



*Complexity and Insufficient Oversight
of the Free File Program Result in
Low Taxpayer Participation*

February 3, 2020

Reference Number: 2020-40-009

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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HIGHLIGHTS

COMPLEXITY AND INSUFFICIENT OVERSIGHT OF THE FREE FILE PROGRAM RESULT IN LOW TAXPAYER PARTICIPATION

Highlights

Final Report issued on February 3, 2020

Highlights of Reference Number: 2020-40-009 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

The Free File Program is a private-public partnership between the IRS and Free File Inc. to provide online Federal tax preparation and electronic filing to economically disadvantaged and underserved populations at no cost to the individual or the Government. This Program was available in Calendar Year 2003 to help eligible taxpayers find a reliable tax software product that will not charge a fee.

WHY TIGTA DID THE AUDIT

This audit was initiated in response to concerns raised by Congress and other stakeholders. Their concerns relate to whether the Free File Program is operating as intended, and eligible taxpayers attempting to prepare and e-file their returns at no cost are diverted to tax return preparation services that are not free. TIGTA's objective was to assess the IRS's oversight of the Free File Program.

WHAT TIGTA FOUND

The complexity, confusion, and lack of taxpayer awareness about the operation and requirements of the Free File Program are contributing reasons why many eligible taxpayers do not participate in the Program. During Processing Year 2019, only 2.5 million (2.4 percent) of the 104 million eligible taxpayers obtained a free return filing through the Program. In contrast, more than 34.5 million taxpayers, who met Free File Inc. members' Free File Program criteria, used the members' commercial software to file their tax return.

TIGTA called a statistically valid sample of 200 taxpayers who met the Free File Program

criteria but used a Free File Inc. members' commercial software and was informed by 87 (43 percent) taxpayers that they were charged a fee to prepare and e-file their Federal tax return. Based on these results, TIGTA estimates that more than 14 million taxpayers met the Free File Program criteria and may have paid a fee to e-file their Federal tax return in the 2019 Filing Season.

Sufficient actions have not been taken to educate taxpayers that the only way to participate in the Free File Program is through the IRS website. IRS and Free File Inc. management informed TIGTA that, to participate in the Program, taxpayers must access the IRS.gov Free File web page and select a link on this web page directing them to a Free File Inc. member's website. However, this provision is not in the Memorandum of Understanding (MOU) between the IRS and Free File Inc., and most taxpayers are unaware of this requirement.

In addition, the IRS does not provide adequate oversight to ensure that the Free File Program is operating as intended and in alignment with the MOU. Moreover, taxpayers are not made aware of protections in the MOU and do not have a process to report concerns.

WHAT TIGTA RECOMMENDED

TIGTA made a total of nine recommendations which included that the IRS 1) develop and implement a comprehensive outreach and advertising plan to inform eligible taxpayers about the Free File Program and how to participate, 2) ensure that management performs quality reviews of MOU adherence testing that Free File Program analysts conduct on Free File Inc. members' websites and software, 3) clearly inform taxpayers of their rights and protections in the Free File Program, and 4) develop a process for taxpayers to provide feedback or concerns on their experience using Free File.

IRS management agreed with six recommendations and partially agreed with three recommendations. The IRS plans to take incremental steps on the three recommendations to implement corrective actions, evaluate these actions, and then determine the next steps.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 3, 2020

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation
(Audit # 201940025)

This report presents the results of our review to assess the Internal Revenue Service's oversight of the Free File Program. This audit was part of the Treasury Inspector General for Tax Administration's Fiscal Year 2020 discretionary audit coverage and addresses the major management challenge of Protecting Taxpayer Rights.

Management's complete response to the draft report is included as Appendix VII.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services).



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Abbreviations

AGI	Adjusted Gross Income
CAPTCHA	Completely Automated Public Turing Test to Tell Computers and Humans Apart
E-filed; E-filing	Electronically Filed; Electronic Filing
FFI	Free File Inc.
IRS	Internal Revenue Service
IRSAC	Internal Revenue Service Advisory Council
MOU	Memorandum of Understanding
TIGTA	Treasury Inspector General for Tax Administration
VITA	Voluntary Income Tax Assistance



Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation

Background

The Free File Program is a private-public partnership between the Internal Revenue Service (IRS) and Free File Inc. (FFI)¹ to provide online Federal tax preparation and electronic filing (e-filing) to economically disadvantaged and underserved populations at no cost to the individual or the Government. The overarching agreement between the IRS and the FFI is that participating FFI members, *i.e.*, tax return preparation software companies, offer free online tax preparation and filing to taxpayers least able to afford these services. In return, the IRS agrees to provide taxpayers with links to the services offered by FFI members through the IRS's website (IRS.gov) and not to enter the tax preparation and e-filing marketplace. The IRS stated that more than 50 million taxpayers have received free tax preparation through the Free File Program since its inception in Calendar Year 2003.

A Memorandum of Understanding (MOU) outlines the IRS, the FFI, and FFI member roles and responsibilities in this partnership. The IRS first negotiated and signed a MOU with the FFI (originally called the Free File Alliance, LLC) in January 2006.² Since the first MOU was signed, the IRS and the FFI have negotiated several updates to this agreement. The MOU is renegotiated when the prior MOU is set to expire or when the IRS and/or the FFI believe a change is needed. Figure 1 provides a timeline of MOU updates.

Figure 1: Timeline of Initial MOU and Subsequent Updates

Date of Initial MOU and Subsequent Updates	Summary of MOU Content and Key Provision Updates
January 24, 2006	Outlines roles and responsibilities for the IRS, the FFI, and FFI members.
January 12, 2007	The MOU updated to give FFI Executive Director and the IRS the authority to remove a member from the Program if its percentage of e-filed tax returns fell below the IRS's minimum acceptance rate of 60 percent.
January 8, 2008	The MOU updated to include requirements for members to implement security features on their websites.
January 14, 2009	The MOU updated to include provisions for members to include a core list of tax forms and schedules in their software.

¹ The FFI is an alliance of companies in the electronic tax preparation and filing industry.

² Although the effective date of the first MOU was January 24, 2006, the IRS and the FFI first established an agreement on October 30, 2002, with a three-year term expiring on October 30, 2005. The IRS stated that the original agreement document's first term covered the requirements of the Program during this time without the need for a separate MOU document.



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Date of Initial MOU and Subsequent Updates	Summary of MOU Content and Key Provision Updates
November 4, 2009	The MOU updated to include security requirements and increased the minimum IRS e-file acceptance rate to 75 percent.
May 2, 2014	The MOU updated to allow the IRS and FFI Executive Director to annually revise the MOU to provide structure for their respective roles.
March 6, 2015	The MOU updated to include requirement for the IRS to promote the Free File Program in its media and social networking activities.
October 31, 2018	The MOU updated to include provisions to better protect taxpayers. For example, members must direct returning Free File taxpayers to the members' Free File offering before they are shown choices for the members' commercial tax preparation products.

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of MOU updates.

Tax preparation software company requirements to participate in the Program

To participate in the Free File Program, tax preparation software companies must be engaged in the electronic tax preparation and filing industry and meet or comply with 80 requirements in the current MOU. The IRS is responsible for ensuring FFI member compliance with 56 of these requirements. For example, members agree to offer free online tax preparation and e-filing to taxpayers with an Adjusted Gross Income (AGI)³ equal to or less than \$66,000. Other MOU requirements include:

- Be engaged in the electronic tax preparation and filing industry.
- Processing a cumulative total of 2,500 online returns during previous years or processed 25,000 e-filed returns before becoming a member.
- Providing an electronic Free File Indicator to the IRS, which allows the IRS to identify the number of Free File returns prepared each year using each member's software.

Process for taxpayers to obtain free return preparation and e-filing in the Program

To participate in the Free File Program in the 2019 Filing Season, taxpayers whose AGI was \$66,000 or less were guaranteed free return preparation and e-filing if they accessed the Free File website of a participating FFI member via links on the IRS's Free File web page or on a Voluntary Income Tax Assistance (VITA)⁴ kiosk. Figure 2 provides the number of Free File returns that the IRS processed in Calendar Years 2017 through 2019.

³ AGI is an individual's total gross income minus specific deductions.

⁴ The VITA program provides no-cost Federal tax return preparation and e-filing to underserved segments of individual taxpayers, including low-income, elderly, disabled, and limited-English-proficient taxpayers. A total of 437 VITA sites nationwide provide computer terminals that link to the IRS Free File web page.



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**Figure 2: Free File Tax Returns Processed in
Calendar Years 2017 Through 2019**

Calendar Year	English	Spanish ⁵	VITA	Total
2017	2,224,327	N/A	8,662	2,232,989
2018	2,360,566	N/A	6,504	2,367,070
2019	2,474,278	71	3,430	2,477,779

Source: TIGTA analysis of the Modernized Tax Return Database, as of July 18, 2019.

Process to monitor FFI member compliance with MOU requirements

The IRS Free File Group, in the Wage and Investment Division, is responsible for the administration and oversight of the Program. The group includes a Program Director, Senior Manager, and three analysts. The group conducts reviews, called adherence testing, to determine if members' software and Free File web pages comply with MOU requirements. These reviews are performed prior to the start of the filing season, which allows a member to remediate any deficiencies, and a subsequent review is performed to ensure that the deficiencies are addressed.

In addition, the group also conducts a random, unannounced review of each member's Free File website during the filing season. These reviews are intended to ensure that the members continue to comply with MOU requirements. If deficiencies are identified, the IRS notifies the member of the deficiencies and follows up to ensure that the deficiency is addressed. If deficiencies are not adequately addressed, the FFI member may be delisted from the IRS Free File website until the IRS and FFI Executive Director are satisfied that the deficiency is addressed. A member may also be removed from the IRS Free File website for not complying with its MOU obligations.

This review was performed in the IRS's Wage and Investment Division offices in Atlanta, Georgia, and New Carrollton, Maryland, during the period May through August 2019. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁵ As of April 4, 2019, TaxSlayer Corporation, an FFI member, began offering a Spanish Free File return service.



