

# POLICY PAPER

National Taxpayers Union Foundation

Issue #178 • April 13, 2017

## **Tax Complexity 2017: As the Burden Grows, Taxpayers' Patience Shrinks**

### **Policy Paper No. 178**

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April 13, 2017

### **I. Introduction**

Taxpayers are all too familiar with how much they owe in taxes each year. But perhaps less appreciated is the burden that goes above and beyond one's tax obligation: the incredible amount of time that is required each year to comply with our nation's extremely complicated tax system. The purpose of this paper is to examine the state of the Tax Code and the complexity burdens it imposes not only on taxpayers, but also on the Internal Revenue Service's ability to administer the system and provide quality service to taxpayers.

It has been over thirty years since taxpayers have seen the last comprehensive reform of the federal income tax: relief from our convoluted system is long overdue. Congress and the Trump administration are working through plans to reduce tax burdens and simplify the Tax Code, but until reforms are enacted, taxpayers will remain mired in a deeply flawed and complicated system.

Perhaps as a symptom of how unwieldy the tax system has become, one of the nation's largest tax preparer firms has teamed up with IBM's Watson to assist filers this year. Perhaps it's fitting that an artificial intelligence technology be enlisted to help citizens understand the tax laws, since they seem to be beyond the comprehension of the human mind. Regrettably, this is the current state of affairs, but ideally taxpayers should not have to consult a supercomputer to properly fill out their taxes!

The Tax Code should work for everyday people. However, as it stands, too many Americans have to spend too much time complying with a tax system that is far too complex. In the time that taxpayers have been waiting for change, the Code has grown more complex, the compliance burden has increased, a growing number of taxpayers have been driven to revoke their citizenship, and the Internal Revenue Service has continued to fail to provide benchmark services for taxpayers seeking assistance. Answering the question of how tax reform would function – not just what it would contain – is vital to its success.

## II. Complexity Escalates

### A. Compliance Time and Costs

The IRS currently publishes 199 tax reforms related to the individual income tax.<sup>1</sup> Of these, 121 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.<sup>2</sup> 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 \$280. In 2016, the IRS received 150.7 million individual tax returns, of which 149.8 million were the 1040, 1040A, or 1040EZ.

<b>Form</b>	<b>% of 1040 Returns</b>	<b># of Returns</b>	<b>Hours per Form</b>	<b>Total Hours</b>
1040	69	103,364,760	15	1,550,471,400
1040a	19	28,462,760	8	227,702,080
1040EZ	12	17,976,480	5	89,882,400
<b>Total</b>	<b>100</b>	<b>149,804,000</b>		<b>1,868,055,880</b>

Data Source: Internal Revenue Service, *Form 1040 Instructions: 2016* and *2016 Data Book*.

For these three forms combined and then averaged across the filing population, the activity of keeping records and completing, submitting and complying with the Internal Revenue Code's (IRC's) basic series of returns requires an average of 13 hours from each filer.<sup>3</sup> In total, the time spent on the nearly 150 million 1040 forms filed in 2016 consumed 1.9 billion hours of productivity. This is time spent figuring out how much we collectively owe the federal government, a significant opportunity cost.

Unfortunately, these forms do not represent the totality of the Tax Code, nor individuals' time spent dealing with the whole system. There are a number of steps involved whose time burdens will vary by filer including record keeping and retrieval, calculating figures for the form and schedules, seeking guidance or tax preparation assistance, and submitting the files to the IRS. After filing, some taxpayers will have to respond to requests for additional information from the IRS, or perhaps need assistance resolving a case of taxpayer identity theft that may have been uncovered while trying to file.

The Taxpayer Advocate Service estimates that taxpayers spend over 6 billion hours complying with the Tax Code.<sup>4</sup> The agency's research division calculated this figure based on the average time the IRS estimated that it took people to fill out their tax forms in 2015, and multiplied that by the nearly 150 million individual forms filed that year. The tally does not account for all tax forms, nor does it take into account time taxpayers spend responding to post-filing notices, examinations, or collection

actions. While those factors increase the overall burden, to the extent that a filer makes use of technology and automation in filing, the extra time allotment could be moderated somewhat.

