



APRIL 2022

# IRS FREE FILE PROGRAM

## IRS Should Develop Additional Options for Taxpayers to File for Free

Accessible Version

# GAO Highlight

Highlights of [GAO-22-105236](#), a report to congressional requesters

## Why GAO Did This Study

IRS and FFI offer free tax filing services to a large majority of taxpayers. Historically, IRS had agreed that it would not develop its own online filing services in exchange for the participating companies offering free services to eligible taxpayers.

GAO was asked to examine the Free File program. This report (1) describes demographic characteristics of Free File users; (2) evaluates IRS's oversight of taxpayer experience provisions; and (3) identifies key challenges and alternative approaches that may exist for IRS to help taxpayers file online at no cost.

GAO analyzed IRS data; evaluated IRS's oversight of agreements with FFI and compared these to federal digital service guidelines; reviewed IRS documents and studies; and used interviews with selected authors of studies (called stakeholders) and IRS officials to inform the analysis.

## What GAO Recommends

GAO is making three recommendations to IRS, including that it add relevant practices from federal guidelines into its next agreement with FFI, and that it identify and develop additional options for free online filing by the time the current Free File agreement expires. IRS agreed with the recommendation to add relevant practices to improve the taxpayer experience into the next FFI agreement. IRS did not agree with the other recommendations, including that it develop additional free filing options. GAO maintains that developing such options would help mitigate risks identified with the Free File program.

View [GAO-22-105236](#). For more information, contact James R. McTigue, Jr. at (202) 512-6806 or [mctiguej@gao.gov](mailto:mctiguej@gao.gov).

April 2022

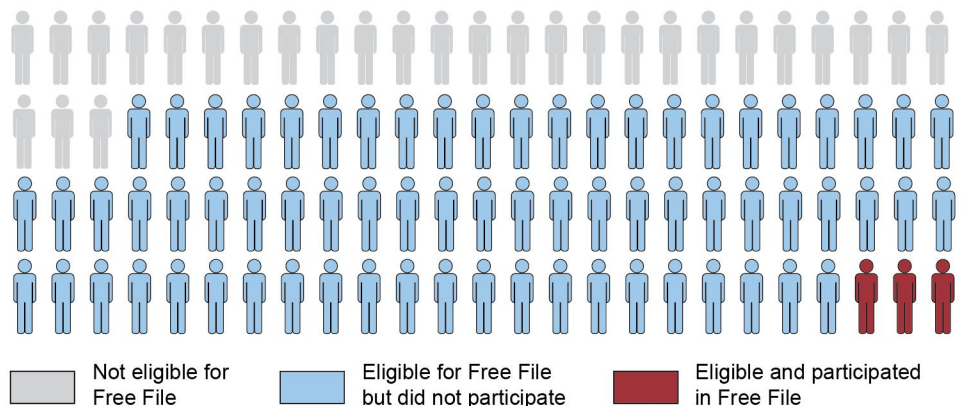
## IRS FREE FILE PROGRAM

### IRS Should Develop Additional Options for Taxpayers to File for Free

## What GAO Found

Taxpayers whose incomes are below a certain threshold can use the Free File program provided by IRS and Free File, Inc. (FFI), a consortium of tax preparation companies, to electronically prepare and file their federal tax returns for free. GAO found that the vast majority of taxpayers eligible for the program used other filing methods, which they may have paid to use. Of those who did use the program, 44 percent had an adjusted gross income of \$17,000 or less.

Individual Taxpayers' Filing Methods for Tax Year 2020



Source: GAO analysis of IRS data. | GAO-22-105236

IRS and FFI have an agreement that governs the program, including provisions intended to improve the taxpayer experience. IRS checks the companies' compliance with this and certain other provisions. GAO compared the current Free File agreement with federal guidelines for digital services and found differences. Through negotiation between IRS and FFI, opportunities may exist to better align the current agreement with the federal guidelines, such as ensuring access for taxpayers with disabilities.

IRS and FFI recently extended the current agreement to October 2023; however, short-term extensions have not addressed mounting challenges. For example, two large companies recently left the program with one citing the taxpayer experience requirements. IRS data through most of the 2022 filing season shows that fewer taxpayers are using the program in the year following the departure of one of these companies last year. Stakeholders had different views on whether maintaining the current program or IRS developing its own online filing system would provide a better experience for taxpayers. Regardless, IRS is not managing the risk of relying on the structure of the Free File program as the way it helps taxpayers file for free online. Under the terms of the agreement, individual companies can leave the Free File program at any time, and FFI can end the program if IRS develops a system of its own. By not managing these risks through the development of additional free online filing options for taxpayers, IRS may be unable to achieve its strategic goal to empower all taxpayers to meet their tax obligations.

