

Area of Focus #11 Facilitate Digital Interaction Between the IRS and Taxpayers While Still Maintaining Strict Security of Taxpayer Information

TAXPAYER RIGHTS IMPACTED¹

- *The Right to Be Informed*
- *The Right to Quality Service*
- *The Right to Confidentiality*

DISCUSSION

The IRS continually expands its offerings of digital service options for taxpayers in an effort to meet taxpayer demand, as well as provide more efficient service delivery methods. While TAS acknowledges that many taxpayers prefer to interact with the IRS electronically in certain transactions, we also continue to advocate for the IRS to maintain an omnichannel service environment.² Further, we believe that the IRS should apply the results of two pilot programs, the Taxpayer Digital Communications Secure Messaging (TDC) pilot and the Office of Appeals WebEx Virtual Conference pilot, to improve its digital service offerings. Accordingly, during fiscal year (FY) 2020, TAS plans to explore the following issues:

- During the TAS TDC pilot, taxpayers expressed concerns over the burdensome e-authentication requirements where they merely wanted to submit documentation or payments to the IRS. TAS will meet with representatives of the National Institute of Standards and Technology (NIST) to determine if there is a less burdensome approach for these types of interactions.
- The results of the Appeals WebEx pilot support the expansion of the technology to other various customer service and enforcement programs within the agency, including TAS.

Participants in the TAS Taxpayer Digital Communications Pilot Expressed Concerns Over the Burden Imposed by e-Authentication Requirements

The Taxpayer Advocate Service, along with several other organizations within the IRS, conducted a pilot of the TDC system.³ The pilot used the same three-factor e-authentication requirements as the IRS online account application, Secure Access.⁴ The TDC pilot enabled the participating IRS organizations to send and receive electronic webmail, along with certain digital documents (including uploaded

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR are also codified in the Internal Revenue Code (IRC). See IRC § 7803(a)(3).

2 See National Taxpayer Advocate 2017 Annual Report to Congress 22-35 (Most Serious Problem: *Telephones: The IRS Needs to Modernize the Way It Serves Taxpayers Over the Telephone, Which Should Become an Essential Part of an Omnichannel Customer Service Environment*).

3 In addition to TAS, the following organizations conducted a Taxpayer Digital Communications (TDC) pilot: Small Business/Self Employed (SB/SE) Exam, Large Business and International (LB&I). IRS response to TAS information request (Nov. 22, 2017).

4 The three-factor requirements for Secure Access include: (1) personal information, including: name, email address, tax identification number, tax filing status, and mailing address; (2) financial account information from one of the following: credit card (no American Express, debit or corporate cards), student loan, mortgage, home equity loan, home equity line of credit (HELOC), or auto loan; and (3) mobile phone linked to the taxpayer's name (alternatively, the taxpayer can provide a mailing address and receive an activation code by mail). See IRS, *Secure Access: How to Register for Certain Online Self-Help Tools*, <https://www.irs.gov/individuals/secure-access-how-to-register-for-certain-online-self-help-tools> (last visited Apr. 28, 2019).

scanned or photographed documents), to and from taxpayers through a secure portal. The pilot also enabled taxpayers to communicate within the system using computers, smartphones, or tablets.⁵

TAS conducted the pilot in two phases. Phase I started in April 2017 and paused September 30, 2017, due to an IRS Secure Access vendor change. Phase II of the pilot started June 18, 2018, and ended November 30, just prior to the installation of a new version of the system software. Combined, Phase I and Phase II covered approximately one year.