As costly and significant as this is, it does not fully account for all charges and “time sinks” related to compliance. A more comprehensive accounting of the total time burden of the tax code can be gleaned from the Office of Management and Budget’s (OMB) *Information Collection Budget of the United States Government*.<sup>5</sup> This report, which was mandated through the Paperwork Reduction Act (PRA) of 1995, tracks the information collection burden imposed by federal agencies and departments. An information collection, or paperwork burden, is defined under that Act as any reporting or recordkeeping requirements and is represented as hours spent by the public responding to them. The latest report, reflecting FY 2015 data, shows that the public expended an estimated 9.78 billion hours responding to all federal paperwork burdens. The federal agency responsible for the vast bulk of this is the Internal Revenue Service. Citizens spent 6.989 billion hours complying with IRS forms and record-keeping requirements – 74 percent of the entire federal government’s imposed paperwork load! Nothing else Washington does – whether enforcing labor laws, administering loan programs, or issuing environmental edicts – comes as close in requiring so much effort from Americans to understand and fulfill.

Some perspective may help gauge how time is taken through tax code compliance. Think of it this way: the amount of time spent is equal to over 291 million days and over 797,000 years. It would take 68,386 American workers, who begin employment at age 18 and labor every single work-week of their lives with no days off, until reaching the full Social Security retirement age of 67, to account for that much time.

We can arrive at an estimate of the value of this time 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 \$32.76 per hour worked on total non-federal civilian employee compensation in December 2017 (that figure includes wages and salaries as well as benefits).<sup>6</sup> Thus, 6.989 billion hours of such work would have paid \$229 billion – valuable labor that will instead be lost to Tax Code compliance. Add to that the \$33.672 billion in estimated out-of-pocket costs taxpayers spent on software and professional preparation services<sup>7</sup>, and the total economic value of compliance burden of the Tax Code can be calculated at **\$262.632 billion**.

This burden is greater than the annual revenues of all but one Fortune 500 companies. This cost also surpasses the GDP of 154 countries, including Chile, Finland, and Portugal.

A much worse threat is looming on the horizon. The PRA requires that federal agencies obtain approval before requesting most types of information from the public. The approved collections are maintained in an online database which provides information on the total paperwork amount for every government form, interview, or record keeping requirement. This database shows a total approved compliance burden of over 8.148 billion hours for all activities of the IRS.<sup>8</sup> If this estimate bears out, it would mean that taxpayers would face a *total opportunity cost of over \$300 billion*.

## *B. Federal Tax Forms*

A sign of the creeping complexity of tax law is apparent in the increasing length of the 1040 form. Taxpayers must now wade through 241 pages of instructions to fill out the 1040 form and its corresponding schedules. This figure has more than quadrupled since 1985 – the year before tax reform was enacted.

**Table 2. Form 1040 Form and Instruction Booklet Length**

<b>Tax Year</b>	<b>Lines, Form 1040</b>	<b>Pages, Form 1040</b>	<b>Pages, Form 1040 Instruction Booklet</b>
2016	79	2	241
2015	79	2	211*
2014	79	2	209*
2013	77	2	206**
2012	77	2	214
2011	77	2	189
2010	77	2	179
2005	76	2	142
2000	70	2	117
1995	66	2	84
1985	68	2	52
1975	67	2	39
1965	54	2	17
1955	28	2	16
1945	24	2	4
1935	34	1	2

*Notes:*

*\*Since 2014, the IRS has published the instructions for Form 1040 schedules separately. These figures also include the number of pages in the instructions for Forms 8812 and 8949 and Schedules A, C, D, E, F, R, and SE.*