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**Abbreviations**

FFI	Free File, Inc.
IRS	Internal Revenue Service
MOU	Memorandum of Understanding
OMB	Office of Management and Budget
RAL	Refund Anticipation Loans
Treasury	Department of the Treasury
21st Century IDEA Act	21st Century Integrated Digital Experience Act

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April 28, 2022

The Honorable Jon Ossoff  
Chairman  
Permanent Subcommittee on Investigations  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
The Honorable Thomas Carper  
United States Senate

Filing a tax return is one of the most common ways ordinary Americans interact with the federal government. About 70 percent of Americans can electronically file a tax return for free if they choose to use the Internal Revenue Service’s (IRS) Free File program. This program’s services are delivered by private companies that have an agreement with IRS to provide free electronic tax preparation and filing for taxpayers who have incomes below a certain threshold. The Free File program provides eligible taxpayers with access to non-IRS websites where they are guided through the process of preparing their tax return. IRS believes this program has encouraged many taxpayers to shift from filing on paper to filing electronically. We have previously identified challenges the program faces. Such challenges include low participation among eligible taxpayers and provisions in the agreement with participating companies that constrained IRS’s ability to expand its online services.<sup>1</sup>

You asked us to review the Free File program. This report (1) describes the demographic characteristics of taxpayers who have recently used Free File; (2) evaluates how IRS oversees, enforces, and updates taxpayer experience provisions of the Free File program; and (3) identifies key challenges facing the program and highlights alternative approaches for providing taxpayers with free tax preparation and filing services.

To calculate the program’s participation rate, we reviewed IRS data on all individual and Free File returns submitted for tax years 2015 to 2020.<sup>2</sup> To summarize taxpayer filing methods, we used IRS data from tax year 2020 returns. To summarize the demographic characteristics of Free File

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<sup>1</sup>GAO, *Tax Administration: Taxpayer Input Could Strengthen IRS’s Online Services*, [GAO-20-71](#) (Washington, D.C.: Dec. 19, 2019).

<sup>2</sup>Tax year 2020 data were available but determined to be unreliable for the purposes of our work.

taxpayers, we reviewed IRS's demographic analysis of Free File tax returns for tax years 2015 to 2019, which were the most recent data available. Appendix I summarizes use of the program by state and other characteristics. We determined IRS's data were sufficiently reliable for our use in this report by reviewing IRS's documented processes for tracking Free File returns, looking for potential outliers or unusual patterns in the data, and interviewing IRS officials.

To evaluate how IRS oversees, enforces, and updates taxpayer experience provisions for Free File program participants, we reviewed the current and prior versions of the Free File memorandum of understanding (MOU) to identify provisions that directly impact a taxpayer's experience, such as requiring companies to design their websites in certain ways or prohibiting companies from engaging in certain marketing practices.<sup>3</sup> We reviewed IRS documents and interviewed officials to describe how IRS oversees the program and monitors participating companies' compliance with the taxpayer experience provisions.

Continuing this evaluation, we identified the level of service that federal agencies are expected to provide to their customers by reviewing Office of Management and Budget (OMB) guidelines.<sup>4</sup> While these guidelines are only required for federal agencies' websites, we examined the extent to which IRS has negotiated with participating companies to incorporate the guidelines into updates to the Free File MOU. We did this by reviewing IRS records and interviewing officials.

We also reviewed the 21st Century Integrated Digital Experience Act which includes requirements related to optimizing services for mobile devices.<sup>5</sup> We also reviewed the recently issued executive order that contains directives for all federal agencies to improve federal services.<sup>6</sup>

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<sup>3</sup>There are other provisions in the MOU that could affect the taxpayer's experience preparing and filing a tax return through Free File, including those that relate to the design and security of the program. However, for the purposes of this analysis we focused on provisions that directly affect the taxpayer's experience using the service to prepare and electronically file a tax return.

<sup>4</sup>Office of Management and Budget, *Memorandum for the Heads of Executive Departments and Agencies: Policies for Federal Agency Public Websites and Digital Services*, M-17-06 (Washington, D.C.: Nov. 8, 2016); and OMB, Circular No. A-11, pt. 6, § 280 *Managing Customer Experience and Improving Service Delivery* (2021).

<sup>5</sup>Pub. L. No. 115-336, §3(a)(8), 132 Stat. 5025, 5026 (2018), *codified* at 44 U.S.C. § 3501 note.

<sup>6</sup>Exec. Order No. 14058, *Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government*, 86 Fed. Reg. 71357 (Dec. 16, 2021).