The Phase I pilot included unrepresented taxpayers with Earned Income Tax Credit (EITC) or levy cases.⁶ TAS expanded the pilot in Phase II to include cases with open audits, audit reconsiderations, innocent spouse, offers in compromise (all types), currently not collectible, other installment agreements, Affordable Care Act Premium Tax Credit, and all series of liens.⁷ In both phases of the pilot, very few taxpayers participated in the program. In Phase I, out of the about 750 taxpayers who were invited to participate in the pilot, fewer than ten taxpayers passed the Secure Access e-authentication requirements necessary to open an account.⁸ In Phase II, the number of invitations to participate increased by approximately 50 percent (over 1,100 offers made in Phase II), yet only about a dozen taxpayers were able pass Secure Access.⁹

During both phases of the TAS pilot, the strict e-authentication requirements created a barrier to participation. Many pilot participants (both TAS Case Advocates and taxpayers) noted that the e-authentication requirements were a main reason for not opening an account. The requirements were either too burdensome or the taxpayers did not have the necessary information to pass Secure Access.¹⁰ They also noted that it was simply easier to use another method of communication to provide information, such as fax, phone, or correspondence.¹¹

TAS pilot participants raised concerns about the unnecessarily burdensome e-authentication requirements where the taxpayer merely wanted to electronically submit documents.¹² They raised a valid point: when confidential taxpayer information is only flowing *into* the IRS, there is little risk that the IRS will wrongly disclose confidential information, especially once the IRS has already established personal contact with taxpayer.¹³ For example, when a taxpayer is submitting documentation for an audit or providing evidence of economic hardship to TAS, the taxpayer is not receiving information from the IRS. In such circumstances, it seems unnecessarily burdensome to require the user of the

5 TAS TDC Summary - Cumulative Data from 6/18/2018 Through 12/3/2018 (Dec. 3, 2018).

6 TAS conducted the pilot in the following four offices: Dallas, Nashville, New Orleans, and Cleveland. TAS TDC Summary - Cumulative Data from 6/18/2018 Through 12/3/2018 (Dec. 3, 2018).

7 TAS Fiscal Year (FY) 2018 Quarter 2 Business Performance Review Report Commissioner's Briefing; TAS TDC Summary - Cumulative Data from 6/18/2018 Through 12/3/2018, *Participation Agreement Information by Primary Issue, 6/18/2018 Through 12/3/2018*, 29 (Dec. 3, 2018).

8 TAS, *Working Data for Taxpayer Digital Communications Project* (Figures shown from 04/05/2017 to 09/30/2017).

9 TAS TDC Summary - Cumulative Data from 6/18/2018 Through 12/3/2018, *Participation Agreement Information by Primary Issue, 6/18/2018 Through 12/3/2018* (Dec. 3, 2018).

10 TAS TDC Summary - Cumulative Data from 6/18/2018 Through 12/3/2018 (Dec. 3, 2018); IRS response to TAS information request (Nov. 22, 2017).

11 *TAS Taxpayer Digital Communication (TDC) Pilot: TAS Online Survey Report 5* (2018).

12 *Id.*

13 There is always a risk of criminals attempting to hack into IRS systems or sending attachments with malware, but the IRS has methods other than Secure Access to protect against these risks. The purpose of Secure Access is to prevent unauthorized IRS disclosure of confidential taxpayer information. Internal Revenue Manual (IRM) 21.2.1.58, *Secure Access eAuthentication* (Oct. 9, 2018).

online application to pass the strict three-factor requirements of Secure Access.¹⁴ A taxpayer submitting documentation by mail or fax is not subject to authentication requirements because the IRS does not disclose confidential tax return information in this one-way inbound communication. In addition, while in some instances an identity thief might submit false documents, this is not a security risk, and the IRS has procedures in place to review and determine the legitimacy of documents.¹⁵

The IRS has previously indicated that online transactions should be as easy and simple as policy, process, and technology will allow, especially for inbound document submission processes where taxpayers are attempting to voluntarily comply with tax obligations.¹⁶ The IRS must follow guidelines issued by NIST, which released updated guidelines in June 2017.¹⁷ The IRS subsequently developed an omnichannel authentication strategy and is in the process of applying the new NIST standards to each online application.¹⁸ For example, the IRS implemented an enhanced security two-factor authentication requirement for limited online applications. The two-factor authentication is less burdensome and is currently applied to the Online Payment Agreement applications.¹⁹ Figure 4.11.1 includes the verification rates for the various types of e-authentication levels from FY 2017 to FY 2019 (through March 23, 2019).

