National Taxpayers Union Foundation

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With Relief on the Way, Taxpayers Hope Headaches Will Ease

Policy Paper No. 180 • Demian Brady

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POLICY PAPER

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By Demian Brady

I. Introduction

After more than 30 years since the last major tax reform effort, Congress enacted a comprehensive overhaul of the Tax Code through the Tax Cuts and Jobs Act (TCJA) in December 2017. Rates will be lower and the filing process will be simplified for many filers under the individual income tax. Yet some new complexity challenges were created and other existing significant sources of consternation remain. In the interim, filers this year will labor for the last time under the pre-TCJA Code. This analysis, which has been continually conducted and updated for nearly two decades, will address the compliance burden taxpayers face this year, the impact on complexity from the enacted tax reform law, and the ongoing tax administration and taxpayer service challenges at the IRS.

II. The Tax Code's Onerous Compliance Burden

A. The Total Burden

By April of each year, Americans become aware of how much they must pay in taxes, but the total burden and cost of our tax system reaches far beyond the net dollar amount owed to the Treasury. An immense amount of time is obligated each year to conforming with the tax laws. According to our analysis of Office of Information and Regulatory Affairs (OIRA) data, altogether, complying with the Tax Code in 2017 consumed nearly **8.1 billion hours** for recordkeeping, learning about the law, filling out the required forms and schedules, and submitting information to the Internal Revenue Service (IRS).[1]

We can arrive at an estimate of the value of this time burden by framing it in terms of private sector labor costs. According to the Bureau of Labor Statistics (BLS), U.S. employers spent an average of $33.72 per hour worked on total non-federal civilian employee compensation in December 2017 (that figure includes benefits as well as wages and salaries).[2]

Thus, the billions of hours spent on taxes is equivalent to $271.9 billion in labor – a valuable opportunity cost that will instead be lost to Tax Code compliance. Add to that the $31.9 billion in estimated out-of-pocket costs taxpayers spent on software and professional preparation services, and the total economic value of the compliance burden imposed by the Tax Code can be calculated at **$303.8 billion.** This is the first time that the cost of preparing taxes has exceeded $300 billion.

Table 1. The Burden of Tax Code Complexity in Tax Year 2017 (in billions)

	Total Hourly Compliance Burden	**Opportunity Cost of the Time Burden**	**Out of Pocket Cost for Dealing with All Forms**	**Net Tax Compliance Burden**
Impact on Taxpayers	8.064	$271.906	$31.868	$303.774
Source: National Taxpayers Union Foundation Analysis of OIRA and BLS Data.				

To put the compliance burden into perspective, it represents about 15 cents on every tax dollar collected through the corporate and individual tax. $304 billion is also: equivalent to 1.5 percent of GDP; approaches the amount of the net interest payments on the federal debt for 2018 ($316 billion); and is about equal to the combined budgets of the Departments of Agriculture, Commerce, Education, Energy, Homeland Security, and the Interior.

Fortune publishes a yearly list of the Global 500, the largest companies in the world by revenue. Only two businesses on the list top the value of the compliance burden of the U.S. Tax Code: Walmart (with revenues of $486 billion) and State Grid, the Chinese state-owned electric utility ($315 billion).[3] The money lost to tax compliance is greater than the combined revenues of Apple and Google parent-company Alphabet, more than the revenues of J.P. Morgan Chase, Wells Fargo, and Bank of America combined. It outstrips the total GDP of all but 35 other countries, including Finland, Portugal, and Greece.[4] In other words, we flush down the drain of tax compliance not just entire companies-worth of productivity, but entire *countries*-worth.

We know this time and out-of-pocket burden because the Paperwork Reduction Act of 1990 requires each federal agency that collects information from the public to track how much time it takes to respond and also the amount of any related personal expenses. It may not be surprising to learn that the tax system is responsible for a major portion of the government's paperwork burden, but the degree to which the tax agency impacts the country is astonishing: the time spent complying with the IRS's paperwork budget represents 71 percent of the federal government's total 11.4 billion-hour imposed time burden. The IRS generates 99 percent of the Treasury's entire burden. Among federal cabinet departments, the Department of Health and Human Services comes in a far distant second place, imposing 1.4 billion in compliance hours.

B. 1040 Returns

The basic form that taxpayers must file to account for their federal income taxes is the 1040, along with its simplified alternatives the 1040A and the 1040EZ. Many middle-class filers use the regular 1040, which requires an average of 15 hours on preparation and submission time, along with out-of-pocket expenses of $270.

Table 2. 1040 Returns and Compliance Hours in Tax Year 2017

Form	Average Out-of-Pocket Cost	Hours per Form
1040	$270	15
1040A	$90	7
1040EZ	$40	5

Source: 1040 Instructions 2017.