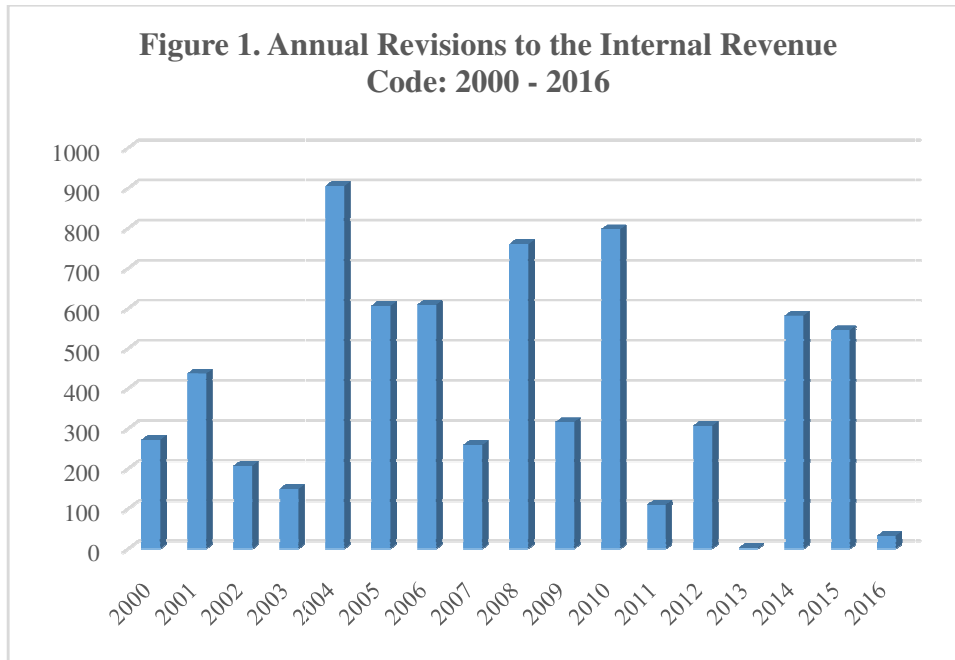
*\*\*Excludes one extra page in the IRS's online PDF version regarding donations for Philippinestypphoon relief.*

As noted above, there are 199 forms related to the individual income tax, as well as 230 business tax forms, 14 related to employer’s quarterly tax returns, and many others related to benefit plans, gift and estate taxes, etc. IRS’s list of forms currently consists of 1,278 available files.<sup>9</sup>

### *C. Length of the Tax Code*

The hundreds of IRS forms make up the average user’s interface with the underlying Tax Code; the fact that there are so many files is indicative of how massive the Code is. Last December the Taxpayer Advocate found that the Code contains 4 million words of 10,928 pages.<sup>10</sup> Only Title 42, related to “The Public Health and Welfare,” is larger.<sup>11</sup>

There are many changes to the Code during most years. Since 2000, there have been revisions to 6,896 sections of the Internal Revenue Code – an average of 406 each year, more than one per day.



The difficulty of navigating through the unmitigated length of the law is worsened by its complexity. Pick any random section of the law and you'll find multiple references to, or citations of other sections of the Code. This means that to understand one particular part of the Code, you must also understand additional sections that are in turn likely dependent on further sections. A study found that Title 26 has the most intra-title citations in the U.S. Code and was overall (using a textual analysis with different metrics) the second most-complex Title in the Code. Here again, the Tax Code was only beaten out by the section pertaining to public health.<sup>12</sup>

Moreover, there exists duplication throughout the Code: the Taxpayer Advocate recommends needed reforms including "a consolidation of the 12 different incentives to encourage savings for education and the 15 incentives to encourage retirement savings; and a streamlining of the more than 170 penalty provisions for tax violation."<sup>13</sup> The Government Accountability Office has regularly advised Congress that tax expenditure programs often overlap with spending programs, and that a coordinated review could help determine which are most effective and to address redundancies.<sup>14</sup>

#### *D. Tax Regulations and IRS Guidance*

Undergirding the complex Code are the 22 volumes of Title 26 of the Code of Federal Regulations. These provide "the official interpretation of the IRC by the U.S. Department of the Treasury." The current volume racks up to 16,426 pages.<sup>15</sup> The Tax Foundation estimates that it includes 7,655,000 words.