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Results of Review

We initiated this review on May 6, 2019, in response to concerns raised by Congress and other stakeholders. Their concerns relate to whether the Free File Program is operating as intended, and eligible taxpayers attempting to prepare and e-file their returns at no cost are diverted to tax return preparation services that are not free. The IRS announced in early May 2019 that it was reviewing these concerns. On May 15, 2019, we contacted Free File Program management to inquire about actions taken to date or planned in response to these concerns. Free File Program management stated they were waiting for an IRS Senior Leadership Team to provide direction. On June 17, 2019, the IRS announced that it contracted with an outside vendor to conduct an independent third-party review of the Free File Program. The IRS contracted with the vendor to provide an independent and objective assessment of adherence to and oversight of the Free File Program's MOU, advertising practices related to the Free File products, and recommendations made by Program participants and stakeholders. The vendor released the results of its assessment on October 3, 2019.

Our review found that the process taxpayers must follow to participate in the Free File Program is obscure and complex, and there is a lack of adequate advertising and oversight of the Program by the IRS. Prior to the creation of the Free File Program, companies provided free tax preparation to many taxpayers, but their offers were not consistently available and could be modified or discontinued from year to year. The Program was created, in part, to mitigate these inconsistencies for economically disadvantaged taxpayers and allow them to find a reliable software product that they know will not charge a fee. Unfortunately, most taxpayers eligible for Free File continue to face the same uncertainties in their attempts to obtain free tax return preparation and e-filing.

Complexity, Confusion, and Lack of Taxpayer Awareness May Be Significant Reasons Why Many Eligible Taxpayers Do Not Use Free File

Although the MOU states, "FFI members should make tax return preparation and filing easier and reduce the burden on individual taxpayers," the process to participate in the Free File Program is fraught with complexity and confusion. IRS management seems unaware of the complexity and confusion taxpayers face. For example, on January 11, 2019, the IRS issued a news release stating, "A number of changes were made to Free File for the 2019 Filing Season strengthening the program *to make it even more taxpayer friendly.*" In fact, we found that the changes did not make the Program more taxpayer friendly or reduce the complexity of how taxpayers access the Program. Our analysis of Processing Year 2019 return filings identified that the vast majority of eligible taxpayers do not use the Free File Program. For example, in

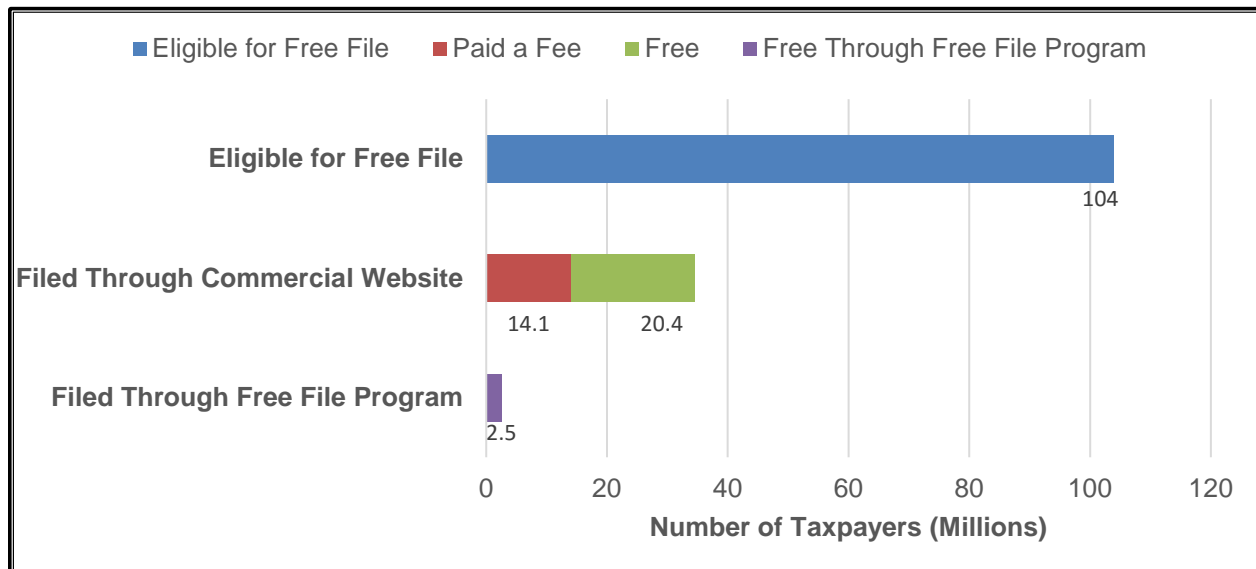


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Processing Year 2019, only 2.5 million (2.4 percent) of the 104 million eligible taxpayers obtained a free tax return filing through the Program. These eligible taxpayers include more than 34.5 million taxpayers who met FFI members' Free File criteria posted on IRS.gov but used the members' commercial software to file their Tax Year 2018 return. The remaining 67 million filed by some other means.

We called a statistically valid sample⁶ of 200 of the 34.5 million taxpayers who met Free File criteria and were informed by 87 (43 percent) taxpayers that they were charged a fee to prepare and e-file their Federal tax return. Based on these results, we estimate that more than 14 million taxpayers met Free File participation criteria and may have paid a fee to have their Federal tax return prepared and e-filed. The remaining 113 taxpayers stated that, although they accessed an FFI member's commercial website, they did not pay a fee to have their Federal tax return prepared and e-filed. Thus, we estimate that 20.4 million taxpayers who accessed the members' commercial websites may not have been charged a fee to prepare and e-file their Federal return. Figure 3 provides the number of eligible taxpayers who e-filed their return using members' commercial software and the number who e-filed using the Free File Program.

Figure 3: Taxpayers Eligible for Free File in Processing Year 2019



Source: TIGTA analysis of the Modernized Tax Return Database, as of July 18, 2019.

IRS management stated that our analysis does not account for the Free File-eligible taxpayers who prefer to file a paper return or have their return e-filed by a VITA site or a tax return

⁶ We selected a stratified statistical sample of 200 of the 34,508,312 non-Free File tax returns filed using the members' software in Processing Year 2019. We used a stratified sampling technique to select a sample of returns filed using each of the 12 members' software. We used a confidence level of 95 percent, an expected error rate of 5 percent, and a precision factor of 3.3 percent.



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preparer. Our analysis accounted for these taxpayers. However, we focused our review on the 34.5 million taxpayers who are eligible for the Free File Program but used FFI members' commercial software to prepare and file their returns. Many of these taxpayers may be unaware of the Program or are unsure how to access it to obtain a guaranteed free filing.

Sufficient actions have not been taken to educate taxpayers that the only way to participate in the Free File Program is through the IRS website

IRS and FFI management stated that, to participate in the Program, *taxpayers must access the IRS.gov Free File web page* and select a link on this web page directing them to an FFI member's website. However, this key and critical step is not referenced or included in the current or prior MOUs. In addition, our review found that many taxpayers are unaware of this requirement. For example, our calls to the previously discussed 200 taxpayers identified that 59 (29.5 percent) taxpayers, who paid a fee, were unaware of the Free File Program or how to access it. As a result, we estimate that more than 9 million taxpayers who met Free File eligibility requirements and paid a fee to an FFI member for tax return e-filing in the 2019 Filing Season were unaware of the Program or how to access it.

The lack of taxpayers' awareness that they must access the IRS.gov Free File web page likely results in their using an Internet search tool, *i.e.*, taxpayers search the Internet using words such as "Free File," which often leads them to FFI members' commercial websites. Once on the members' commercial websites, *the taxpayers are not guaranteed a free return filing*. The members can charge taxpayers a fee based on the forms and schedules needed to complete the returns, or other criteria that members establish. The members can also market, solicit, or sell the taxpayer other services such as "audit defense." Thus, eligible taxpayers with the same tax situations have different experiences filing their returns and may be charged a fee based solely on whether they access a member's website through IRS.gov or through an Internet search.

Taxpayers aware of the requirement to access the Free File Program through IRS.gov face a myriad of differing participation requirements from the 12 FFI members

Once taxpayers access IRS.gov, they must review the criteria for each member's offer or use the Free File Software Lookup Tool to determine if they qualify for one or more of the 12 offers. Participation requirements include the taxpayer's income, age, State, and whether they are in the active military, have a foreign address, qualify for the Earned Income Tax Credit, *etc.* The IRS does provide a Lookup Tool that contains a series of questions to assist the taxpayer in determining which member's software the taxpayer is qualified to use for a free return filing. Taxpayers can then select a member's software by clicking a link which directs them from IRS.gov to the member's website where they can create their personal account and prepare their tax return.

However, after a taxpayer completes all the previously mentioned actions, *i.e.*, reviews various options, selects an FFI member for which the taxpayer meets participation requirements,



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accesses the FFI member's website, and enters his or her tax return information, the taxpayer could then be informed that the return no longer qualifies for free e-filing. This denial could be based on specific types of income reported, and forms or schedules the taxpayer needs to complete his or her return, which the FFI member does not offer for free. For example, the taxpayer could meet the initial qualifications and requirements of an FFI member on IRS.gov, but has retirement income or student loan interest, which the taxpayer inputs in the member's software. Once input, the retirement income and/or student loan interest is secondary criteria that the member does not disclose to the taxpayer and uses to charge a fee for e-filing the return.