The cost per 1040 filer will drop compared from last year, due to the IRS's lower estimated average out-of-pocket cost for completing the 1040, 1040A, and the 1040EZ, combined. Based on data from Tax Year 2016 1040 instructions along with the IRS's 2017 Data Book, complying with these three common forms for the individual income tax took nearly 1.9 billion hours, and had a total tax complexity burden cost of $93 billion, including the value of lost productivity and out-of-pocket expenses.

Table 3. 1040 Returns and Compliance Hours in Tax Year 2016

Form	% of 1040 Returns	# of Returns (millions)	Average Out-of-Pocket Cost	Total Out-of-Pocket Cost (billions)	Hours per Form	Total Hours (millions)	Opportunity Cost (billions)	Total Tax Complexity Burden Cost (billions)
1040	69	103.39	$280	$28.9	15	1,550.8	$50.8	$79.8
1040A	19	28.47	$90	$2.6	8	227.8	$7.5	$10.0
1040EZ	12	17.98	$40	$0.7	5	89.9	$2.9	$3.7
Total	**100**	**149.84**		**$32.2**		**1,868.5**	**$61.2**	**$93.4**

Sources: Internal Revenue Service, 1040 Instructions: 2016, and 2017 Data Book. Opportunity Cost calculated from private sector average hourly wage & benefit ($32.76) as reported by the Bureau of Labor Statistics for December of 2015. Totals may not add due to rounding.

C. IRS Forms and Other Significant Compliance Burdens

The IRS's paperwork burden report lists 195 forms and schedules related to the individual income tax and 354 related to the business income tax provisions.[5] Of these, 117 are available on its website in digital form to assist taxpayers seeking to submit their files electronically, although there are a number of formatting limitations that could constrain their ease of use. Some of the restrictions are to ensure correct entry of data in certain fields; for example, the 1040 form will only accept digits inputted to the Social Security field. However, other forms will not handle certain types of data that are necessary for filing, thus preventing their use in certain circumstances. Congress and the IRS are constantly stressing the importance of e-filing and online access of forms to replace and streamline traditional customer service methods, but this is a two-way street. Customers must be able to actually use these tools. If the agency had a better handle on cyber-security, fewer formatting limitations would be necessary.

Overall, business returns consume the most burden hours, totaling over 3 billion hours in the IRS's reported information collection.

Table 4. Top Ten Time Burdens in the Tax Code

Tax Provision	Total Annual Responses (in millions)	Total Annual Burden Hours (in millions)
U. S. Business Income Tax Return	11	3,040
U.S. Individual Income Tax Return	153	1,855
Proceeds from Broker and Barter Exchange Transactions	1,435	674
Form 4562 - Depreciation and Amortization (Including Information on Listed Property)	12	448
Employer's Quarterly Federal Tax Return	39	402
U.S. Income Tax Return for Estates and Trusts	9	308
Employer's Annual Federal Unemployment	7	105
Form 4797 - Sales of Business Property	2	101
Schedule C (Form 1040), Profit or Loss from Business	10	72
Third-Party Disclosure Requirements in the IRS Regulations	307	69

Note: A response is the agency's estimate of the number of total filers responding within the section.

In terms of burden per form, U.S. business income tax returns take an average of 276 hours, with an average cost of $4,700. However, there is tremendous variation between businesses – in 2011, for example, a multinational corporation like General Electric submitted a return that was a staggering 57,000 pages long.[6]

III. The Road Ahead

A. Areas of Progress

TCJA made significant changes that will ease the compliance burden for many taxpayers:

- **Fewer Itemized Deductions**: A key component of the TCJA will nearly double the standard deduction from $6,350 to $12,000 for individuals and from $12,700 to $24,000 for married couples starting in the next tax year. The Congressional Budget Office estimates that the number of filers who itemize will drop from 49 million this year to 18 million next year. Based on the estimated costs in the 2017 1040 Forms listed above, if 31 million filers are able to switch to the simpler 1040A form, they would save an average of eight hours and $180 in costs. The drop in itemizers alone will *save 248 million hours* in compliance burdens, which when added to lower out-of-pocket costs amounts to a **savings of $14 billion**.

- **Full Expensing**: TCJA enacted full expensing to allow businesses to deduct the full value of investments from their tax liability for the year of the investment. This will help grow the economy and at the same time greatly simplify the Tax Code by providing a simple alternative to the complicated depreciation schedules. Unfortunately, the full expensing provisions in the TCJA will start to phase out in 2023, reducing each year until ultimately expiring by the end of 2026.