Then on top of all that, there is the confusing array of guidance from the IRS, including:

- 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.”<sup>16</sup>

These various types of guidance are published weekly in the Internal Revenue Bulletin. Adding to the difficulty of keeping up with the periodic updates of the regulations, Treasury has the authority to move the goalposts during the game, so to speak, by issuing tax regulations that are imposed retroactively.

An additional factor for consideration is the body of guidance provided by the U. S. Tax Court and Federal District Courts on controversies involving tax law. These decisions involve a level of complexity that can transcend many traditional legal proceedings. Martin J. McMahon, Jr., a tax scholar at the University of Florida, publishes a review of significant tax court decisions and administrative rules from the preceding year. In the most recent report, the authors note, “Most Treasury Regulations, however, are so complex that they cannot be discussed in detail, and, anyway, only a devout masochist would read them all the way through... .”<sup>17</sup>

#### *E. Paid Preparation Has Become a Standard Reality for Most Taxpayers*

With this bewildering array of forms, instructions, regulations, and guidance, it is no wonder that so many people seek help filing their taxes. In 2014, the IRS Commissioner estimated that 56 percent of forms were submitted with the help of a paid preparer and another 34 percent of filers used tax preparation software.<sup>18</sup> According to the market research firm IBISWorld, the tax preparation industry generated over \$10 billion in revenue in 2016, and was comprised of 313,311 employees (up from 292,718 employees in 2015) across 131,629 businesses (compared to 118,890 in 2015).<sup>19</sup> And the overall cost continues to climb.

**Table 3. Average Fee Charged by H&R Block**

<b>Calendar Year</b>	<b>Average Fee</b>
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

*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's worth noting, even after adjusting the \$27.36 average fee from 1980 for inflation (equal to \$80.92 in 2017 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.

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 over the preparers. In 2011 the agency sought to impose a licensing system, but a court ruling determined the IRS had attempted to exceed its statutory authority. Legislation in Congress would seek to expand the IRS's scope: the Tax Return Preparer Competency Act of 2017 would give the tax agency new credentialing powers.<sup>20</sup> However, many of the new regulations would be duplicative of existing mandates and related safeguards that already in place: each preparer must use a unique Preparer Tax Identification Number that can be used to identify patterns of fraudulent or questionable returns. 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.

Equally concerning is another longstanding scheme called the "Return-Free" system, which would have the IRS send pre-filled tax forms to citizens for their signatures. One advocate of this system compares the tax form to a credit card bill: "If Visa sent you a blank piece of paper each month instead of a bill you'd say, 'This is crazy.'"<sup>21</sup> Actually, the opposite is true. Aside from potentially duping taxpayers of considerable savings if they were to complete returns themselves or with private assistance, 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, 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 more than a decade provided free electronic tax return filing to tens of millions of moderate-income filers. 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. These savings will increase: the IRS announced that it will have been able to reduce its workforce 8 percent by 2024, due to the efficiency of processing fewer paper returns.<sup>22</sup>

#### *F. Affordable Care Act Adds to Complexity*

The 21 tax changes imposed via the Affordable Care Act (ACA) have also contributed to the complexity of tax law and compliance. As we noted last year, the IRS has published thousands of pages of regulations pursuant to the ACA and an anthology of resources for taxpayers that attempt to help them wade through the requirements and mandates of the complex law.<sup>23</sup>

The law requires all Americans to obtain health insurance coverage or be subject under the individual mandate to a tax penalty known as the “Individual Shared Responsibility Provision.” The tax penalty is set to increase annually. For 2016 the amount was the greater of either \$695 per adult – more than double last year's rate – plus \$347.50 per child (capped), or 2.5 percent of household income. The IRS notes, “The law prohibits the IRS from using liens or levies to collect any individual shared responsibility payment. However, if you owe a shared responsibility payment, the IRS may offset that liability against any tax refund that may be due to you.”<sup>24</sup>

One relatively small compliance burden related to this has been eliminated by the Trump administration. The IRS had announced that it was going to automatically reject the so-called “silent tax returns” that did not include proof that the filer was in compliance with the ACA's individual mandate to purchase health insurance.<sup>25</sup> But pursuant to an executive order, such forms will be processed normally, though as long as the individual mandate is still standing law, filers without coverage will still be subject to a tax-penalty.