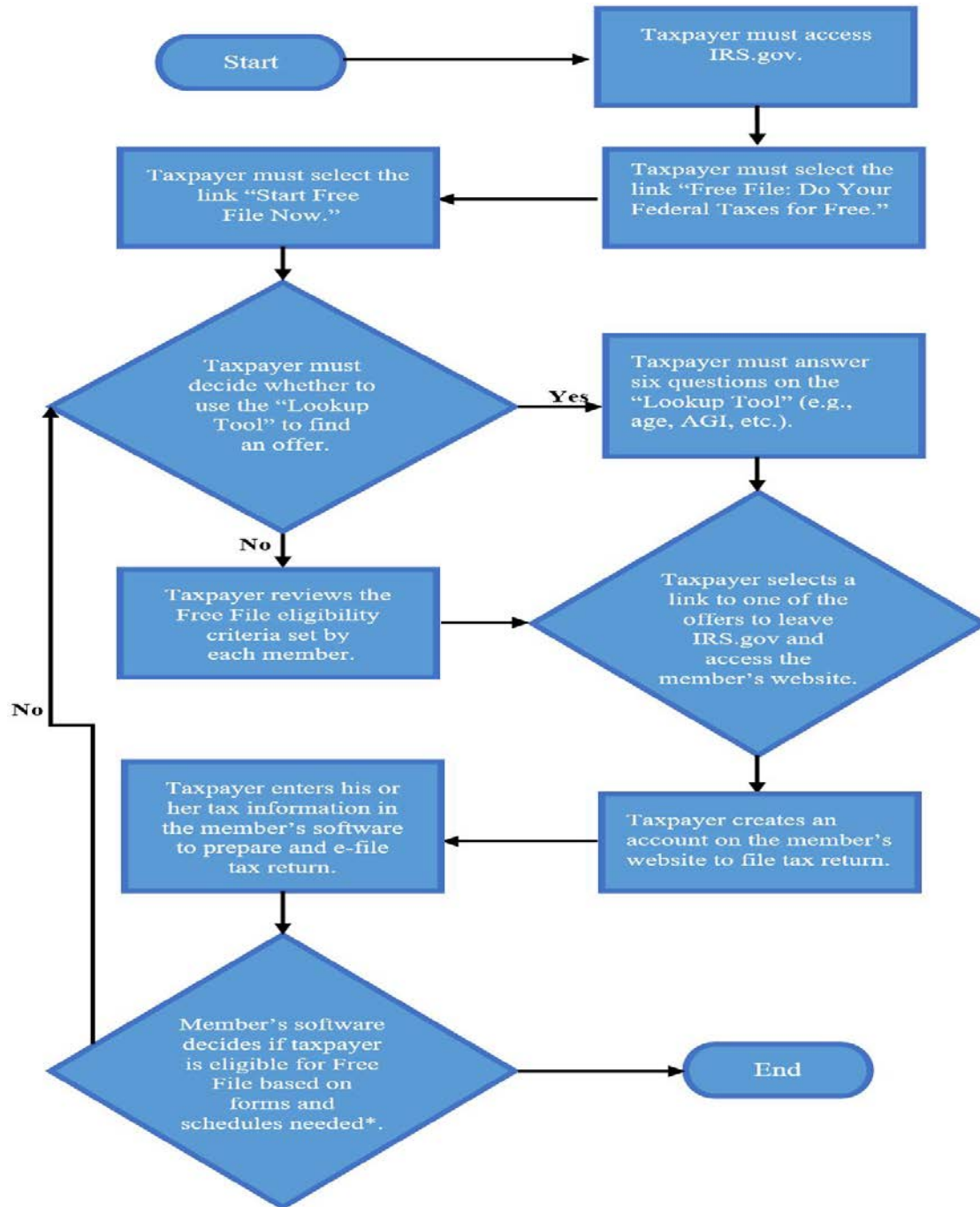
For the previously mentioned situation, the MOU requires the FFI member to direct the taxpayer back to the IRS.gov Free File web page where the taxpayer must restart the process to select a Free File offer. However, at this point, the taxpayer has spent significant time to research and select an FFI member and to enter tax information into that particular FFI member's software, and thus may pay the fee rather than restart the time-consuming process. This may explain why the members do not disclose all of their exclusionary criteria on the IRS.gov Free File web page.⁷ Figure 4 provides an illustrative walkthrough of the steps taxpayers must take to participate in the Program and be guaranteed a free Federal tax return filing.

⁷ See Appendix V for the criteria that FFI members set for their offers in the 2019 Filing Season and the IRS posted on its Free File web page.



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Figure 4: Process to Access the Free File Program



Source: TIGTA's review of the Free File web page on IRS.gov.

* If the software determines the taxpayer is ineligible for a free return filing, the taxpayer can return to IRS.gov to select another member's offer.



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Efforts are needed to promote the Free File Program

The IRS has not taken sufficient actions to increase awareness of the Program. In our June 2007 report,⁸ we recommended and the IRS agreed to develop a comprehensive plan to evaluate and promote the Program. However, since the end of Fiscal Year 2014, no funds have been allocated to promote this Program and the benefits it provides taxpayers. The IRS did have a marketing contract to promote the Program from Fiscal Year 2009 to Fiscal Year 2014, allocating between \$750,000 and \$1.5 million each year for this purpose.

When we asked management about the steps they took to educate taxpayers on the key requirement that access to the Program must be through IRS.gov to obtain a guaranteed free return filing, they stated that they advertise the Program through news releases, tax tips, fact sheets, social media, and IRS.gov. Although the IRS promotes the Program through the previously mentioned channels, this information will only reach taxpayers who access IRS.gov, the IRS's social media pages, and other news organizations that inform the public about the Free File Program. For example, in November 2018, Forbes magazine published an article about the Free File Program. Management stated that it has not paid for advertising in newspapers, radio, or local television since Fiscal Year 2014.

In November 2018, the IRS Advisory Council (IRSAC)⁹ issued the results of its assessment of the Free File Program and cited a similar concern about the lack of advertising. The IRSAC recommended that the IRS require the FFI to spend a certain percentage of its membership dues for advertising and promotion. The IRS agreed that the FFI and its members should invest more resources to advertise and promote the Program. Management stated that they plan to begin a dialog in Fiscal Year 2020 with the FFI to identify opportunities to increase awareness about the Program for the 2020 Filing Season. However, no formalized strategy was developed outlining specific actions to be taken.

Some FFI members hid their Free File web page from Internet search engines

Adding to the confusion around the Free File Program, on April 26, 2019, a news organization reported that two FFI members intentionally edited the code in their Free File web page to ensure that taxpayers searching the Internet for free return filing would not find the members' Free File web page. These FFI members added coding to their Free File web pages to make them difficult for Internet search engines to find. We researched¹⁰ the coding in the 12 FFI members' Free File web pages linked from IRS.gov to determine if they were coded to prevent them from being

⁸ TIGTA, Ref. No. 2007-40-105, *Additional Action Is Needed to Expand the Use and Improve the Administration of the Free File Program* (June 2007).

⁹ Advisory body to the IRS Commissioner responsible for providing an organized public forum for discussion of relevant tax administration issues between IRS officials and representatives of the public. The IRSAC proposes enhancements to IRS operations, and recommends administrative and policy changes to improve taxpayer service.

¹⁰ We reviewed Archive.org, which is a nonprofit library of websites and software products. We also reviewed the members' current Free File web pages, as of May 9, 2019.



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identified by Internet search engines during Calendar Year 2019. For seven members, we were unable to obtain their Free File web pages that were in use during Calendar Year 2019 because historical copies of their web pages were unavailable. However, for the five remaining members, we found that their Free File web pages had coding that prevented Internet search engines from displaying them in search results.

When we discussed our results with IRS management, they stated that the members' actions do not violate provisions in the MOU, and IRS.gov is returned at the top of the list in Internet search results. We agree that a specific MOU provision to ban members from deliberately hiding their Free File web page from Internet search engines is not included in the current MOU. However, this practice contravenes the intent of the Free File Program, which is to offer free tax preparation and e-filing to taxpayers least able to afford these services. In addition, the priority that Internet search engines list the IRS.gov website depends on the Internet browser and key search words, *e.g.*, free return preparation, used by taxpayers.

Recommendations

The Commissioner, Wage and Investment Division, should:

Recommendation 1: Develop and implement a comprehensive outreach and advertising plan to inform eligible taxpayers about the Free File Program and how to participate. This includes informing taxpayers that they must access the Program through IRS.gov to obtain a guaranteed free return filing.

Management's Response: The IRS agreed with this recommendation and plans to develop a comprehensive communication plan that will identify additional outreach avenues. IRS management will also continue to promote Free File as a free online option for taxpayers, and it will remain a key component of the filing season messaging.

Recommendation 2: Require FFI members to fully disclose all criteria on the IRS.gov Free File web page that taxpayers must meet to e-file their Federal tax return for free. This disclosure should also identify those specific return characteristics that will result in the taxpayer being charged.

Management's Response: The IRS partially agreed with this recommendation. Each FFI member today provides their offer criteria on IRS.gov and on their Free File Landing Pages. This includes prominently displaying any charges associated with State tax return preparation, if these fees are applicable. IRS management also has seen no evidence of any additional criteria being used to charge taxpayers. However, management will partner with the FFI to identify any exceptions in which a taxpayer may move into a nonqualified status and be charged a fee for a Federal return, and to provide that information to the IRS for consideration of appropriate next steps.



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Increased Oversight Is Needed for the Free File Program

Our review identified that the IRS does not provide adequate oversight to ensure that the Free File Program is operating as intended and in alignment with the MOU. This is the same conclusion that the IRSAC reported in November 2018. The IRSAC concluded that the Program's insufficient oversight and performance standards put vulnerable taxpayers at risk and make it difficult to ensure that FFI members fulfill their obligation to provide tax e-filing services "to economically disadvantaged and underserved populations at no cost to the individual or the government." The IRSAC also noted that, because taxpayers access Free File through the IRS's public website and the IRS is a partner in this Program, the IRS should assume a more direct role to ensure that the Program provides taxpayers a way to file their taxes in a free and secure manner. Finally, the IRSAC reported that the IRS should expand its role to ensure that the Program does not unnecessarily expose taxpayers to upselling of paid products by FFI members, and that these obligations can only be fulfilled through persistent oversight and accountability of both the IRS and the FFI to the terms of a renegotiated MOU.

Actions are needed to implement IRSAC recommendations to better protect taxpayers

In Calendar Year 2018, the IRS requested that the IRSAC: 1) evaluate the value of the existing Free File Program and whether it has served its purpose and completed its mission and 2) in the event the IRSAC determined that the Free File Program remains viable and should continue, recommend improvements to the Program. The IRSAC made 14 recommendations to address the need for the IRS to provide more oversight and increase protections for taxpayers. Although the IRS received the IRSAC recommendations by mid-October 2018, the IRS signed an updated MOU on October 31, 2018, which was two years before the expiration of the MOU that was in place. The revised MOU did not address some of the IRSAC's recommendations. These recommendations include:

- **Develop short- and long-term goals and performance metrics for the Free File Program.** Although the IRS agreed with this recommendation, management estimates that they will not have performance measures in place until March 2021. Management indicated that they plan to negotiate performance measures with the FFI. The lack of immediate action to establish measurements is concerning because the Program has been operating since January 2003 and, to date, no meaningful program measurements have been developed.