- **Alternative Minimum Tax (AMT)**: The AMT requires certain taxpayers to recalculate their income on a second form (6251) under a separate rule for allowable deductions and exemptions. The TCJA temporarily raises the level of income that requires individuals to go through the hoops of figuring out their taxes twice. The Tax Policy Center estimates that the number of individuals impacted by the AMT will fall from 5.25 million under the current law to about 200,000 once the TCJA's reforms kick in.[7] The Joint Tax Committee's estimate is that 600,000 will still be subject to the AMT.[8] Either way, this is a significant reduction in compliance burdens for taxpayers, along with complete elimination of the corporate AMT. Unfortunately, it has been many years since the IRS reported a full accounting of the compliance burden of this extra layer of tax forms. In 2004, the paperwork burden estimate for completing Form 6251, where AMT is reported, was 3 hours, 53 minutes. This figure, however, likely far underestimates the financial planning and other efforts that tax preparers and their clients spend on minimizing AMT "triggers."

B. The Top Remaining and New Complexity Challenges

Because of the relative speed with which the TCJA was enacted there are likely to be inconsistencies between sections that will have to be fixed through a technical corrections (which is common after passage of major tax changes) or eventually defined and clarified through the iterative process that crafts regulations. In addition, because of the reconciliation process used to move the legislation, other needed reforms to parts of the Tax Code (and tax administration) were excluded from the TCJA because of Byrd Rule restrictions that prohibit non-budgetary provisions in bills dealing with taxes and spending.

- **Pass-through Provisions:** The pass-through structure enacted through TCJA was designed as a way of providing tax relief for small businesses. However, it has emerged as new source of extensive complexity and controversy, as some businesses allege that they're unable to take advantage of it in the same manner as their competitors. The IRS must now write the regulations that define which types of businesses will be eligible for the pass-through deduction and indicate how strictly the regulations regarding base erosion will be enforced. Owners must then decide which type of structure balances their business strategy and services while minimizing their tax liability.

- **Foreign Account Tax Compliance Act (FATCA**): As NTUF has observed in its previous reports on tax complexity, FATCA imposes an immense burden on Americans abroad through extensive reporting requirements and costly penalties. While the law was ostensibly targeted at "fat cats", its impact has been felt by earners across the spectrum, many of whom were forced to conclude that it was easier to renounce citizenship than complying with the law. Texas A&M University Law Professor William Byrnes calculated last year that repeal of FATCA would reduce revenues by $150 million annually while cutting compliance costs on the economy by $200 million – a calculation that suggests the law imposes more burdens on the private sector than it raises for government.[9]

- **Global Intangible Low Taxed Income (GILTI):** TCJA shifted the tax structure to a territorial system, to reduce the disincentives prior to the new law for companies to repatriate earnings held abroad. As part of that effort, TCJA creates the new GILTI income category. An accountant of Berdon LLP, a financial advisory firm, described GILTI as "another tax provision that is virtually impossible for taxpayers to understand and apply without guidance from an informed tax professional."[10]

- **Base Erosion and Anti-Abuse Tax (BEAT):** TCJA also includes what is essentially a very complex alternative minimum tax to limit a corporation's ability to reduce its federal taxes through payments to related foreign parties. As three top tax analysts from McDermott Will & Emery recently wrote, however, "Congress has granted Treasury broad regulatory authority to issue regulations and other guidance to prevent the avoidance of the BEAT, including through the use of unrelated foreign persons."[11] This will make planning for many businesses a tricky proposition.

The White House and Congressional leaders are working on a follow up tax reform effort to extend the individual income tax provisions in the TCJA that are set to expire (again, thanks to Byrd Rule restrictions). Tax reform "2.0" could also potentially address the lingering complexity issues and new ones enacted through TCJA.

Additional steps would help secure taxpayer rights and help prevent complexity from creeping back into the Tax Code:

- The IRS should be made to comply with a 1998 law to regularly report to Congress on sources of complexity in the administration of the system. The National Taxpayer Advocate (NTA) reported that the IRS issued just two annual reports (the last one was in 2002) compliant with the 1998 statute, and both reports led Congress to adopt legislative fixes.

- While drafting laws, the tax-writing committees should make sure to consult the front-line technical experts in the IRS regarding the potential administrative impact on compliance.

- Like the Quadrennial Defense Review, every four years there should be an active effort to review the Tax Code line-by-line and scrub it of provisions that are conflicting, obsolete, or confusing. The process should involve both public officials and private-sector experts.