The ACA also provides an advance refundable premium tax credit as a subsidy for the purchase of health insurance, but the credit is only available through the flawed and failing exchanges established under the law. As fewer and fewer providers offer plans via the exchanges, consumers are left with fewer options. They also lead to complications for eligible taxpayers. The exchanges are supposed to verify eligibility for the premium tax credit based on the person's income at the time, and the cost of the insurance. Then at the end of the year, those individuals are supposed to reconcile the amount of credit they received with their actual income for the year. Depending on their income level, a filer may have to repay a portion of the credit they received. If you are exempt from the coverage provision, don't worry ... there's another IRS form for that.<sup>26</sup>



In addition to driving up premium costs and tax burdens,<sup>27</sup> the ACA also costs time: the American Action Forum has tracked at least 72.5 million hours of paperwork resulting from the arcane law.<sup>28</sup> Unless the law is repealed or reformed, many employers and insurance providers will face increased burdens in the coming years as they plan for the looming “Cadillac tax.” Starting in 2020, this excise tax will impose a 40 percent excise tax on “high cost employer-sponsored health coverage.” The threshold will include employer-sponsored plans that exceed the specified limit of \$10,200 for individual coverage and \$27,500 for family coverage. A survey by the Kaiser Family Foundation found that 1 in 4 companies expect to be subject to the tax. Because the threshold would only be adjusted each year by a measure of inflation that typically understates the actual rise in health costs, more plans are expected to be impacted by the tax as time goes on.<sup>29</sup>

### *G. The Long Arm of the IRS Extends Abroad*

Certain taxpayers could face extra tax-related compliance issues this year thanks to a recently enacted law. If the IRS determines that someone has a “seriously delinquent” tax debt, it now has the authority to ask the Department of State to revoke his or her passport. This prevents people from being able to leave the country, but it could also interfere with the ability to travel within the U.S. if that person’s state does not issue identification documents that meet the requirements of the REAL ID Act.<sup>30</sup> However, other citizens and persons already abroad also must deal with a particularly intrusive tax law.

During election years it is a common occurrence that some people will vow to leave the country if their preferred candidate loses. And while 2016 saw a record number of people renouncing their American citizenship, the exodus had far more to do with the IRS than the results of Election Day. The number of expatriates has been on an upward trend since passage of the Foreign Account Tax Compliance Act (FATCA). In fact, the law has been so indecipherable and controversial in its projected impacts, that parts of FATCA have been delayed in their implementation for several years.