FIGURE 4.11.1, e-Authentication Verification Rates, FYs 2017–2019 (through March 23, 2019)²⁰

Type of e-Authentication	FY 2017	FY 2018	FY 2019 (through March 23)
Legacy Two-Factor Verification Rate	82.5%	78.9%	76.7%
Enhanced Two-Factor Verification Rate (beg. July 2018)	N/A	74.3%	65.9%
Three-Factor Verification Rate	33.3%	39.2%	37.2%

14 For a detailed description of the information required to pass Secure Access requirements, see IRS, *Secure Access: How to Register for Certain Online Self-Help Tools*, <https://www.irs.gov/individuals/secure-access-how-to-register-for-certain-online-self-help-tools> (last visited Apr. 28, 2019).

15 We acknowledge that the IRS is under significant pressure to increase its online security controls to battle continuous cybersecurity threats and we firmly believe that strict e-authentication is necessary to promote a high level of confidence in the tax system in general and online services in particular. See *The Internal Revenue Service's Taxpayer Online Authentication Efforts: Hearing Before the H. Subcomm. on Oversight of the H. Comm. on Ways and Means*, 115th Cong. (Sept. 26, 2018) (statement of Michael E. McKenney, Deputy Inspector General for Audit, Treasury Inspector General for Tax Administration).

16 IRS Response to Recommendation 3-3, National Taxpayer Advocate FY 2019 Objectives Report vol. 2 36 (*IRS Responses and National Taxpayer Advocate's Comments Regarding Most Serious Problems Identified in the 2017 Annual Report to Congress*).

17 National Institute of Standards and Technology, Special Publication 800-63-3, *Digital Identity Guidelines* (June 2017). The IRS must also comply with Office of Management and Budget M-04-04, *E-Authentication Guidance for Federal Agencies* (Dec. 16, 2003).

18 IRS Identity Assurance Operations, IRS Office of Privacy, Governmental Liaison and Disclosure (PGLD), *Secure Access Verification Rates* (Apr. 25, 2019); IRS Response to Recommendation 3-3, National Taxpayer Advocate FY 2019 Objectives Report vol. 2 36 (*IRS Responses and National Taxpayer Advocate's Comments Regarding Most Serious Problems Identified in the 2017 Annual Report to Congress*).

19 IRS Identity Assurance Operations, PGLD, *Secure Access Verification Rates* (Apr. 25, 2019). With two-factor authentication, the user is required to create a profile, which involves the IRS verifying personal information and mailing address, and either (1) verify a financial account, (2) activate via SMS (phone verification), or (3) activate via postal activation code. Authentication, Authorization, and Access (A3) Executive Governance Board Meeting (Apr. 11, 2019).

20 IRS Identity Assurance Operations, PGLD, *Secure Access Verification Rates* (Apr. 25, 2019). In July 2018, the IRS enhanced the legacy Level of Assurance (LOA) 2 with additional security and began migrating legacy applications, including Online Payment Agreement (OPA). For three-factor, FY 2018 represents activity since the December 10, 2017, relaunch (after the October to December 2017 temporary shut-down).

To address the needs of taxpayers expressed during the TDC pilot, TAS plans to meet with representatives of NIST to evaluate the feasibility of creating a method to electronically submit documents to the IRS with reduced e-authentication standards, while still maintaining compliance with the new NIST standards. The platform we envision should be the digital functional equivalent to faxing or mailing documents to the IRS. It would be easier for both the taxpayer and the IRS if the taxpayer had the ability to submit documents electronically while still on a call with the IRS. It would save time for both parties because they could both review and discuss the documents in real time and immediately address any concerns. However, requiring a taxpayer to first pass three-factor Secure Access in order to submit documents electronically is going to keep out a substantial number of taxpayers.

