address given on the taxpayer’s last return.<sup>33</sup> When the IRS sends a notice or document to a “last known address,” it is legally effective even if the taxpayer never receives it.<sup>34</sup> The IRS issues several important refund status notices following the last known address rule.<sup>35</sup> If a preparer makes a mistake in entering the address, or the taxpayer moves without leaving a forwarding address, the IRS will destroy the undelivered letters upon their return. This means the taxpayer never learns that his or her return is under review and has no chance to prove the wages and withholding are valid.<sup>36</sup>

Often, however, the IRS already has the correct address in its records and could resolve the issue with a simple review. For example, if a preparer makes a transposition error on the house number, the notice will be returned as undeliverable. However, the taxpayer may have filed from the same address for several years, so by checking the address history the IRS could easily correct the address and resend the notice, thus providing the taxpayer an opportunity to provide supporting documentation. By reclassifying these letters so employees would conduct further research when they come back as undeliverable, the IRS could direct them to the proper addresses.<sup>37</sup>

29 Publication 5033, External Leads Guidelines, Rev. 02-2013.

30 IRS, *Refund Fraud & ID Theft Global Report* (Sept. 2013).

31 CP 53A, A Message About Your Request for an Electronic Deposit Refund, SNIP Notice Volume through Oct. 5, 2013 (Cycle 40).

32 Servicewide Electronic Research Program (SERP) Alert 13A0407, *Direct Deposit Reject Calls Related to Reason Code 17* (June 27, 2013).

33 IRS policy requires the taxpayer to provide “clear and concise” notice of any change of address during telephone calls with the IRS, in correspondence submitted to the IRS, or through a change of address filed with the U.S. Postal Service (USPS) and transmitted to the IRS via the National Change of Address (NCOA) system. Treas. Reg. § 301.6212-2: Definition of Last Known Address; Rev. Proc. 2010-16.

34 Treas. Reg. § 301.6212-2; Rev. Proc. 2010-16.

35 Notices classified as “just destroy” informing taxpayers of the status of their refunds caught in fraud filters include CP05 (*We’re holding your refund until we finish reviewing your tax return*), CP05A (*We need more information to determine whether you’re due a refund*), 4115C (*Information Regarding Your Refund*), and 4464C (*Questionable Refund 3rd Party Notification*).

36 IRM 3.13.62-55 (May 10, 2013); IRM 25.25.5.5 (Oct. 1, 2013). The letters classified as just destroy are the CP05 (*We’re holding your refund until we finish reviewing your tax return*), CP05A (*We need more information to determine whether you’re due a refund*), 4115C (*Information Regarding Your Refund*), and 4464C (*Questionable Refund 3rd Party Notification*).

37 For a full discussion of the National Taxpayer Advocate’s concerns regarding undelivered mail, see National Taxpayer Advocate 2012 Annual Report to Congress (Status Update: *Underfunding IRS Initiatives to Modernize Its Taxpayer Address Correspondence Systems Undermines Taxpayers’ Statutory Rights and Impedes Efficient Resource Allocation*) and National Taxpayer Advocate 2010 Annual Report to Congress (Most Serious Problem: *The IRS Has Not Studied or Addressed the Impact of the Large Volume of Undelivered Mail on Taxpayers*). One of the National Taxpayer Advocate’s primary recommendations to address the problems created by undelivered mail is for the IRS to create a single unit responsible for processing all undelivered mail, including searches for a better taxpayer address. This would provide an IRS-wide solution and strategy to address undelivered mail.

*Delays in implementation of the Return Review Program may result in harm to the government and taxpayers.*

The Electronic Fraud Detection System is the IRS's primary frontline system for detecting fraudulent returns. Although it assisted the IRS in successfully preventing the release of over \$18 billion in fraudulent refunds,<sup>38</sup> the Treasury Inspector General for Tax Administration (TIGTA) has estimated the IRS still may have paid \$5.2 billion in potentially fraudulent tax refunds on 1.5 million returns in tax year 2010.<sup>39</sup> The IRS has declared EFDS "too risky to maintain, upgrade, or operate beyond 2014."<sup>40</sup>

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*TAS has identified multiple instances where the case was lost in transit, thus imposing severe burden on the taxpayer and significantly delaying resolution.*

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In 2009, the IRS began developing the Return Review Program (RRP) to replace EFDS; Congress approved \$54 million for IRS Information Technology (IT) to establish the RRP. RRP is expected to enhance revenue by \$28.8 million per year when fully implemented, and its estimated five-year rate of return is 15,800 percent. More simply put, the IRS estimates it will recoup over \$15,000 for every dollar spent.<sup>41</sup> RRP also will automate a variety of tasks, many of them manual, that employees now perform. For example, today when a case is referred for an audit, employees enter data on a spreadsheet, which is then transferred to headquarters personnel who open and assign the case. TAS has identified multiple instances where the case was lost in transit, thus imposing severe burden on the taxpayer and significantly delaying resolution.