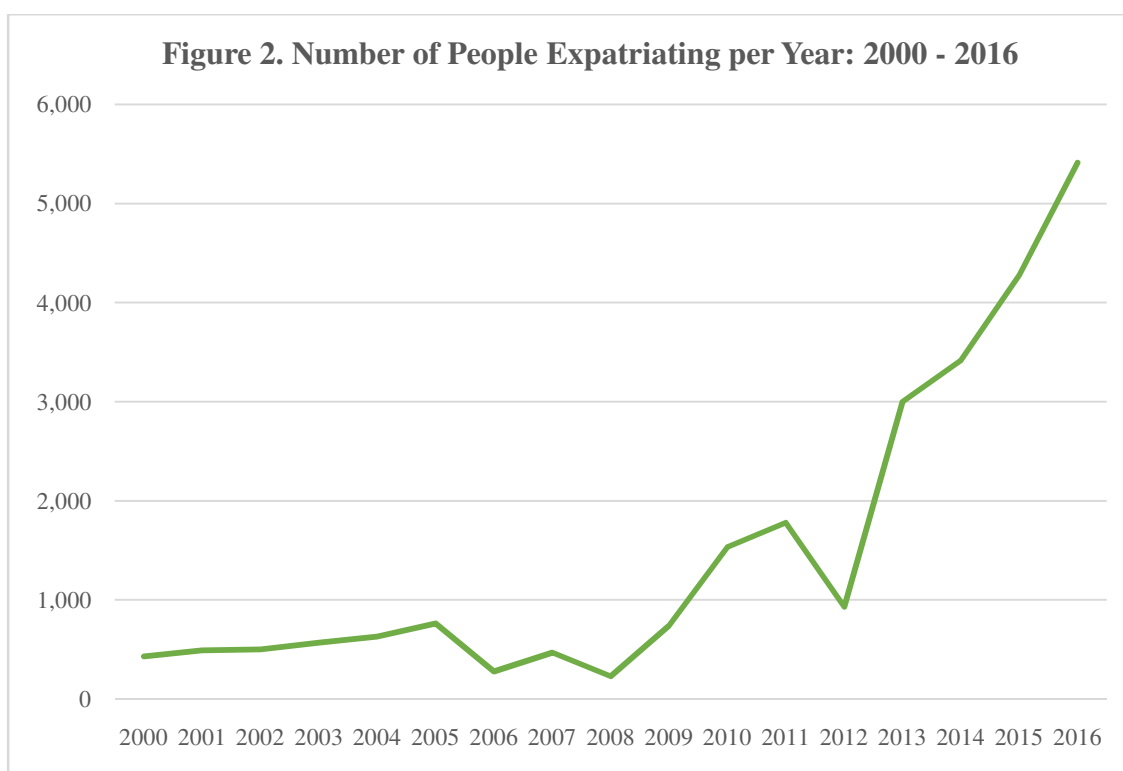
FATCA has forced other countries to alter their laws so that their banks and financial institutions report information on account holders who are “U.S. persons” (a legal term referring not only to citizens, but also to certain nonresident individuals, estates, trusts, corporations, and partnerships).<sup>31</sup> These reporting requirements are applied on top of a system that taxes – and in some cases double taxes – income regardless of where it was earned, even if those who earned it did not spend a day in the U.S. all year. Foreign companies that refuse to comply with the reporting requirements risk being frozen out of U.S. financial markets, and will be subject to a 30 percent withholding tax on their U.S. earnings.

This law was ostensibly targeted at so-called “fat cats” (hence its acronym) and tax evaders, but has inflicted a litany of headaches and hassles on people across the income spectrum. Americans – and a new classification of “accidental Americans” – abroad have reported challenges finding banks willing to take them as customers, or found that their existing accounts were closed.<sup>32</sup>

Tax Analysts shared the story of one particularly egregious example of the confusion in FATCA’s wake, of a Canadian who happened to be born in the United States while her parents, both Canadian citizens, were in the country as exchange students. This classified her as a “U.S. person” for purposes of tax law, and, unfortunately, her retirement savings were put at risk.<sup>33</sup> Similarly, because

former London Mayor Boris Johnson was born in the United States, Uncle Sam assessed a capital gains tax after he sold his home in England.<sup>34</sup> And there's the case of the ten-year old son of a U.S. citizen overseas who learned about the IRS's extensive power after trying to open a \$100 savings account, and, under the acting principle of FATCA that one is guilty until proven innocent, was required to verify whether he had any ownership in foreign financial assets over \$50,000.<sup>35</sup>

Sadly, the data reflect that many Americans living abroad agree with the Taxpayer Advocate's conclusion that the IRS has "adopted a coercive approach to international taxpayers, reflecting an assumption that all such taxpayers are suspect of fraudulent activity."<sup>36</sup> A record number of 5,411 people renounced their citizenship last year. As one such person wrote in an open letter in *Forbes*, "It has become too expensive, too difficult, and frankly, too frightening, to try to comply with all of the tax filing requirements that now apply to U.S. citizens living abroad."<sup>37</sup>



While the law was still being implemented, it was forewarned that the compliance costs of up to \$8 billion per year would be ten times greater than the expected revenue.<sup>38</sup> To date, estimates of compliance costs for each of the 250,000 financial firms around the globe that fall under the reach of the law have ranged from several million to hundreds of millions of dollars. Total costs have been estimated from \$60 billion to \$170 billion.<sup>39</sup> These amounts dwarf the revenues raised: the IRS has collected roughly \$10 billion due to the onerous law, but the majority of this amount was from penalties for failure to submit FATCA reporting forms rather than through tax receipts.<sup>40</sup>