IV. Components of Complexity

A. The Size of the Code

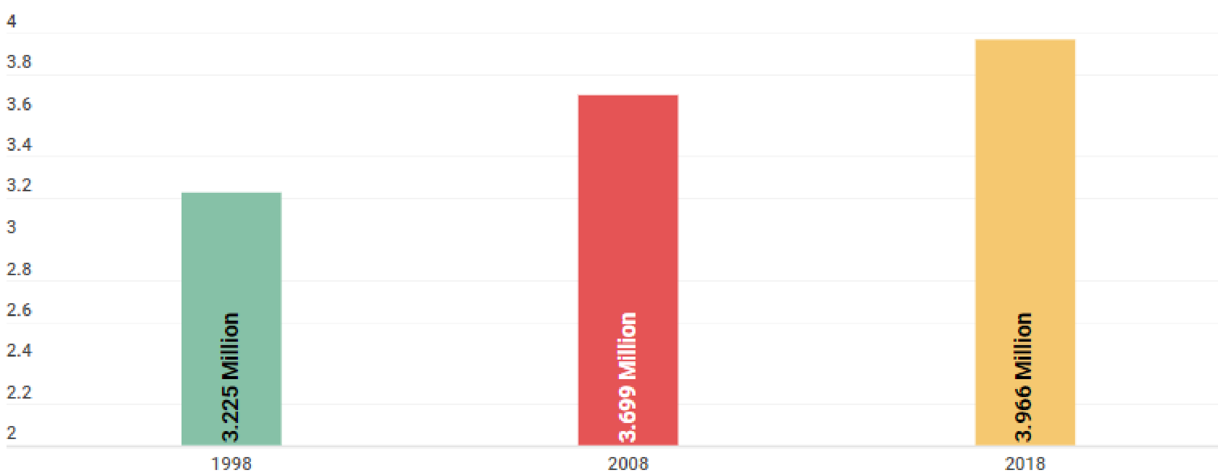
Tax laws, known as the Internal Revenue Code (IRC), are contained in Title 26 of the U.S. Code. Wolters Kluwer, CCH estimates that the 1913 law that established the current income tax system was 27 pages in length. A report published that year including the "text of income tax amendments to the Constitution and Income Tax Act of 1913, plus regulations, rulings, official opinions, judicial decisions and forms" expanded the count of tax provisions to 400 pages.[12]

The Code has continued to steadily expand since then but the reported counts of the total number of pages can vary widely depending on the formatting of columns, page widths, or margins in the documents used … and whether the estimate includes the volumes of tax regulations (see below). Last November, the National Taxpayer Advocate copied the latest available version of the IRC into Microsoft Word and used the program to count over 4 million words, spanning some 11 thousand pages.

To put the NTA's estimated word count into historical perspective, NTUF applied the same methodology to the IRC using editions published this March compared with editions from 10 and 20 years ago, available in compiled pdfs on the website of the House of Representatives.[13] The analysis found that the Tax Code has expanded by over 37,000 words per year, on average.[*] Since 2000, on average, 417 changes to the Code were enacted each year (see Figure 2).

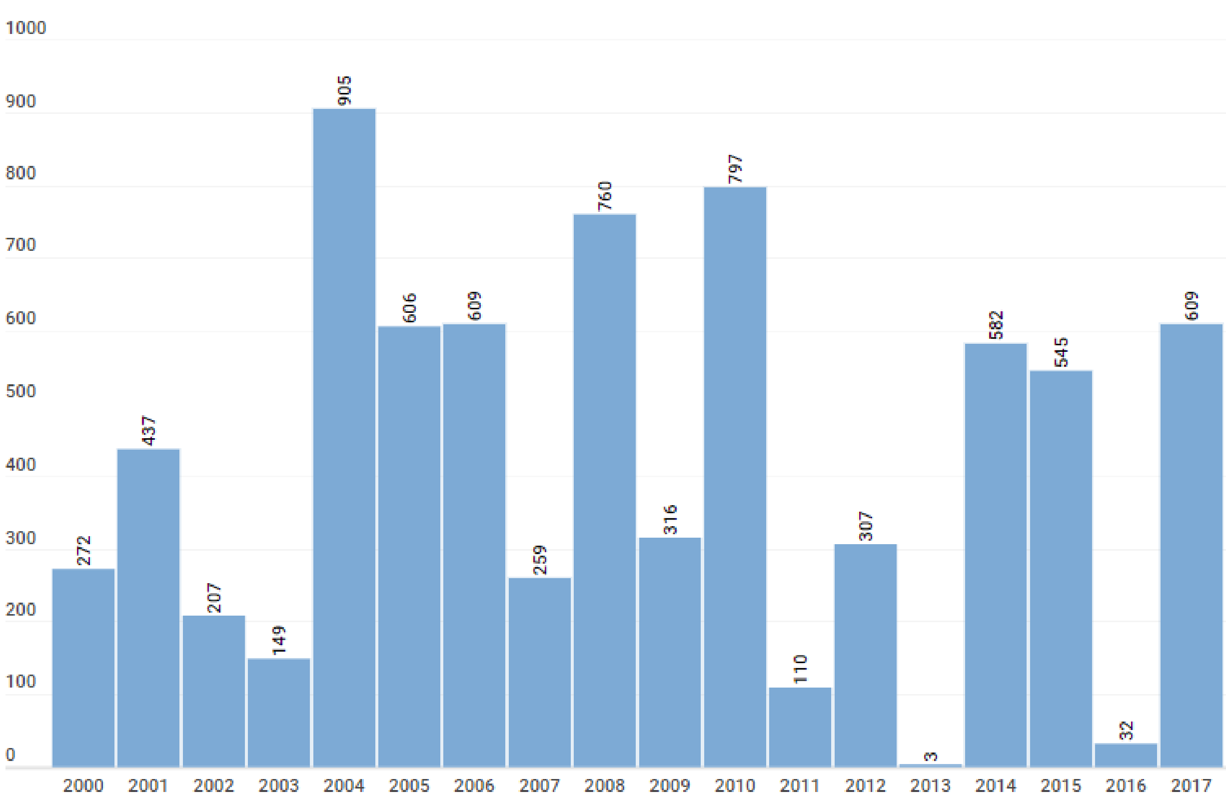
[*]The 1998 version included 3,205 pages and the 2008 version included 3,679, with each page of published in two columns of text. The 2018 version is formatted differently, resulting in a much higher page count of 6,582.