In June 2007, we reported that the IRS did not have a formal process to validate the accuracy of the Free File Indicator that members set on their Free File returns. This Indicator is essential to measure the performance of the Program. Thus, we recommended that the IRS establish a process to verify the accuracy of the Free File Indicator early in the filing season. The IRS agreed to work with the FFI to analyze the Indicator, identify possible solutions to increase its accuracy, and establish a process to



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assess the Indicator's accuracy early in the filing season. However, our interviews with Free File Program management during this review identified that they do not verify the accuracy of the Free File Indicator and were not aware of our recommendation.

- **Develop standards for frequently and actively checking on FFI member websites during the filing season including, most importantly, logging in as a taxpayer and going through the filing process on each FFI member's Free File website.** The IRSAC recommended that analysts design more test scenarios and conduct the tests more frequently during the filing season. During the 2019 Filing Season, the Free File Program analysts conducted only two test scenarios for each member - one scenario used test data that would qualify the taxpayer for the member's Free File offer, and another scenario used test data in which the taxpayer would not qualify for the offer. However, this testing was conducted only prior to the start of the filing season and once during the filing season.
- **Require that Free File users returning directly to FFI members' websites the following year, i.e., not through the IRS website, are directed easily to (and in fact can reasonably reach) FFI members' Free File websites.** For the 2019 Filing Season, the IRS did not conduct tests to ensure member compliance with this requirement. The IRS obtained screenshots from FFI members indicating that they provide returning users the first option to log into their Free File account. However, the screenshots are not sufficient evidence of member compliance. When we asked management why tests were not conducted, they stated Free File analysts cannot file fake tax returns, which would be needed to test this requirement. However, the analysts could test this requirement by analyzing returns e-filed by Free File-eligible taxpayers who use the same member's software in successive years. We performed this analysis and identified that 205,652 (17.7 percent) of the 1,158,901 taxpayers, who used an FFI member's Free File software in the 2018 Filing Season and returned to the member's website in the 2019 Filing Season, used the member's commercial software in Processing Year 2019. This could provide the IRS with an indication that the members may not be directing taxpayers to their Free File websites as required.

IRS testing does not ensure member compliance with key MOU requirements

In Processing Year 2019, the IRS Free File Group did not test four significant MOU requirements that were established to protect taxpayers. For another three requirements, the group's tests were insufficient to assess the members' compliance. When we asked Free File Program management why their testing is insufficient, they stated that they cannot test many of the requirements in the MOU because the IRS cannot file tax returns with actual taxpayer data. For example, the IRS cannot use taxpayer data to determine if a member offers all of the same Federal tax forms in the Free File software as offered in the member's commercial online software. However, the IRS could use test tax data to ensure member compliance with



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requirements. The IRS could also survey taxpayers who used the members’ software to test other MOU requirements.

Finally, we identified that the *Adherence Testing Review Guide*¹¹ used by Free File Program analysts was not updated with steps to test all significant MOU requirements for which the IRS was responsible for ensuring compliance. In addition, requirements were not developed for the specific documentation that analysts should maintain to support the performance of these tests, including test results. Management indicated that the tests were conducted but could not provide adequate documentation supporting the completion of the test and/or the test results. Finally, processes/procedures have not been established to require managerial reviews to ensure the performance and adequacy of Free File Program analyst adherence testing. Figure 5 provides MOU requirements that the IRS did not test.

Figure 5: MOU Requirements That the Free File Group Did Not Test

MOU Section	MOU Requirement
4.5.1	Each member will offer the same Federal tax forms and schedules as offered in the member’s basic commercial online software if they are outside the minimum required core forms and schedules offered in the Free File Program software, <i>i.e.</i> , member’s Free File software must include common IRS forms and schedules.
4.19.1	For taxpayers who enter a member’s Free File website from the IRS’s Free File website and save any portion of their return, that return should be “tagged” to ensure that they remain eligible for the member’s free offer.
4.19.4	Members shall not post a billing screen requesting or collecting bank/financial information from customers who qualify for a free return when no State return products are purchased.
4.34	The IRS and the members agree to use the Free File logo consistent with the terms specified in Version 1 of the Trademark and Copyright Assignment and License Agreement, dated December 31, 2007.

Source: Our analysis of MOU requirements and IRS testing in Processing Year 2019.

In addition, Figure 6 shows the Free File Group did not *sufficiently* test the members’ compliance with MOU requirements.

¹¹ The IRS created this review guide to document FFI member compliance with the MOU.



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Figure 6: MOU Requirements That the IRS Did Not Sufficiently Test

MOU Section	Requirement	Insufficient Testing
4.5.2	Each member will offer, as a minimum, the core tax forms and schedules that members are required to include in their offer.	The IRS did not test to determine if all core tax forms and schedules were in the members' software. Testing was conducted only to determine if the members' websites listed the forms and schedules.
4.15.4	Members must clearly list their free customer service options. This disclosure must be available on the member's Free File Landing Page.	The IRS did not test to determine if the members' customer support links were functional. Testing was conducted only to determine if a customer service option was on the members' Free File Landing Page.
4.32.4	Members shall send an e-mail, annually, to their customers who used Free File services and completed their returns in the immediately preceding tax year, prior to the start of the following tax year. The e-mail shall only remind taxpayers of the availability of the member's Free File offer and invite them to return to the member's Free File Landing Page. The e-mail should not include information about any non-Free File commercial products or services.	The IRS accepted sample e-mails from members instead of requiring actual copies of e-mails that the members are required to issue to customers.

Source: Our analysis of MOU requirements and IRS testing in Processing Year 2019.

Without sufficient testing of MOU requirements, deficiencies identified during the review of members' websites and software may not be addressed timely. The lack of oversight makes it difficult for the IRS to identify problems and improve the Free File Program.

Recommendations

The Commissioner, Wage and Investment Division, should:

Recommendation 3: Take immediate action to address the IRSAC's recommendations to 1) establish goals and performance metrics for the Program, 2) develop standards for frequently logging on to members' Free File websites as taxpayers and preparing returns that meet the members' Free File criteria, and 3) test members' websites to simulate returning Free File taxpayers to determine if the websites direct taxpayers to the Free File web page.

Management's Response: The IRS partially agreed with this recommendation. IRS management stated that they are developing and validating internal goals and objectives to define successful performance for the Free File Program. Management plans to



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develop a performance measurement framework that includes internal measures that will be used to evaluate the success of the Program. Additionally, management is assessing how the new goals, objectives, and measures may affect the MOU with the FFI and will negotiate changes to the MOU based on those goals and objectives.

To address the second objective, IRS management is evaluating the frequency at which website reviews will be conducted to most effectively meet the Program's needs with limited resources. Management is also evaluating options to meet the third objective in recognition of the constraint that fictitious returns cannot be completed to the point of transmitting or, in other words, filing with the IRS.

Recommendation 4: Establish a process to assess the accuracy of the Free File Indicator, including a review to verify that only those returns qualified for the Program have the Indicator.

Management's Response: The IRS agreed with this recommendation and has executed a MOU addendum specifically to address the need for member companies to increase focus on the accuracy of indicator usage. Further, IRS management plans to query the databases early and throughout the filing season to check for returns with Free File Indicators having AGI above the Program threshold. Management will also identify those with a refund product indicator such as Refund Anticipation Loans and Refund Anticipation Checks.

Recommendation 5: Update the *Adherence Testing Review Guide* to include the specific tests to be performed to assess FFI member compliance with MOU requirements. This should include documentation to be maintained supporting the performance of these tests and the results of these tests.

Management's Response: The IRS partially agreed with this recommendation. IRS management has updated the review guides for the coming year to include the following specific MOU section items:

- Providing an automatic link from the Free File website to a member's paid website will result in delisting.
- Members shall not post a billing screen to request or collect bank/financial information from customers who qualify for a free return when no State return products are purchased.

The remaining MOU sections listed in the report require additional review to determine feasibility and consideration of whether or how to test. Management plans to adjust its corrective action plan upon completion of the review and will address the maintenance of supporting documentation of adherence testing activities.



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Recommendation 6: Ensure that management performs quality reviews of MOU adherence testing that Free File Program analysts conduct on FFI members' websites and software.

Management's Response: The IRS agreed with this recommendation and plans to perform managerial reviews of the test results.

Taxpayers Are Not Made Aware of Protections in the Memorandum of Understanding and Do Not Have a Process to Report Concerns

The IRS does not clearly inform taxpayers of the various protections they are entitled to when participating in the Free File Program. Although IRS.gov contains a link to the MOU, the link is not listed on the IRS Free File Landing Page. Therefore, most taxpayers are likely unaware of the MOU. Taxpayers should be clearly informed of their rights and protections related to the Free File Program, both on the IRS's Free File Landing Page and on the members' Free File web pages. These web pages should inform taxpayers of their right to:

- Not be charged to prepare and e-file Federal tax returns.
- Return to the IRS's Free File website to seek an alternative FFI member if they are deemed ineligible for a Free File offer during their tax return preparation. The member's software should provide the taxpayer this information at the earliest feasible point during the Federal return preparation.
- Free customer service options.
- Receive an annual e-mail from the member if they previously used the member's Free File software. The e-mail should explain how to file with the Free File Program.
- Not be offered or solicited marketing, promotional rebates, or selling activity on the FFI member's website and/or in the software.
- Not be offered a Refund Anticipation Loan¹² or other financial product.

The first item in the IRS Taxpayer Bill of Rights¹³ is the right to be informed. Taxpayers are entitled to clear explanations, including those related to the Free File Program. By not providing a clear explanation of taxpayer protections on the IRS Free File Landing Page, taxpayers will continue to be uninformed of their rights.

¹² A short-term loan provided by a third party against an expected tax refund for the duration it takes the IRS to pay the refund.

¹³ IRS Publication 1, *Your Rights as a Taxpayer* (Rev. 9-2017).



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The IRS has not established a process for taxpayers to report concerns about the Free File Program

The IRS has also not established adequate procedures for taxpayers to report concerns and problems with the Program such as FFI member noncompliance with program requirements. When we asked IRS management why no customer feedback process or complaint hotline for the Program was established, they indicated that taxpayers with concerns can call the IRS's toll free telephone line to file a complaint. They stated that customer service representatives answering calls on this line would forward any complaints to Free File Program management. However, our review found that internal procedures *do not* instruct customer service representatives to forward these complaints to the Free File Program. Management also stated that taxpayers could contact an FFI member who, in turn, may pass the complaints to the IRS or call the Taxpayer Advocate Service. Free File Program management stated that, as of May 2019, they have not received any such complaints. However, no actions have been taken to inform taxpayers of the complaint process.