We considered relevant findings and recommendations drawn from a literature review. Finally, we interviewed officials with Free File, Inc. (FFI), the consortium of companies participating in the program, to obtain their perspective on the taxpayer experience provisions of the Free File MOU.<sup>7</sup>

To identify potential challenges facing the program, we reviewed IRS data on the number of Free File returns prepared by participating companies, and data on the extent to which Free File program participants return the following year. We determined these data were reliable for the purposes of our report. We also interviewed IRS officials and stakeholders, as discussed below.

To identify alternative approaches for providing taxpayers with free electronic tax preparation and filing services, along with the potential advantages and disadvantages of each compared to the status quo, we first conducted a literature search. We searched relevant databases to identify studies published from January 2011 through September 2021.<sup>8</sup> We also asked IRS officials and FFI officials for relevant studies. The studies we identified were used in conjunction with case studies of selected foreign and state revenue agencies we conducted in 2019 as part of an evaluation of online services IRS provides individual taxpayers.<sup>9</sup>

We selected four authors of the relevant studies representing a range of perspectives on the Free File program to interview. We asked each for their views on the benefits of the program, challenges it may face, and any recommendations for IRS and the Free File Program as well as other studies to consider. We use the term “stakeholders” throughout this report to refer to these authors because of their knowledge about or involvement with the Free File program or with tax administration more generally.

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<sup>7</sup>In 2002, the organization’s name was the Free File Alliance, LLC. We will refer to it as FFI for clarity. See Internal Revenue Service, *Free Online Electronic Tax Filing Agreement* (Washington, D.C.: Oct. 30, 2002).

<sup>8</sup>An example of a database was ProQuest. We had also identified relevant studies during our background research and the authors of these studies were considered for possible selection.

<sup>9</sup>For the 2019 report, we selected three countries—Australia, New Zealand, and the United Kingdom—and three states—Alabama, California, and New York—because they offer multiple online services that allow revenue agencies and taxpayers to exchange personalized information electronically and for other considerations. The three countries were selected from among a group of countries participating in the Organization for Economic Cooperation and Development’s Forum on Tax Administration—an international forum intended to share leading practices among revenue agencies. To select individual countries, we considered recommendations from forum staff and also considered the availability of documentation in English. For more information, see [GAO-20-71](#).

Although their views are not necessarily representative of all stakeholders, they provided a range of perspectives on the program.

To obtain historical perspective on the program, we interviewed a fifth stakeholder—the IRS Commissioner who oversaw its creation. While the former commissioner was unfamiliar with recent developments related the program, our analysis determined that potential challenges he identified remain relevant today. As criteria for our review of the program, we relied upon IRS’s strategic goal of empowering taxpayers to meet their tax obligations and laws requiring many Americans to file a tax return as criteria.

We conducted this performance audit from May 2021 to April 2022 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The Free File program provides free guided electronic tax preparation and filing services to taxpayers whose adjusted gross income is up to 70 percent of all U.S. taxpayers.<sup>10</sup> For tax year 2021 (the 2022 filing season), IRS has set the adjusted gross income limit at \$73,000.<sup>11</sup> Using the Free File program involves a number of steps for taxpayers who are willing and able to use a “do it yourself” method:

- From IRS’s website, taxpayers may go directly to a participating company’s website or they can use an IRS tool to determine which company’s website they should use, based on their characteristics and needs.
- On the selected company’s website, taxpayers answer questions about their tax situations. The company uses the responses to complete the required tax forms for the respective taxpayer.

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<sup>10</sup>Adjusted gross income is a taxpayer’s income from all sources minus any adjustments or deductions. See 26 U.S.C. § 62.

<sup>11</sup>Taxpayers filing for tax year 2019 were eligible with an adjusted gross income of \$69,000 or less.



- The taxpayer confirms the information is correct.
- The company electronically transmits the return to IRS.
- IRS processes the return in the same manner as all returns filed electronically.<sup>12</sup>

IRS refers to this experience as traditional Free File and it is the focus of this report.<sup>13</sup>

In 2002, IRS signed the original agreement for FFI to provide free electronic tax preparation and filing services for eligible taxpayers.<sup>14</sup> This agreement created a marketplace to connect eligible taxpayers with tax preparation companies that were willing and able to prepare and electronically file a federal tax return at no cost to the taxpayer. In return, IRS agreed to not offer its own free, online tax return preparation and filing services. One likely reason why the companies participate in the program and provide free service is to help ensure the federal government does not create its own online tax filing system, which could then compete with them. For example, one company which chose to participate in Free File noted in one of its annual reports that a potential government-run online filing system could adversely affect its future financial results.<sup>15</sup>

IRS and FFI signed the first Free File program MOU in 2006, which expanded on the initial program requirements established in 2002. IRS and FFI have renewed the MOU seven times with modest changes (see appendix I for more information). The current MOU was scheduled to expire in October 2021; however, IRS and FFI agreed to a series of

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<sup>12</sup>IRS employees must physically process paper returns.