Figure 1. Number of Words in the Internal Revenue Code (Millions)



Source: National Taxpayers Union Foundation analysis of Internal Revenue Code.

Figure 2. Annual Revisions to the Internal Revenue Code: 2000-2017



Source: House of Representatives Office of the Law Revision Counsel.

Keeping up with these annual changes and navigating through the labyrinthine laws is only part of the challenge for anyone trying to make sense of the system. The Department of the Treasury interprets the tax law in the 22 volumes of Title 26 of the Code of Federal Regulations. The most recently available version of Title 26 comprises 16,788 pages, 362 pages longer than the previous version.[14]

As a TV pitchman would say, "But wait, there's more!" The IRS issues additional tax guidance using an array of channels, and can also issue regulations that are retroactively imposed:

- Revenue Rulings: "A revenue ruling is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties and regulations."

- Revenue Procedures: "… an official statement of a procedure that affects the rights or duties of taxpayers or other members of the public under the Internal Revenue Code, related statutes, tax treaties and regulations and that should be a matter of public knowledge."

- Private Letter Rulings: "… a written statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts." While these are written in response to taxpayer requests for information to learn about the tax consequences of a transaction *before* it is made, the rulings "may not be relied upon as precedent."

- Technical Advice Memoranda: " … guidance furnished by the Office of Chief Counsel upon the request of an IRS director or an area director, appeals, in response to technical or procedural questions that develop during a proceeding."

- Notices: "… a public pronouncement that may contain guidance that involves substantive interpretations of the Internal Revenue Code or other provisions of the law."

- Announcements: "… a public pronouncement that has only immediate or short-term value."[15]

A positive sign over the short term can be seen in the Trump Administration's efforts to ease the government's regulatory burden (except for tax preparers). In February 2018, Treasury released a list of nearly 300 regulations to eliminate. Cleaning up these obsolete regulations will have a small impact on reducing complexity for those who struggle to make sense of the Tax Code. While average taxpayers would probably not notice any significant changes resulting from this, it is nevertheless a worthwhile exercise, especially when considered in the context of other steps the Administration has taken (e.g., repealing an onerous estate-tax valuation rule that would have been especially onerous for family-owned businesses).[16]

V. Paid Preparation Has Become a Standard Reality for Most Taxpayers

A. Why Taxpayers Are Seeking Professional Preparers

With this bewildering array of forms, instructions, regulations, and guidance, it is no wonder that so many people seek help filing their taxes. But the IRS limits the guidance it provides to taxpayers who call the agency with tax questions: entire areas of tax law are "out of scope" for telephone tax law assistance.[17] The IRS lists dozens of tax forms and topics for which it will not provide live assistance, including but not limited to international issues, the alternative minimum tax, trusts, and capital gains.[18] Many of these include what people might generally assume to be simple questions. One likely reason for this is that studies in years past found that many taxpayers received wrong information when they called the IRS for assistance.