Customer satisfaction surveys are not conducted

The Free File Program has not completed a customer satisfaction survey since December 2009. The MOU states, "members will provide the necessary support to accomplish a customer satisfaction survey." This requirement has been in the MOU since its initial enactment in January 2006 and is intended to identify improvements to the Program. In addition, in our June 2007 report, we recommended that the IRS conduct a customer survey. The IRS agreed with our recommendation and stated that it would consider conducting a survey of taxpayers who tried to use the Program but were unsuccessful and taxpayers who were eligible but chose not to use the Program.

When we asked management why they have not conducted a customer survey since December 2009, they stated that they no longer have a contract with the previous vendor who performed the surveys. They also stated that they plan to work with the FFI to better understand the taxpayer experience between the IRS website and member websites, and identify methods to measure and track customer satisfaction, within the limited IRS budget. The IRS plans to complete this work prior to the expiration of the current MOU on October 31, 2021. The IRSAC also recommended that the IRS provide all Free File users (including those who do not successfully complete a return) the option to complete a customer satisfaction survey pertaining to their experience using Free File.

Recommendations

The Commissioner, Wage and Investment Division, should:

Recommendation 7: Clearly inform taxpayers of their rights and protections in the Free File Program. These rights should be provided on the IRS's Free File web page as well as FFI members' Free File web pages.



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Management's Response: The IRS agreed with this recommendation and has updated the IRS.gov Free File web page with a link to inform taxpayers of the services guaranteed to them free of charge and prohibitions on the marketing or upselling of additional services or products for fees. This page also provides a link to a dedicated IRS Free File mailbox to submit questions taxpayers may have about the Program. IRS management also plans to work with the FFI to request a similar provision of that information on the members' Free File websites.

Recommendation 8: Develop a process for taxpayers to provide feedback or concerns on their experience using Free File and inform taxpayers of this process by providing information on both the IRS's Free File web page and FFI members' Free File web pages.

Management's Response: The IRS agreed with this recommendation and has established a dedicated mailbox, accessible from the Free File page, on IRS.gov for taxpayers to submit questions. IRS management also plans to revise the messaging on the mailbox to clearly state that it may also be used to provide feedback on concerns or experiences from using the Free File Program during the 2020 Filing Season. During the filing season, management plans to evaluate the effectiveness of the mailbox as a feedback method, alongside other potential solutions, in refining the feedback process for future filing seasons and for the provision of a feedback mechanism by FFI members.

Recommendation 9: Work with FFI members to develop procedures to conduct customer satisfaction surveys. In addition, develop procedures to analyze the survey results to identify improvements that can be made to the Program.

Management's Response: The IRS agreed with this recommendation. The IRS has opened dialog with FFI leadership concerning the need for a survey on their member Free File websites. The FFI is committed to providing such a survey for each member Free File website. This will be an ongoing effort. The survey will run for taxpayers during the filing season, with analysis of the results to follow.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to assess the IRS's oversight of the Free File Program. To accomplish our objective, we:

- I. Determined whether the IRS is using its oversight authority to ensure that FFI members adhere to the MOU.
 - A. Determined if the 12 FFI members meet the IRS's criteria to participate in the Free File Program.
 - B. Determined whether IRS adherence testing of the 12 FFI members is sufficient to detect problems that taxpayers encounter when attempting to Free File their tax returns, such as members charging fees.
 - C. Assessed whether IRS processes provide taxpayers an opportunity to report problems with the Free File Program, such as a member charging a fee to file a tax return.
- II. Interviewed Online Services function management to determine if FFI members submit change requests to modify their free filing criteria on the IRS.gov Free File web page.
- III. Determined whether the IRS assesses the accuracy of the Free File Indicator (follow up on recommendation 3 in TIGTA, Ref. No. 2007-40-105).¹
 - A. Determined IRS processes to assess the accuracy of the Free File Indicator.
 - B. Identified all Tax Year 2018 tax returns with a Free File Indicator that the IRS processed in Filing Season 2019.
 - C. Contacted, via telephone, a statistically valid sample of 200 taxpayers listed on the tax returns to determine if they paid a fee to file their Federal tax return. We selected a stratified statistical sample of 200 taxpayers from the population of 2,273,034² returns filed using each of the members' software. We used a confidence level of 95 percent, an expected error rate of 5 percent, and a precision factor of 2 percent.

¹ TIGTA, Ref. No. 2007-40-105, *Additional Action Is Needed to Expand the Use and Improve the Administration of the Free File Program* (June 2007).

² This was the population of tax returns with a Free File Indicator on April 18, 2019.



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- IV. Determined why taxpayers eligible for the Program are not using Free File services.
- A. Identified all Tax Year 2018 returns, filed with a member's software, in which the return met the member's Free File criteria shown on the IRS's Free File web page, but the taxpayer did not obtain a free return filing, *i.e.*, the taxpayer's Tax Year 2018 return did not have the Free File Indicator.
 - B. Contacted a statistically valid sample of 200 taxpayers listed on the tax returns from Step IV.A. to determine if they paid a fee to file their Federal tax return and if they attempted to get Free File but the software charged a fee to prepare and file the return. We used a stratified sampling technique to select a sample of returns from the population of 34,508,312 taxpayers who filed a return using each of the 12 members' software. We used a confidence level of 95 percent, an expected error rate of 5 percent, and a precision factor of 3.3 percent.
 - C. Assessed IRS actions to increase awareness of the Free File Program.
 - 1. Followed up on IRS corrective actions to address the recommendation in our June 2007 report. We recommended that the IRS develop a comprehensive plan to evaluate and promote the Program.
 - D. Determined if the IRS implemented the recommendations made by the IRSAC, which issued its recommendations to improve the Free File Program in mid-October 2018.

Data validation methodology

During this review, we relied on data extracts from the Modernized Tax Return Database³ systems. Before relying on the data, we ensured that the files contained the data elements we requested and performed analyses to evaluate the validity and reasonableness of the data. In addition, we selected random samples from each extract and verified that specific data elements in the extracts were the same as the data captured on the host systems. Based on the results of this testing, we believe that the data used in our review were reliable.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: processes and procedures the IRS uses to oversee the IRS Free File Program. We evaluated these controls by reviewing policies and procedures, interviewing employees and management, and analyzing data.

³ Modernized Tax Return Database, a legal repository for original e-filed returns received by the IRS under the Modernized e-File and determined to be "Accepted" by IRS processing.



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Appendix II

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Appendix III

Report Distribution List

Deputy Commissioner for Services and Enforcement
Commissioner, Wage and Investment Division
Director, Customer Account Services, Wage and Investment Division
Director, Office of Professional Responsibility
Director, Return Preparer Office
Director, Enterprise Audit Management



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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlement – Potential; 14,121,286 taxpayers who were eligible for the Free File Program but may have paid a fee to file their Federal tax returns (see page 4).

Methodology Used to Measure the Reported Benefit:

We called a statistically valid sample¹ of 200 taxpayers in the population of 34.5 million taxpayers who met FFI members' Free File criteria posted on IRS.gov and used FFI members' commercial software to file their Tax Year 2018 return. We were informed by 87 (43 percent) taxpayers that they were charged a fee to prepare and e-file their Federal tax return. Based on these results, we estimate that more than 14 million taxpayers met the Free File criteria and may have paid a fee to have their Federal tax return prepared and e-filed.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlement – Potential; 205,652 Free File-eligible taxpayers who returned to the same Free File member's website in the 2019 Filing Season, as in the 2018 Filing Season, but may not have been directed to the member's Free File websites (see page 11).

Methodology Used to Measure the Reported Benefit:

Our analysis identified that 205,652 (17.7 percent) of the 1,158,901 taxpayers, who used an FFI member's Free File software in the 2018 Filing Season and returned to the same member's website in the 2019 Filing Season, used the member's commercial software in Processing Year 2019.

¹ We selected a stratified statistical sample of 200 of the 34,508,312 non-Free File tax returns filed using the members' software in Processing Year 2019. We used a stratified sampling technique to select a sample of returns filed using each of the 12 members' software. We used a confidence level of 95 percent, an expected error rate of 5 percent, and a precision factor of 3.3 percent.



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Appendix V

Free File Software Offers in Filing Season 2019

1040NOW.NET

Receive a free Federal return if:

- Your AGI is \$66,000 or less, and
- You live in one of the following States:
AL, AR, AZ, CA, GA, IA, ID, IN, KY, MI,
MN, MO, MS, NC, ND, NY, OK, OR, RI,
SC, VA, VT, or WV.

OR

- Your AGI is \$66,000 or less, AND you
are 60 or younger, AND
- You live in one of the following States:
CO, CT, D.C., DE, HI, IL, KS, LA, MA,
MD, ME, MT, NE, NJ, NM, OH, PA, UT,
or WI.

OR

- Free for active military for AGI of \$66,000
or less.
- Available for foreign address filers.

FileYourTaxes.com

Receive a free Federal return if:

- AGI is between \$9,000 and \$66,000, AND
your age is 65 or younger, OR
- Free for active military for AGI of \$66,000
or less.
- Available for foreign address filers.
- Free for some State returns if you qualify
for the Federal return.



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<p>TaxSlayer</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$66,000 or less, AND your age is 50 or younger.- Available for foreign address filers.- Free for some State returns if you qualify for the Federal return.	<p>H&R Block's Free File</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$66,000 or less, AND your age is between 17 and 51, OR- You are eligible for the Earned Income Tax Credit, OR- Free for active military for AGI of \$66,000 or less.- Available for foreign address filers.- Free for any State return if you qualify for the Federal return.
<p>eSmart Free File Edition</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$66,000 or less, AND your age is 53 or younger, OR- Free for active military for AGI of \$66,000 or less.	<p>TurboTax Free File Program</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$34,000 or less AND any age, OR- You are eligible for the Earned Income Tax Credit, OR- Free for active military for AGI of \$66,000 or less.- Available for foreign address filers.- Free for any State return if you qualify for the Federal return.
<p>Online Taxes at OLT.com</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is between \$14,000 and \$66,000 AND any age, OR- Free for active military for AGI of \$66,000 or less.- Available for foreign address filers.- Free for any State return if you qualify for the Federal return.	<p>ezTaxReturn.com</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$66,000 or less, AND you live in any of these States: AL, AR, AZ, CA, CO, GA, IL, LA, MA, MD, MI, MO, MS, NC, NJ, NY, OH, PA, SC, VA or WI, AND- Any age.