The U.S.'s global tax system also drives businesses overseas. The United States currently has the highest statutory tax rate in the industrialized world. Our combined federal, state, and local rate of

approximately 39 percent is more than triple that of Ireland, and nearly double the rates of the United Kingdom, Switzerland, Poland, and Finland.<sup>41</sup> By other measures, the U.S. exceeds our global competitors on effective or marginal tax rates, placing the nation “among the least tax-competitive countries for capital investment.”<sup>42</sup> The current tax system has forced many companies to take steps toward relocating their headquarters overseas to remain competitive globally.<sup>43</sup>

### **III. Complexity Curtails Taxpayer 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 made great strides in their telephone service to taxpayers between the 2015 and 2016 filing seasons. Although there was a 2 percent increase in the volume of incoming calls, the wait time was cut from 23 minutes to 11 minutes. The number of taxpayers who reached live assistance increased from 37% of callers to 71%. These differences are largely due to the offseason acquisitions of key full-time equivalents to help tackle the 114 million calls the IRS received in 2016.

<b>Fiscal Year</b>	<b>Total Calls (millions)</b>	<b>Level of Service (percent)</b>	<b>Average Wait (minutes)</b>
2009	104.2	70	8.8
2010	104.2	74	10.8
2011	112.7	70.1	13
2012	131	67.6	16.7
2013	128.3	60.5	17.6
2014	99.1	64.4	19.6
2015	111.9	38.1	30.5
2016	114	53.4	17.8

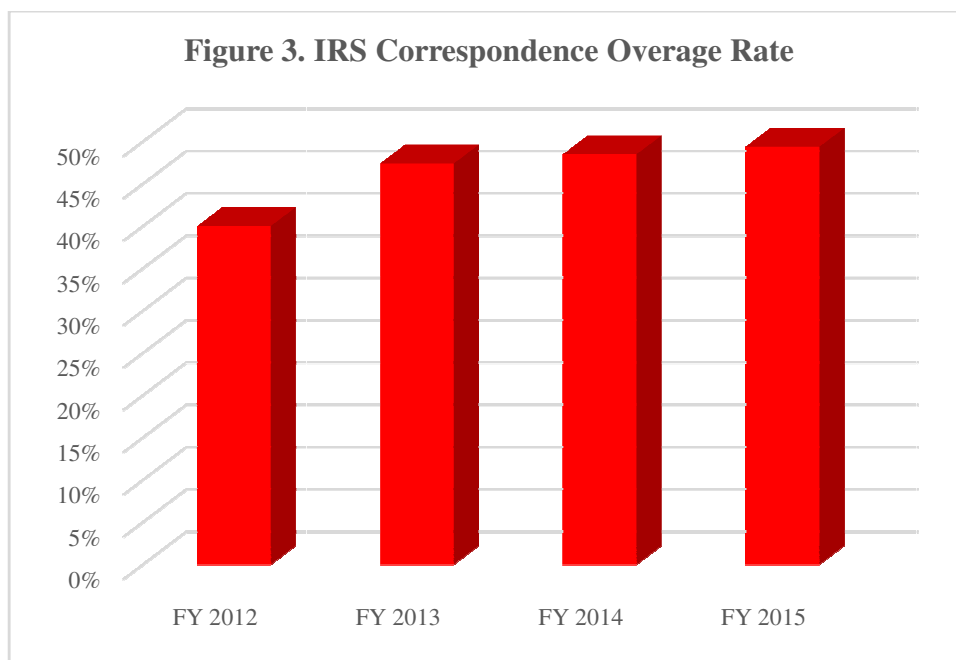
*Source: Government Accountability Office.<sup>44</sup>*

Private companies, who must provide quality services or risk losing their customers, strive to achieve a much lower wait time. Arise Virtual Solutions, a customer service firm, conducted a survey of consumers asking how long they were willing to hold on line. Nearly two-thirds of respondents answered that they are only willing to wait up to two minutes before hanging up.<sup>45</sup>

Despite the caller improvements, significant taxpayer service problems remain for those callers who get through to an IRS representative. The Government Accountability Office reports that the two oldest, legacy database systems in the 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. Plans are being considered to replace these systems, but a timetable is uncertain.<sup>46</sup> The IRS also operates at least 60 different case management systems.<sup>47</sup> 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.