This explains the IRS survey of taxpayers which found that tax preparers are more highly valued as a source of tax advice and information than IRS representatives.[19] And demand for tax assistance has increased: The IRS estimates that 56 percent of forms were submitted with the help of a paid preparer and another 34 percent of filers used tax preparation software.[20] The tax preparation industry has seen steady growth as a result. According to the market research firm IBISWorld, the tax preparation industry generated over $11 billion in revenue in 2017, and was comprised of 319,139 employees (up from 313,311 employees in 2016) across 135,331 businesses (compared to 131,629 in 2016).[21] And the overall cost continues to climb.

For several years, National Taxpayers Union and National Taxpayers Union Foundation have tracked the average fee charged by H&R Block[22], one of the largest such preparation businesses in the country, preparing one in every seven U.S. tax returns[23]. Perhaps not surprisingly, those fees have steadily increased along with the system's complexity.

Table 5. Average Fee Charged by H&R Block

Calendar Year	Average Fee
1980	$27.36
1985	$45.39
1990	$49.99
1995	$61.77
2000	$101.40
2005*	$145.08
2010#	$187.93
2011**	$190.97
2012**	$189.96
2013**	$192.24
2014**	$215.06
2015	$224.02
2016	$233.27
2017	$237.81

Source: National Taxpayers Union, H&R Block.

****Through March 15. #Through March 30. **Through April 30; total U.S. tax preparation fees divided by number of company-owned retail returns.***

H&R Block's calculation of the net average fee per return has changed in recent years, sometimes including fees from other services such as Refund Anticipation Loans.

It should be noted that even after adjusting the $27.36 average fee from 1980 for inflation (equal to $87.56 in 2018 dollars), the cost of return preparation has nearly tripled since then, suggesting that the growth in tax complexity is outpacing even the technological and administrative improvements that have been made to professional preparation firms in that time.

B. IRS's Heavy-Handed Attempts to Regulate Preparers

As more filers seek professional assistance, either to save time or out of fear of making an error and triggering an audit notice, the IRS has been attempting to increase its oversight for preparers. Under the law, the IRS has the authority to regulate "representatives" who "practice" before the agency. In 2011, the IRS, interpreting that as applying to *all tax preparers*, sought to impose a licensing system. Subsequently, a court ruling determined the IRS had attempted to exceed its statutory authority.

At the same time, The IRS had set a policy that anyone who is paid to prepare or help prepare a federal tax return, or who employs someone to prepare returns, must apply for and annually renew a Preparer Tax Identification Number (PTIN). Initially, the IRS had attempted to charge an exorbitant $64.25 application fee and $64 for renewal, but reduced the amount to $33 in 2015. In 2017, a U.S. District Court ruled that the fee was unlawful (because it provided no "service or thing of value" to the preparers[24]) and forced the IRS to refund the fees that had been collected. The IRS is in the process of appealing the decision.[25] As of April 1, 2018, the IRS reports that 737,102 individuals had current PTINS.[26] If a future court ruling permits the IRS to reinstate the fee, preparers could be on the hook for at least $38 million.[27]

The IRS has also been seeking to increase regulation of tax return preparers through its annual budget submissions. The budget for FY 2019 requests an additional $17 million to create 75 positions in the agency to expand authority to oversee paid preparer. Additionally, legislation in Congress would seek to expand the IRS's scope: the Tax Return Preparer Accountability Act of 2017 would give the Treasury Department new credentialing powers.[28]

Many of the new regulations would be duplicative of existing mandates and related safeguards that are already in place: as noted, each preparer must use a unique PTIN that can be used to identify patterns of fraudulent or questionable returns, preparers (and their firms) can also be liable for penalties for willfully taking unreasonable positions on filed returns,[29] and preparers have to fill out Form 8867, now known as the Paid Preparer's Due Diligence Checklist, to ensure that they've taken certain steps to verify eligibility for certain refundable tax credits that are often a source of tax fraud. They face fines of $510 for each credit where they fail to exercise due diligence.[30] Granting additional authority to the IRS could end up forcing many independent tax preparers out of business due to increased compliance costs. The result would mean less competition and fewer choices for filers.

C. “Return-Free” Could Impose More Reporting Burdens While Risking Taxpayers’ Privacy

Equally concerning is another long-standing scheme called the “Return-Free” system, which would have the IRS send pre-filled tax forms to citizens for their signatures. Advocates of this proposal point to countries such as Great Britain, Sweden, and Spain where this has been implemented, but fail to note that their tax systems are fair simpler than in the U.S., or that it could require significant additional reporting mandates on employers that “would fall disproportionately on small businesses.”[31] In addition, the system could potentially short-change taxpayers of considerable savings if they were to complete returns themselves or with private assistance. Worse, many Americans would likely be intimidated into submitting to the IRS’s supposed “voluntary” procedure out of fear that not doing so would provoke government retaliation. And, those taxpayers who dare challenge the information that the government pre-filled for them will have to run the gauntlet of the IRS’s ineffective customer service system (more on this below).