TAS Plans to Evaluate the Office of Appeals WebEx Pilot and Advocate for Expansion to Other Service and Compliance Initiatives

From August 1, 2017 through September 30, 2018, the IRS Office of Appeals conducted a pilot using Cisco WebEx Meeting Server (WebEx) technology for virtual face-to-face conferences with taxpayers and representatives.²¹ For the pilot, Appeals used videoconference, document viewing, and chat features available on WebEx software. Appeals did not record WebEx meetings and, although documents can be shared onscreen, no actual file transfer took place.²²

Over 80 Appeals Officers, Settlement Officers and other Appeals employees who routinely interact with taxpayers and representatives volunteered to participate in the pilot.²³ Participating volunteers provided the taxpayer the option of conducting a WebEx conference. Those taxpayers who agreed to participate in the pilot needed a computer, tablet, or other mobile device with an internet connection. The IRS also requested the taxpayer to install WebEx, a free commercial software, on their device, but there was also an option to run a temporary application, which did not require installation but also had less optimal performance, to join the meeting. In addition, while it was preferable that the taxpayer's device had video camera capabilities, taxpayers without this capability could still participate in a WebEx conference for audio and the visual sharing of documents.²⁴

The pilot produced overall favorable results. Over 3,500 taxpayers and representatives were offered to use the technology and almost 40 percent of the Appeals volunteers conducted 130 WebEx conferences. On average, participating taxpayers and representatives rated the experience between very good and excellent (4.28 on a 5-point scale) and about 90 percent indicated that they preferred it over telephone conferences.²⁵

A WebEx conference had both benefits and limitations for both taxpayers and the IRS. The program benefits include: (1) providing a virtual face-to-face opportunity to meet, ensuring engagement and facilitating communication; (2) reducing the time and effort associated with taxpayer travel to an Appeals office; and (3) allowing visual presentation of information in real time. However, technical difficulties also arose as audio and video efficiency are affected by internet connectivity, bandwidth,

21 IRS Office of Appeals, *Appeals' WebEx Pilot – Final Results and Recommendations* (Nov. 6, 2018).

22 IRS, Appeals Virtual Conferences – WebEx, <https://www.irs.gov/appeals/appeals-virtual-conferences-webex> (last visited Apr. 17, 2019).

23 IRS Office of Appeals, *Appeals' WebEx Pilot – Final Results and Recommendations* (Nov. 6, 2018).

24 IRS, Appeals Virtual Conferences – WebEx, <https://www.irs.gov/appeals/appeals-virtual-conferences-webex> (last visited Apr. 17, 2019).

25 IRS Office of Appeals, *Appeals' WebEx Pilot – Final Results and Recommendations* (Nov. 6, 2018).

and the equipment and operating systems used by each party to the conference.²⁶ In addition, the WebEx server was taken offline in late April due to an apparent attempt to “hack” the related audio conference bridge. The IRS brought the server back online on May 22, 2018, after it deployed upgraded programming.²⁷

Appeals has indicated that it intends to expand the use of WebEx by incorporating the technology into conference practices more broadly, going forward.²⁸ In addition, the favorable results of the pilot support the expansion of WebEx technology for virtual conferences in other areas of the IRS. In fact, TAS plans to conduct a pilot of the technology beginning in FY 2020.²⁹

FOCUS FOR FISCAL YEAR 2020

In fiscal year 2020, TAS will:

- Meet with representatives of the National Institute of Standards and Technology (NIST) to determine if most recent standards allow for the creation of less burdensome e-authentication requirements for interactions limited to the inbound transfer of information, such as when the taxpayer submits documents to the IRS and the IRS does not release any taxpayer-specific data in return; and
- Conduct a pilot using WebEx virtual conference technology with TAS cases and model the terms of such pilot on the one conducted by Appeals.

26 IRS, Appeals Virtual Conferences – WebEx, <https://www.irs.gov/appeals/appeals-virtual-conferences-webex> (last visited Apr. 17, 2019).

27 IRS Office of Appeals, *Business Performance Review (BPR), Third Quarter - Fiscal Year 2018 2* (Aug. 23, 2018).

28 IRS Office of Appeals, *Appeals' WebEx Pilot – Final Results and Recommendations* (Nov. 6, 2018); IRS Office of Appeals, FY 2019 Appeals Program Letter 1-3.

29 For a detailed discussion of the planned development of TAS WebEx pilot, see *Efforts to Improve Taxpayer Advocacy, infra*.