Despite estimated high levels of return, significant monetary investment, and a huge resource investment in teams and development of system requirements, the IRS is now forced to consider non-deployment or a limited deployment of RRP. On January 15, 2013, IT reported it did not have enough resources to bring RRP online by the January 1, 2015 deadline.<sup>42</sup>

Not deploying the RRP as intended could impose significant harm and cost on both the IRS and the public. A failure of the EFDS system, which according to a 2010 IRS statement is becoming increasingly likely, would force the IRS to decide whether to stop issuing refunds until the system could be repaired, or issue billions of dollars in potentially fraudulent refunds without screening.<sup>43</sup> In addition, as EFDS becomes harder to update and maintain, it could erroneously stop an increasing number of valid refunds. The lack of automation to handle administrative adjustments and actions is straining the IRS's limited resources as fraud and identity theft grow and staffing declines.

38 IRS, *W&I Business Performance Review* (Nov. 14, 2012).

39 TIGTA, Ref. No. 2013-40-015, *Improper Payments Elimination and Recovery Act Risk Assessments of Revenue Programs Are Unreliable* (Jan. 31 2013).

40 Privacy Impact Assessment (PIA) 250 (Oct. 2, 2012). [http://www.irs.gov/pub/irs-utl/RRP\\_TS\\_pia.pdf](http://www.irs.gov/pub/irs-utl/RRP_TS_pia.pdf). A PIA is a process for examining the risks and ramifications of using information technology to collect, maintain and disseminate information in identifiable form about members of the public and agency employees.

41 Wage & Investment Division Summary of Proposed FY 2013 Budget Initiatives (as of Feb. 1, 2011).

42 Email from Supervisory Tax Analyst, Wage & Investment, Business Modernization dated Jan. 15, 2013.

43 Privacy Impact Assessment (PIA) 250 (Oct. 2, 2012). [http://www.irs.gov/pub/irs-utl/RRP\\_TS\\_pia.pdf](http://www.irs.gov/pub/irs-utl/RRP_TS_pia.pdf).

### Service to Taxpayers Ensnared by Filters Continues to Decline.

Over the last three years, TAS has seen a significant increase in wage verification cases. In FY 2011, TAS received just over 21,000 such cases; in FY 2013 the number rose to more than 26,000.<sup>44</sup> Cases involving taxpayers facing an economic burden increased 111 percent during that time.<sup>45</sup> This increase shows that although the wage verification unit tries to get innocent taxpayers out of the process as fast as possible, it still holds up many refunds when a filter inadvertently catches a valid return.

The number of taxpayers who came to TAS seeking and received the release of IVO refund holds shows the IRS continues to impose significant delays on innocent taxpayers. The percentage of taxpayers who received full or partial relief after contacting TAS, has increased from 75 percent in FY 2012 to 80 percent in FY 2013.<sup>46</sup>

According to the IRS, the Taxpayer Protection Program (TPP) stopped 1,039,000 refunds with a false positive rate of 29.7 percent in FY 2013, compared to 402,000 refunds stopped in FY 2012 with a false positive rate of 17.7 percent.<sup>47</sup> The significant growth in refunds stopped correlates to an increase in the number of filters the TPP uses, from 11 in FY 2012 to more than 80 in the FY 2013 filing season.<sup>48</sup> The increase in innocent taxpayers being caught in the filters has significantly taxed the TPP's ability to respond to taxpayer inquiries. Overall, fewer than six of ten calls to the TPP reached a live assistor for help, and only after waiting an average of almost 21 minutes.<sup>49</sup>

## CONCLUSION

The National Taxpayer Advocate recognizes the need for return integrity strategies and the importance of automated filters to screen returns for potential fraud. However, automated screens will never achieve perfection. The IRS must remain cognizant of the taxpayers who are innocently caught by these screens and work diligently to timely resolve their cases and adjust filters. Dismantling the Pre-Refund Executive Steering Committee was a step in the wrong direction, contravening IRS efforts to work globally to address screening returns, and eliminating the opportunity for separate IRS functions, including TAS, to work together. This action further handicaps the development and refining of filters, thereby not only jeopardizing revenue but also the legitimate taxpayers whose returns are dragged into this process.

44 Data obtained from BPMS, Oct. 1, 2011; Oct. 1, 2013. TAS received 21,286 cases in FY 2011 and 26,136 in FY 2013.

45 *Id.* Economic burden cases increased 111.2 percent from FY 2011 to FY 2013.

46 Data obtained from BPMS, Oct. 1, 2012; Oct. 1, 2013.

47 IRS Return Integrity & Correspondence Services, *Update of the Taxpayer Protection Program (TPP)* (Oct. 31, 2013); *Update of the Taxpayer Protection Unit (TPU)* (Oct. 15, 2012).

48 TIGTA, Ref. No. 2013-40-083, *Income, and Withholding Verification Processes Are Resulting in the Issuance of Potentially Fraudulent Tax Refunds* (Aug. 7, 2013).

49 Joint Operations Communications (JOC) Executive Level, Taxpayer Protection Program (TPP) performance report (Sept. 28, 2013).

## RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Reinstate the Pre-refund Executive Steering Committee or form a new, similar committee with TAS as a charter voting member.
2. Perform regular global reviews and updates of all return integrity filters.
3. Introduce a computer code to indicate that a refund is under investigation through the bank leads program.
4. Reclassify the letters intended to inform taxpayers of the status of a refund caught by filters from “just destroy” to “perform further research” when they are returned as undeliverable.