Furthermore, as we’ve seen with the concern over private data from online social media services, if the IRS provides forms to complete online, all actions of the taxpayer – including keystrokes made while filing – could be monitored by the tax agency. Perfectly innocent mistakes a filer corrected while completing the forms could be interpreted by the IRS as grounds for follow-up examinations.

In any case, a highly successful public-private partnership known as the Free File Alliance has for the past 15 years provided free electronic tax return filing to over 51 million moderate-income filers. For Tax Year 2017, Free File is available for filers with income of less than $66,000. This service, scrupulously overseen by more than a dozen online tax preparation firms, has saved consumers and taxpayers more than $1.5 billion in overhead costs since its inception, assuming a conservative $30 cost per prepared form.[32] These savings also accrue for the IRS itself due to the efficiency of processing fewer paper returns.

VI. Taxpayer Services

A. Phone Services

Considered in whole, the IRS has serious difficulties and deficiencies administering the Tax Code and responding to the needs of taxpayers. However, there was at least one area of positive news to highlight: the IRS continued to make great strides in its telephone service to taxpayers. Performance metrics are typically better during tax filing season, when the IRS devotes additional personnel to responding to calls. The wait time for a call during filing season improved from 9.7 minutes in 2016 to 6.8 minutes last year. The metrics for the full year improved dramatically. The average wait time was cut to 8.4 minutes, down from nearly 18 minutes in 2016, and a half-hour in 2015.

Table 6. IRS Telephone Service

Fiscal Year	Total Calls (millions)	Calls Answered (millions)	Abandoned Calls, Busy Signals, or IRS Disconnects (millions)	Level of Service (percent)	Average Wait (minutes)
2011	112.7	76.5	36.2	70.1	13
2012	131	90	41	67.6	16.7
2013	128.3	84.1	44.2	60.5	17.6
2014	99.1	63.9	35.1	64.4	19.6
2015	111.9	55.7	56.2	38.1	30.5
2016	114	63.8	50.6	53.4	17.8
2017	n/a	52.4	n/a	77.1	8.4

Source and Notes: Government Accountability Office, IRS 2017 Data Book. 2017 data for Total Calls and Abandoned Calls not available as of publication. The Level of Service is not a measure of the number of callers to the IRS that are able to reach an assistor. It is calculated from a formula: (Assistor Calls Answered + Automated Calls Answered (Info Messages)) divided by (Assistor Calls Answered + Automated Calls Answered (Info Messages) + Emergency Closed + Secondary Abandons + (Add either Calculated Busy Signal OR Network Incompletes) + (Add either Calculated Network Disconnects OR Total Disconnects)).

Although the overall average has improved, only 44 percent of taxpayers on the phone to the IRS about a specific collection issue had their call answered, and they had an average wait of 42 minutes. Anyone who called about an installment agreement had a mere 40 percent chance of getting through and an average wait of 47 minutes.[33]

In the private sector, over 60 percent of callers will hang up if they are kept on hold for two minutes.[34] In a recent survey, the IRS found that 97 percent of callers are willing to wait at least five minutes, but only 62 percent are willing to remain on hold at least 10 minutes.[35] The IRS' history of high average wait times leads to the high number of abandoned calls. In 2016, the IRS reported over 50 million callers either reached a busy signal, abandoned the call, or were disconnected by the agency. As further evidence that the IRS should do a better job of reporting customer service data, the information for 2017 has not yet been made available to the public. The IRS's Joint Operations Center regularly monitors and tracks call center data, but its reports are not readily accessible to the public. The Government Accountability Office (GAO) has urged the IRS to create a dashboard reporting customer service data that would help track progress and improve accountability to the public.[36]

B. Written Correspondence

Sending written correspondence to the IRS will also often result in a protracted wait. On average, the IRS receives 10 million pieces of mail per year. Similarly, there is a lack of complete data regarding the service quality of written correspondence between taxpayers and the IRS, as a full public accounting is not yet available. Under the agency's guidelines, any correspondence that remains unresolved after 45 days is counted as "overage." In 2016, the Treasury Inspector General for Tax Administration warned that the IRS needs to better manage its correspondence after finding that the percentage of overage in the IRS' total inventory had increased from 40 percent in 2012 to over 49 percent in 2015.[37] Because of the lower call volume in 2017, the IRS was able to devote more resources to written correspondence, reducing the overage rate through March 25 to 31 percent, compared to 46 percent through the same date in 2016.[38] The IRS has made improvements but individual taxpayers must still wait 69 days in response to adjustment correspondence, which includes requests because of processing errors on returns, missing schedules, claims, amended returns, or internal transcripts.