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. Under the agency’s guidelines, any correspondence that remains unresolved after 45 days is counted as “overage.” This slow response time imposes a serious inconvenience on taxpayers awaiting assistance with their problems and can also delay refunds that they are rightly owed. Last year the Treasury Inspector General for Tax Administration reported that the percentage of “overage” correspondence in the IRS’ inventory had increased from 40 percent in 2012 to over 49 percent in 2015.<sup>48</sup> Taxpayers may see a decline in overages in 2016, but it most likely is because the IRS is issuing fewer adjustments to taxpayer accounts.



There are additional hurdles for taxpayers seeking help from the IRS. Out of fear of providing inaccurate information to taxpayers, the IRS has essentially dumbed down the advice it provides – entire areas of tax law have been declared “out of scope” for telephone tax law assistance.<sup>49</sup> 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.<sup>50</sup> Many of these include what people might generally assume to be simple questions. For example, NTU Foundation President Pete Sepp contacted the IRS with a basic question regarding how to properly account for an employee use of an automobile for work. He waited on hold for some 40 minutes only to be told that the question could not be answered. And while the IRS operates Taxpayer Assistance Centers (TACs) located around the country to aid people who have a tax problem or question about tax laws, fewer are available: the number of TACs has dropped from 401 in 2011, to 376 in 2016. The IRS has also scaled back the services provided through the TACs. As of 2014, they no longer provide tax preparation, and will provide only limited assistance of any kind after April 15.<sup>51</sup>

Filers who receive an adverse ruling from the IRS also face hurdles. Too often, the agency fails to provide clearly written explanations for why a claim was disallowed, making it difficult for filers to make an informed decision regarding the fairness of the disapproval. Those who wish to appeal the decision must apply for a conference with a local appeals office. Though some taxpayers who feel more comfortable with an in-person conference may be hard pressed ... there are sixteen states without any Appeals or Settlement Officers.<sup>52</sup>

#### **IV. Conclusion**

In 2015, Congress enacted a Taxpayer Bill of Rights that included the right to quality service, the right to pay the correct amount of tax, the right to appeal decisions of the IRS, and the right to a fair and just tax system.<sup>53</sup> Yet, our system continues to fail taxpayers: the tax enforcement agency proves increasingly deficient in administering the Code and responding adequately to taxpayer needs, while filers find it increasingly necessary to seek professional assistance with their forms.

The IRS does seek to improve taxpayer services through a proposed “Future States” initiative. This set of policies would shift taxpayer interactions with the IRS from person-to-person assistance in order to maximize online interactions. The Taxpayer Advocate continues to list this proposal as a serious risk because the constrained communications could diminish services and increase compliance burdens on taxpayers.

Ultimately, lasting and meaningful change to alleviate the difficulties faced by so many taxpayers struggling to comply with the current Tax Code must come from lawmakers. Under the current tax system, efforts to enhance and improve taxpayer services would require a significant expenditure of limited resources into an agency that too many people distrust, thus limiting the potential benefits. That same agency would still face the task of attempting to ensure compliance with tax laws that no one inside or outside of government can completely, confidently explain or understand. A more efficient, effective policy solution would be to enact comprehensive reform of the entire system. Otherwise the toll of tax complexity will continue to rise for our economy and our society.

#### *About the Author*

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<sup>1</sup>Office of Information and Regulatory Affairs, “Inventory of Currently Approved Information Collections.” Accessed March 30, 2017 at <https://www.reginfo.gov/public/do/PRAMain>.

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