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<p>FreeTax Returns.com</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$66,000 or less, AND- Your age is 70 or younger, AND- Live in any State, except: D.C., FL, IN, NH, NM, SD, TX, or WA, OR- Free for active military for AGI of \$66,000 or less.- Free for some State returns if you qualify for the Federal return.	<p>TaxAct®Free File</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$55,000 or less, AND your age is 56 or younger, OR- You are eligible for the Earned Income Tax Credit, OR- Free for active military for AGI of \$66,000 or less.- Available for foreign address filers.- Free for any State return if you qualify for the Federal return.
<p>FreeTaxUSA®IRS Free File Edition</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$35,000 or less, AND any age, OR- You are eligible for the Earned Income Tax Credit.- Free for active military for AGI of \$66,000 or less.- Free for some State returns if you qualify for the Federal return.	<p>1040.com Free File Edition</p> <p>Receive a free Federal return if:</p> <ul style="list-style-type: none">- Your AGI is \$60,000 or less, AND your age is 52 or younger, OR- You are eligible for the Earned Income Tax Credit, OR- Free for active military for AGI of \$66,000 or less.- Available for foreign address filers.- Free for some State returns if you qualify for the Federal return.

Source: IRS.gov Free File web page.



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Appendix VI

IRS Memorandum of Understanding Requirements

Section	Program Admission and Participation Requirements
4.1.1*	<p>Each member and new market entrant shall: (i) be engaged in the electronic tax preparation and filing industry; (ii) have processed a cumulative total of 2,500 online returns during previous years or has processed 25,000 e-file returns before becoming a member; (iii) meet a 75 percent acceptance rate for electronic returns for traditional Free File throughout the filing season, excluding business rules and any subsequent codes associated with prior year AGI and self-select Personal Identification Number mismatches. The IRS will work with the FFI to identify any business rule errors that are a result of new legislation and/or policy. Specific business rule errors may be excluded from the computation of a company's acceptance rate; and (iv) meet any increased standard agreed to for subsequent years by the IRS and the FFI.</p>
4.1.3*	<p>Each member and new market entrant shall: (i) make its services available to not less than 10 percent and not more than 50 percent of the individual taxpayer population, or approximately 70 million (70,000,000) taxpayers, within the coverage, as annually adjusted through IRS analysis of the taxpayer database to determine the lower 70 percent of all U.S. taxpayers. Additionally, any free services offered under this MOU to active duty military members who meet the requirement of earning no more than the lowest 70 percent of the national AGI shall be exempt from this service cap of 50 percent of the taxpayer population. Notwithstanding other terms in this MOU, this provision exempting eligible active duty military members from the service cap shall become effective in January 2015; (ii) offer its services on a nondiscriminatory basis; (iii) be an authorized IRS e-File Provider in accordance with IRS Revenue Procedure 2005-60; (iv) be in compliance with applicable Department of Treasury/IRS rules, including, but not limited to 31 C.F.R. Part 10, IRS Revenue Procedure 2005-60, current versions of IRS Publications 1345, 1345-A, and 3112, 4164, Modernized e-File Guide for Software Developers and Transmitters, 1436 Test Package for Electronic Filers of Individual Income Tax Returns for Tax Year 2014, and Internal Revenue Code Section 7216; (v) possess and provide appropriate documentation to the IRS and the Executive Director demonstrating they have acquired third-party security and privacy certifications which are applicable for the period the company is actively listed on the IRS Free File website; (vi) have appropriate logos or seals (for both privacy and security) from acceptable and recognized third-party privacy and security certification providers placed in clearly visible locations on the member's Free File Landing Page; and (vii) new market entrants shall self-certify in writing to the Executive Director, and available upon request to the IRS, that the new market entrant has sufficient technical capacity to meet the Level of Service requirements as set forth in this MOU and then current FFI Operating Agreement and are commercial tax preparation software providers aside from their FFI offering.</p>



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Section	Program Admission and Participation Requirements
4.3.4*	All members shall adhere to industry best practices to ensure that the taxpayer return information entrusted to them is secure and the privacy of such information is maintained. In any instance in which a member company contracts with a service provider to obtain technology services, the service provider must adhere to the established industry best practices standard. To the extent multiple members rely on a single service provider for front or back office services (not Internet Service Provider services), such members must maintain such taxpayer security and privacy from others who share these service providers.
4.4	Functionality of Member's Website and Software Program. Members and/or new market entrants will provide the Executive Director and the IRS with a link to the member's and/or new market entrant's proposed member's Free File website no less than 15 business days before the website is expected to go live. Members' Free File websites will be functionally adequate in permitting a taxpayer to complete the taxpayer's return if the return is consistent with the member's free offer. Prior to launch, the IRS and the Executive Director will review each member's Free File website usability. If the IRS and/or the Executive Director determine that a member's and/or new market entrant's software program is difficult to use, and has or will result in a significant and measurable reduction in the ability of taxpayers to complete their return, the member will not be listed on the IRS Free File website or may be delisted until both the IRS and the Executive Director are satisfied that the issue(s) which led to the concern regarding the members' and/or new market entrants' Free File website usability have been addressed.
4.5.1	Each member will offer all of the same Federal forms and schedules as offered in their basic commercial online consumer programs if they are outside of the minimum required core forms and schedules.
4.5.2	Each member will offer as a minimum the core forms and schedules as shown in Attachment 1. The IRS reserves the right to negotiate with the FFI to add new forms before the start of the filing season as necessitated by new legislation.
4.5.3	Each member and/or new market entrant will disclose any limitations in the forms and schedules that are likely to be needed to support members' and/or new market entrants' free offerings. This disclosure shall take place on members' and/or new market entrants' Free File Landing Pages (or such page must have a clear link to such disclosures directly from this page). Representative examples of limitations required to be disclosed include, but are not limited to, the inability to support more than one Form W-2, <i>Wage and Tax Statement</i> , and/or the lack of a form necessary to prepare a return that is likely to be based on the offer. Limitations in forms and schedules do not include any form that is not routinely required, e.g., the separate forms required for taxpayers with foreign income, unless a member's offering is particularly orientated around such forms.
4.5.4	Each member will clearly disclose the supported schedules and forms in addition to the required core forms supported on the members' Free File Landing Page or through links on such page.
4.6.1	Members will comply with IRS e-file Security and Privacy Standards, http://www.irs.gov/uac/IRS-e-file-Security-Privacy-and-Business-Standards - Mandated as of January 1, 2010.



*Complexity and Insufficient Oversight of the
Free File Program Result in Low Taxpayer Participation*

Section	Program Admission and Participation Requirements
4.6.2*	Members will provide no later than December 15th, each year to the IRS, the following information: (i) the identity of the company's Approved Payment Card Industry scanning vendor, https://www.pcisecuritystandards.org/approved_companies_providers/approved_scanning_vendors.php . and (ii) an executive summary of the member's Payment Card Industry Vulnerability Security Scan. The summary shall include the name of the certified Payment Card Industry scanning vendor, the date the scan was conducted, how many live hosts were scanned, and a discussion of the findings. Vulnerability severity levels should be used to categorize the vulnerabilities, <i>i.e.</i> , critical problem or high risk, areas of concern, or medium risk or low risk but potential problems.
4.6.3*	Members will possess and provide appropriate documentation to the IRS and the Executive Director demonstrating they have acquired third-party security and privacy certifications.
4.6.6	Only the Executive Director, the IRS, and affected individual company will be apprised of a member's deficiencies identified as a result of any assessment by the IRS or the FFI.
4.6.7	Members must implement a Completely Automated Turning Test to Tell Computers and Humans Apart (CAPTCHA) program on the member's Free File website as a condition for participation in the program. CAPTCHA images of text should be distorted randomly, and users must then manually enter the text identically as it appears on the screen. The CAPTCHA must be implemented such that a user must successfully complete the CAPTCHA test for proceeding to the next screen. For additional information on the CAPTCHA program, members may refer to Carnegie Mellon University's CAPTCHA resource page: http://www.captcha.net .
4.6.8	Each member will ensure that visually impaired taxpayers may access and complete the CAPTCHA program.
4.7.1*	Any member that learns of an inappropriate disclosure of a taxpayer's return information to an unauthorized person, in the course member's provision of services, must immediately: (i) report as soon as possible the unauthorized disclosure to the Executive Director and the IRS but not later than the next business day after confirmation of the incident. Members shall follow the instructions on IRS.gov for submitting incident reports, http://www.irs.gov/Tax-Professionals/e-File-Providers-&Partners/Instructions-for-Reporting-Web-site-Security-Incidents-(updated-10-02-08) ; (ii) shut down member's Free File website at the time of detection.
4.9	Self-Select Personal Identification Numbers. Members must permit self-select Personal Identification Numbers as an option for taxpayers who qualify for e-filing of free services.
4.10	Time Out Feature. All members must include a feature in their tax preparation software that will "time out" the session after no changes are made for a period of time consistent with best practices approved by privacy seal certification program.