Table 7. IRS Adjustments Correspondence Inventory Overage

	FY 2015	FY 2016	FY 2017
Individual Correspondence Volume (adjustments)	4,358,447	4,817,708	4,598,654
Average Cycle Time to Work Individual Master File Correspondence	80 days	84 days	69 days
Inventory Overage	68.3%	49.1%	39.5%
Business Correspondence Volume (adjustments)	2,952,329	2,940,925	2,736,451
Average Cycle Time to Work Business Master File Correspondence	46 days	47 days	45 days
Inventory Overage	18.8%	8.6%	11.7%

***Source: Taxpayer Advocate Service*[39]**

C. Case Management Still Mired in Outdated Technology

Despite the phone service improvements, significant problems remain for those callers who get through to an IRS representative. GAO reports that the two oldest, legacy database systems in the entire federal government are maintained by the IRS. The Individual Master File and the corresponding Business Master File track the data of hundreds of millions of tax accounts and were coded on an outdated, low-level assembly language from the 1950s, all of which was stored on magnetic tapes. Major, multi-billion dollar attempts to modernize the system in 1988 and 1997 failed. In recent years, funding for major system upgrades had to compete with the rollout of massive new tax enforcement regimes through the Affordable Care Act and the Foreign Account Tax Compliance Act. Plans are still being considered to replace the Master File systems, but a timetable is uncertain.

Incidentally, any taxpayers facing an issue with the IRS would be well-advised to submit a Freedom of Information Act Request for a copy of their IMF, and to consult a tax expert to help decipher the alpha-numeric codes that are used to enter transaction, form, and location data into the system. The Master File systems also have size limitations, necessitating the creation of the Automated Non-Master File (ANMF) system in 1991 to account for transactions in amounts over the limit (prior to 1991 these were still tracked on paper ledgers). Despite ANMF's name, the accounts are processed manually. This extra layer of recordkeeping can lead to inconsistencies that impact taxpayer rights: the Treasury Inspector General for Tax Administration identified discrepancies between taxpayer address or taxpayer representative information between the Master File and the ANMF.[40]

In last year's tax complexity study, we wrote that, in total, the IRS operates at least 60 different case management systems. National Taxpayer Advocate Nina Olson clarified that there are "between 60 and approximately 200 different case management systems" and they lack integration.[41] This means that when a concerned taxpayer gets through to an IRS representative, that agent might not have access to that person's file. This adds to the taxpayer's wait time and aggravation as the representative tries to figure out who in the bureaucracy would be able to access the needed information. The IRS is working on a new "Enterprise Case Management System", but it will be several years before it is brought online … or whether taxpayers find out if it ended up like previous attempts to roll out technological upgrades that were ultimately unworkable despite billions of dollars invested in the programs.

VII. Conclusion

The TCJA made great strides in reducing the tax burden on individuals and businesses. Though optimism abounds, it remains to be seen what the net effect on the overall level of complexity will be. It is widely expected that a significant number of filers on the individual side will experience an easier compliance burden in the years ahead, but the net impact of several of the significant changes on the business side will remain in flux, pending further guidance from the IRS, the Treasury, and potentially Congress. Taxpayers, and the IRS, will need time to adjust to the changes and figure out the implications of the first comprehensive overhaul of the tax laws in over 30 years.

Fortunately, Congress is already taking steps to change the way the laws themselves are administered, as well as the agency tasked with doing so. On April 11 the House Ways and Means Committee marked-up a package of bills designed to "better serve and protect taxpayers."[42] Elements include:

- Protecting small businesses from unfair IRS property seizures that were based on suspicions of "structured transactions";
- Strengthening the independent appeals process for taxpayers in audits;
- Creating leadership and new procedures to upgrade the IRS's information technology and identity theft safeguards, including benchmarks for modernizing the case management and other data systems;
- Making the Free File program permanent;
- Providing better access to tax assistance and remedies for past-due tax payments for moderate-income families; and
- Calling on the IRS to prepare a restructuring plan.

Time will tell if these proposals become law, and how much more simplification of tax compliance burdens TCJA can deliver. Meanwhile, taxpayers will struggle through the current tax filing season, as they try to look forward to one in 2019 that could have tens of millions fewer headaches. After more than 30 years of coping with the near-constantly intensifying pain of tax complexity, the wait for these Americans will seem short by comparison … and the relief will be all the more welcome.

About the Author

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