*Complexity and Insufficient Oversight of the
Free File Program Result in Low Taxpayer Participation*

Section	Program Admission and Participation Requirements
4.11.1	Each member shall guarantee the accuracy of calculations performed by its Federal Free File offering. State returns are not included in this guarantee. For the purposes of this section, the term “Calculations” is defined to mean the numerical addition, subtraction, or multiplication of numbers, and related automatic features that select numbers from tax tables. Calculations do not include any instance in which a taxpayer can make a decision to substitute a number for the one automatically computed by the program, and members are not responsible for changes in tax law made by Congress during the tax season. All members will pay any IRS penalties and/or interest resulting from an error in the member’s software program’s calculations, notwithstanding the lack of revenue from FFI filers. The amount of this guarantee shall be limited to the amount accrued when the IRS provides notice to the taxpayer of an improper calculation.
4.12.1	Members will validate that the servers and transmission of tax return data are located in the United States. If the servers or transmitter are located outside the United States or any territory or possession of the United States, the taxpayer must agree and sign a form consenting to the disclosure. Refer to Revenue Procedure 2008-35, section 4.04(l)(e) and to Treasury Regulation Section 301.7216-3(a)(3) for complete information and for specific language.
4.13	Use of Social Security Number. Whenever taxpayers are requested or required to provide their Social Security Number, it must be part of a secure session.
4.14	Returning Free File Tax Filers. If a taxpayer used and completed his or her return with a member’s Free File products or services in the immediately preceding tax year, and in the subsequent tax year visits the member’s commercial website(s) for tax preparation and logs into an account registered with the member, the taxpayer must be given a first option to return to the member’s Free File offer before receiving any other alternative choices for the member’s publicly available commercial tax preparation products or services. The FFI, in consultation with the IRS, shall prescribe the requirements of this uniform communication to the taxpayer, including but not limited to the text, format, and prominence of the messaging. Manipulation of the font size and other graphical elements in order to give prominence to the secondary non-Free File option is prohibited.
4.15.1	Members must permit a taxpayer who qualifies for a free return to print their return for free on their personal computer system for both e-filed and paper-filed returns. This capacity must be provided for the same period of time, e.g., three days, three weeks, or three months, that such services are provided for free to commercial customers.
4.15.2	Members must permit a taxpayer who does not qualify for a free return to print their return after paying the applicable fee, if any, charged to members’ commercial customers.
4.15.3	Members must permit taxpayers who have begun to complete a tax return to complete the return during the current tax year.
4.15.4	Members must clearly list their free customer service options. This disclosure must be available on the member’s Free File Landing Page (or such page must have a clear and prominent link to such disclosures directly from this page). Members must provide taxpayers a free electronic method to obtain a copy and learn the status of their e-filed tax return.
4.17.1	No planned blackouts of service are permitted from January 15 through April 15.



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Section	Program Admission and Participation Requirements
4.17.2	Unplanned blackouts or scheduled maintenance in excess of five hours requires electronic notice of unavailability to the IRS, the FFI, and, whenever possible, via the member's Free File Landing Page. Failure to provide this notice on more than one occasion is grounds for delisting.
4.17.3	During any unplanned blackout or scheduled maintenance, customers seeking to access the Free File option should not be directed to or have access to the fee-based services of the member.
4.18*	Contact Person for Notification. Each member, in making its offer, shall provide a contact name and number of a person(s) who may be reached 24 hours per day/seven days a week for issues regarding unavailability of the services and security breach of taxpayer data. The IRS (as well as the Executive Director) is entitled to delist any member if contacts with such person are not successful within a 12-hour period.
4.19	Eligible Taxpayers/No Promotional Codes or Rebates/Links to Paid Sites. In providing free services to qualified taxpayers, member programs cannot use promotional codes or rebates as the methodology of providing free services.
4.19.1	Tagging of Returns. For taxpayers who enter a member's Free File website from the IRS Free File website and save any portion of their return, that return should be "tagged" so as to remain eligible for the member's free offer. This paragraph does not apply to those services offered by members in permitting extensions (Form 4868, <i>Application for Automatic Extension of Time to File U.S. Individual Tax Return</i>) to be filed.
4.19.2	Ineligibility Notification. Free File member programs must unequivocally inform taxpayers who are ineligible for the free offer at the earliest feasible point: (i) that they are ineligible for the Free File offer, and (ii) the reason that they are not eligible for the offer, and (iii) the taxpayer shall be directed back to the IRS Free File Landing Page as the first and most prominent alternative action so that they may immediately consider other Free File offers available from the Free File Program, and (iv) the disqualification practice of each member must adhere to the standard messaging, language, and formatting guidance to be provided by the FFI in consultation with the IRS. (v) The taxpayer next may be offered a free alternative for completion of their return, provided that the taxpayer is covered by the program limit of being among the lowest 70 percent of taxpayers. (vi) The taxpayer would next be offered the option to continue on the Free File member's site and pay a fee - which is fully disclosed - to file their Federal and/or State return.
4.19.3	Links to Paid Site. Providing an automatic link from the IRS Free File website to a member's paid website will result in delisting.
4.19.4	Solicitation for Payment. Members shall not post a billing screen requesting or collecting bank/financial information, e.g., debit/credit card information, from customers who qualify for a free return where no State tax return products have been purchased.
4.21	Disclosure of State Preparation and Filing Options. The FFI shall offer free State tax preparation and e-filing in all States that participate in a State Free File Program. The FFI is not required to provide free services for State returns in non-Free File States. The IRS will not provide links to any non-Free File State Department of Revenue websites from the IRS.gov Free File website.



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Section	Program Admission and Participation Requirements
4.21.1	FFI members must disclose their State service offerings on each individual member's Free File Landing Page and make clear whether such returns are free or paid. Any offer for paid State return preparation and e-filing services shall state clearly all the details of the offer, including a single, consolidated fee for such service. Free or paid State offers shall be displayed on the Free File Landing Page prominently. Members must provide the list of States that they currently support. This list shall only include States that have completed State testing and whose software programs have been approved by the State and are ready for use. Members shall include a list of each State Free File Program that the member participates in and a hyperlink that will allow taxpayers to access the members' Department of Revenue State Free File offering.
4.21.2*	The IRS may provide information for taxpayers on the IRS Free File website. Such information may include, but is not limited to, the following: (i) Federal Free File supports preparation of Federal tax returns. Many member companies also offer free or paid State tax preparation and e-filing services. (ii) Some companies may not offer State tax preparation and e-file services for all States. The IRS further agrees it will not provide links to the websites of any non-Free File States Department of Revenue websites from the IRS.gov Free File website.
4.25	Free File Indicator. Members will provide an electronic Free File Indicator. If the member is providing a Spanish version of its Free File product, it will provide a Spanish Free File Indicator.
4.25.1	The IRS agrees it will not use the Indicator to build a marketing database;
4.25.2	The IRS agrees it will not use the Indicator to compile company specific data or proprietary data.
4.25.3	The IRS agrees it will only use the database to create aggregate data profiles of all users.
4.27	Pop-ups, Spyware, and Other Marketing Tools. The IRS will work with the FFI to develop further agreed upon guidance for members to ensure that their websites/Free File pages are in compliance with Internal Revenue Code Section 7216 with respect to pop-ups, pop-unders, adware, spyware, etc.
4.28	Customer Satisfaction Survey. The members will provide the necessary support to accomplish a customer satisfaction survey.
4.29*	Annual Review. For any multiyear agreement between the IRS and the FFI on an annual basis, the parties will review the Free File Program and decide what, if any, improvements need to be made for the next filing season. Any improvements agreed to by the parties shall be reflected in an MOU executed by the parties.
4.29.1*	Review for Compliance. The FFI and the IRS conduct reviews of members' Free File Landing Pages for compliance with the requirements and obligations contained in this MOU. The review is under the control of the Executive Director and IRS leadership but will consist of a pre-filing season review for compliance that allows a member to remediate any identified deficiencies, and a review to ensure that remediation has occurred. The IRS also conducts a random, unannounced review during the filing season to ensure continued compliance.



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Section	Program Admission and Participation Requirements
4.30*	Annual Revision. The IRS and the Executive Director may annually revise the MOU between the parties that provides structure for the roles.
4.32.1	Sale of State Tax Returns Permitted but Not Required. Taxpayers who enter a member's Free File Landing Page must be able to see a clearly stated offer for State tax return preparation and e-filing. The free or paid State return offer must be clear and located on the top one-half of the Landing Page, and if different fonts are used, the fees and description of the State tax preparation and e-filing must be presented with a typeface and prominence no less than the majority of text on the page, and must include a single, consolidated fee charged for State return preparation and e-filing, as well as a link to a list of State forms offered and Federal forms and schedules offered. This offer to provide a free or paid State return may be repeated one additional time in the member's site. Member providers of unbranded fillable form utilities may not offer a State return.
4.32.2	Provision of Federal Return When Taxpayer Does Not Qualify for a Member Free File Offer Is Permitted. When a taxpayer enters a member's Free File Landing Page and begins to complete a return but ultimately cannot qualify for the member's free offer, the member must provide, as a first option, a prominent hyperlink for the taxpayer to return to the IRS Free File Landing Page (consistent with Paragraph 4.19.2). A member also may provide free returns to those who do not qualify for the Free File offer, provided they are covered within the terms of the program. Finally, a member may inform the taxpayer that he or she has the choice to prepare and file a Federal return using the member's commercial product. The charge for such commercial product or service shall not exceed the usual commercial price for such products or services.
4.32.3	Reasonable and Customary Charges for Taxpayer Use of Credit Card or Its Equivalent Are Permitted. A member company may charge taxpayers who have a balance due reasonable and customary charges from credit card service providers or their equivalent related to payment services they provide. Refund Anticipation Loans, Refund Anticipation Checks, and other forms of payment are not permitted by this section.
4.32.4	E-mail Communication With Free File Taxpayers. Free File members shall communicate not less than once annually via e-mail with their taxpayer customers who used Free File services and completed their returns through Free File in the immediately preceding tax year prior to the opening of the following tax season. The content of this e-mail(s) shall only remind the taxpayer about the availability of the member's Free File offer and invite them to return to the member's Free File Landing Page. Free File members shall not use these communications to communicate with the taxpayer about any non-Free File commercial products or services. No marketing, soliciting, sale or selling activity, or electronic links to such activity will be permitted in these e-mail(s).
4.32.5	No Other Sales and Selling Activity. No marketing, soliciting, sales or selling activity, or electronic links to such activity are permitted in the Free File Program, with the exception of the following: (i) the sale of a Federal return where, as noted herein, the taxpayer is determined ineligible for the member's Free File offer and chooses to complete and file his or her return using the member's commercial offer or (ii) disclosures or sales (as applicable) related to free or paid State tax preparation offers as specifically provided for in this MOU.



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Section	Program Admission and Participation Requirements
4.32.6	Prohibition on “Value-Added” Button. Members shall not include a “value-added” button, <i>i.e.</i> , an icon, link, or any functionality that provides a taxpayer with access to a member’s commercial products or services, on the member’s Free File Landing Page.
4.32.7	The member shall have a prominent link permitting taxpayers on a member’s Free File Landing Page to easily and clearly return to the IRS.gov Free File Landing Page.
4.33	Names Utilized by Member Companies. Members shall possess a clear association between the company or product name posted on IRS.gov and the member’s company or product name. Where a company or product name has been used prior to Calendar Year 2007 by a member company, the Executive Director and the IRS have the authority to accept or reject a proposed name change to company or product name, and if the Executive Director refuses to permit such change, it is subject to the Dispute Resolution Mechanism at Article 7. No change in name of company or product will be permitted once the member submits its name to the FFI and the IRS for the tax season, unless such a change is required by an adjudication regarding such name.
4.34	Use of the Free File Logo. The IRS and the members agree to use the logo consistent with the terms specified in Version 1 of the Trademark and Copyright Assignment and License Agreement, December 31, 2007.
4.35	Promotion of the Free File Program. The IRS will make consistent, good-faith efforts to promote the Free File Program in appropriate media activities, interactions with other Federal agencies, social media and social networking activities, and in its appropriate technology applications.

*Source: Our analysis of IRS-established MOU requirements. * = The FFI and the IRS share responsibility to ensure that members are in compliance.*



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Appendix VII

Management's Response to the Draft Report




COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

JAN 10 2020

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin 
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – Complexity and Insufficient Oversight of the
Free File Program Result in Low Taxpayer Participation
(Audit # 201940025)

Thank you for the opportunity to review and comment on the subject draft report. The 2020 filing season will mark the eighteenth year of the Free File program providing free federal income tax return preparation services to the nation's taxpayers, at very little cost to the government. Overall, this private-public partnership has provided a positive experience and a needed service to millions of people. The IRS is committed to providing taxpayers with viable options and tools for tax return preparation and filing, including free services, that help them effectively meet their tax obligations – whether online, as currently supported by Free File, or in-person, as supported by the Volunteer Income Tax Assistance and the Tax Counseling for the Elderly programs.

The IRS takes the recent concerns raised about Free File very seriously. We hired The MITRE Corporation (MITRE) to conduct an independent review of the existing program. We received their independent assessment of the Free File Program and have reviewed the report's recommendations. We appreciate their assessment of the program and the value it provides to taxpayers, along with the opportunities for improvement identified in their report. To implement program improvements in advance of the 2020 filing season, the IRS and Free File, Inc. (FFI), our partner in operating the Free File Program, executed an updated agreement on December 26, 2019, that will make the program more taxpayer-friendly and will strengthen consumer protections in several key areas. Specifically, the new agreement contains requirements that FFI members:

- Will not exclude their Free File Landing page from an organic internet search.
- Will ensure a link on their sites is available to return taxpayers to the IRS Free File Website at the earliest feasible point in the preparation process if they do not qualify for the Member's Free File offer, and



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- Will regularly survey taxpayers who successfully e-filed a tax return through the Free File program, reporting their results quarterly to the IRS.

We will continue to strongly encourage taxpayers to go to IRS.gov to start the Free File process; however, as reflected in the MITRE report¹, we are aware that many taxpayers seek free tax return preparation and filing services by using terms like "free tax filing" in commercial search engines. The current Memorandum of Understanding provides the means for a satisfying taxpayer experience when they navigate to Free File member sites directly, through links, or through search engines. It is also important to recognize that taxpayer preferences for return preparation and filing options are influenced by factors that may include discomfort with self-preparation of their tax returns or a desire to take advantage of refund products or other services offered by paid tax return preparers and firms. Historically, the IRS has promoted, and will continue to promote, Free File as a free online option for taxpayers. It will remain a key component of our filing season communications. To that objective, we are identifying short-term and long-term actions that will improve the Free File experience for taxpayers.

The testing reflected in the Treasury Inspector General for Tax Administration's report does not duplicate the extensive research performed and reported by The MITRE Corporation. We believe both reports should be considered by outside readers to obtain a fully balanced and objective assessment of the Free File program, overall. We agree that the program can be strengthened and are taking steps to implement changes in place for the 2020 and future filing seasons to improve it. We agree or partially agree with all nine recommendations in the report.

Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or a member of your staff may contact Dietra Grant, Director, Customer Account Services, Wage and Investment Division, at (470) 639-3504.

Attachment

¹ https://www.irs.gov/pub/newsroom/01_free-file-program-assessment-100319.pdf



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Attachment

Recommendations

The Commissioner, Wage and Investment Division, should:

RECOMMENDATION 1

Develop and implement a comprehensive outreach and advertising plan to inform eligible taxpayers about the Free File Program and how to participate. This includes informing taxpayers that they must access the Program through IRS.gov to obtain a guaranteed free return filing.

CORRECTIVE ACTION

We agree with this recommendation and will develop a comprehensive communication plan that will identify additional outreach avenues. The IRS will continue to promote Free File as a free online option for taxpayers, and it will remain a key component of filing season messaging.

IMPLEMENTATION DATE

May 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 2

Require FFI members to fully disclose all criteria on the IRS.gov Free File web page that taxpayers must meet to e-file their Federal tax return for free. This disclosure should also identify those specific return characteristics that will result in the taxpayer being charged.

CORRECTIVE ACTION

We partially agree with this recommendation. Each Free File Inc. (FFI) member today provides their offer criteria on IRS.gov and on their Free File landing pages. This includes prominently displaying on the landing pages any charges associated with state tax return preparation, if these fees are applicable. We have seen no evidence of any additional criteria being used to charge taxpayers. We will partner with FFI to identify any exceptions, where a taxpayer may move into a non-qualified status and be charged a fee for a federal return, and to provide that information to the IRS for consideration of appropriate next steps.



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IMPLEMENTATION DATE

June 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3

Take immediate action to address the IRSAC's recommendations to 1) establish goals and performance metrics for the Program, 2) develop standards for frequently logging on to members' Free File websites as taxpayers and preparing returns that meet the members' Free File criteria, and 3) test members' websites to simulate returning Free File taxpayers to determine if the websites direct taxpayers to the Free File web page.

CORRECTIVE ACTION

We partially agree with this recommendation. To address the first objective of the recommendation, we are developing and validating internal goals and objectives to define successful performance for the Free File program. A performance measurement framework that includes internal measures, which will be used to evaluate the success of the program, is also being developed. Additionally, we are assessing how the new goals, objectives, and measures may affect the FFI Memorandum of Understanding (MOU), and will negotiate changes to it based on those goals and objectives.

To address the second objective, we are evaluating the frequency at which website reviews will be conducted to most effectively meet the program needs with limited resources. We are also evaluating options for meeting the third objective in recognition of the constraint that fictitious returns cannot be completed to the point of transmitting or, in other words, filing them with the IRS.

IMPLEMENTATION DATE

October 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.



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RECOMMENDATION 4

Establish a process to assess the accuracy of the Free File Indicator, including a review to verify that only those returns qualified for the Program have the Indicator.

CORRECTIVE ACTION

We agree with this recommendation. The findings summarized in the report reflect a minimal number of returns erroneously set with the indicator. We have executed an MOU addendum specifically to address the need for member companies to increase focus on the accuracy of indicator usage. Further, we will query IRS databases early and throughout the filing season to check for returns, with Free File indicators, having Adjusted Gross Income above the program threshold. We will also identify those with a refund product indicator such as Refund Anticipation Loans and Refund Anticipation Checks.

IMPLEMENTATION DATE

May 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 5

Update the *Adherence Testing Review Guide* to include the specific tests to be performed to assess FFI member compliance with MOU requirements. This should include documentation to be maintained supporting the performance of these tests and the results of these tests.

CORRECTIVE ACTION

We partially agree with this recommendation. We have updated our review guides for the coming year to include the following specific items:

- MOU Section 4.19.3: Links to Paid Site. Providing an automatic link from the IRS Free File website to a Member's paid website will result in delisting.
- MOU Section 4.19.4: Members shall not post a billing screen requesting or collecting bank/financial information from customers who qualify for a free return when no State return products are purchased.

The remaining MOU sections listed in the report require additional review to determine feasibility and consideration of whether or how to test. We will adjust our corrective



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action plan upon completion of the review. We are also addressing the maintenance of supporting documentation of adherence testing activities.

IMPLEMENTATION DATE

February 15, 2021

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 6

Ensure that management performs quality reviews of MOU adherence testing that Free File Program analysts conduct on FFI members' websites and software.

CORRECTIVE ACTION

We agree with this recommendation and will perform managerial reviews of the test results.

IMPLEMENTATION DATE

March 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 7

Clearly inform taxpayers of their rights and protections in the Free File Program. These rights should be provided on the IRS's Free File web page as well as FFI members' Free File web pages.

CORRECTIVE ACTION

We agree with this recommendation. The Free File page at IRS.gov has been updated with a link titled, *Know Your Protections Under the IRS Free File Program*². This page

² <https://www.irs.gov/filing/know-your-protections-under-the-irs-free-file-program>



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informs readers of the services guaranteed to them free of charge and prohibitions on the marketing or upselling of additional services or products for fees. This page also provides a link to a dedicated IRS Free File mailbox³ for submitting questions taxpayers may have about the program. This information is available now on IRS.gov and we will work with FFI to request it also be provided on member Free File websites.

IMPLEMENTATION DATE

October 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 8

Develop a process for taxpayers to provide feedback or concerns on their experience using Free File and inform taxpayers of this process by providing information on both the IRS's Free File web page and FFI members' Free File web pages.

CORRECTIVE ACTION

We agree with this recommendation. We have established a dedicated mailbox, accessible from the Free File page on IRS.gov that is now available for taxpayers to submit questions. We will revise the messaging on the mailbox to clearly state that it may also be used to provide feedback on concerns or experiences from using the Free File program during the 2020 filing season. During the filing season, we will evaluate the effectiveness of the mailbox as a feedback method, alongside other potential solutions, in refining the feedback process for future filing seasons and for the provision of a feedback mechanism by the FFI members.

IMPLEMENTATION DATE

October 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.

³ freefile@irs.gov



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RECOMMENDATION 9

Work with FFI members to develop procedures to conduct customer satisfaction surveys. In addition, develop procedures to analyze the survey results to identify improvements that can be made to the Program.

CORRECTIVE ACTION

We agree with this recommendation. The IRS has opened dialog with FFI leadership concerning the need for a survey on their member Free File websites. The FFI is committed to providing such survey for each member Free File website. This will be an ongoing, iterative effort. The survey will run for taxpayers during the filing season, with analysis of the results to follow.

IMPLEMENTATION DATE

December 15, 2020

RESPONSIBLE OFFICIAL

Director, Submission Processing, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN

We will monitor this corrective action as part of our internal management control system.