<sup>13</sup>In addition to traditional Free File, the program also provides a service called Free File Fillable Forms delivered by one of the companies participating in Free File. However, this experience is different because a taxpayer completes the tax forms directly instead of by answering interview-style questions. The website only does the arithmetic for the taxpayer and then electronically transmits the return to IRS. This service is open to all individual taxpayers regardless of income, but IRS.gov directs eligible taxpayers to the traditional Free File program.

<sup>14</sup>IRS' *Intent to Enter Into an Agreement With Free File Alliance, LLC (i.e., Free File Alliance)*, 67 Fed. Reg. 67247 (Nov. 4, 2002).

<sup>15</sup>Intuit, *Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal year ended July 31, 2003*.

extensions. The most recent was announced in January 2022 and extends the MOU until October 2023.<sup>16</sup>

As of January 2022, eight tax preparation companies participate in the Free File program: 1040Now.Net, ezTaxReturn.com, FreeTaxReturn.com INC, FileYourTaxes.com, On-Line Taxes at OLT.com, TaxAct, FreeTaxUSA, and TaxSlayer. Taxpayers can find a participating company's website by using the look-up tool on the IRS.gov Free File web page. This tool asks taxpayers questions about their tax situations and then provides links to the websites of participating companies which meet their criteria. Once the taxpayer chooses a company, the taxpayer is guided through the task of preparing a tax return on the selected company's website.

The Free File program has been a focus of oversight organizations, research groups, and the media. In 2019, a media outlet published a series of articles about how participating companies were marketing their Free File services, and the tax preparation and filing services they were selling outside of the program. Following this reporting, various entities, including the Senate Permanent Subcommittee on Investigations and the MITRE Corporation, conducted reviews of the program.

Subsequently, IRS and FFI agreed in an addendum to the MOU that participating companies would be prohibited from engaging in any practice that would exclude their Free File webpage from search engines.<sup>17</sup> This is intended to ensure that taxpayers who wish to find the Free File program can do so. Further, there is now a requirement that taxpayers who used a participating company's Free File service the prior year will receive a "welcome back" email from the company inviting them to use Free File again.<sup>18</sup> During the filing season, IRS provides a prominent link on its home page for information about Free File. It uses social media, news releases, and other communications to promote the program to potential users.

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<sup>16</sup>2020 Amendment to the Eighth Memorandum of Understanding on Service Standards and Disputes between the Internal Revenue Service and Free File Inc. (December 2020); 2021 Amendment to the Eighth Memorandum of Understanding on Service Standards and Disputes between the Internal Revenue Service and Free File Inc. (December 2021).

<sup>17</sup>Addendum to the Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Inc. (December 2019) (2019 Free File MOU Addendum), para. 1.

<sup>18</sup>Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (October 2018) (2018 Free File MOU), para. 4.32.4.

IRS pays neither FFI nor the companies participating in FFI for their services. Participating companies pay dues to FFI to cover its administrative expenses.<sup>19</sup> Originally, FFI and the participating companies agreed to provide services in exchange for IRS's commitment that it would not develop its own online tax return preparation and filing services. Securing IRS's agreement on that point was a priority for industry officials who stated that an IRS-run online filing system could adversely affect their commercial businesses. This provision was removed in a 2019 addendum to the MOU.<sup>20</sup> Companies participating in FFI subsidize their costs through revenue generated from the services they provide to taxpayers not using Free File.

While providing free services may appear to be an unusual strategy for participating companies to pursue, the MITRE Corporation identified several possible incentives for companies to participate. For example, there may be marketing benefit, or an implied endorsement from IRS, for the company's name to appear on IRS.gov.<sup>21</sup> Additionally, a taxpayer who is initially eligible for Free File, but whose income grows or circumstances change so that the taxpayer becomes ineligible, may choose to stick with the same tax preparation and filing company and become a paying customer. The MOU contains requirements specific to the Free File program. It also incorporates by reference certain statutory and regulatory requirements that generally apply to all providers of electronic filing services.<sup>22</sup> IRS's Wage and Investment Division oversees the Free File program and works with other IRS offices, such as the Office of Online Services to administer the program.

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<sup>19</sup>The MOU refers to the participating companies as members. This report uses the term "participating companies" because a taxpayer using Free File views the entity as a company. This report uses the term "industry" to refer to all companies in the electronic tax preparation and filing sector of the economy.

<sup>20</sup>2019 Free File MOU Addendum, para. II.

<sup>21</sup>IRS.gov states in more detailed information provided about the program that there is no endorsement of any participating company.

<sup>22</sup>2018 Free File MOU, para. 4.1.3(iv).

All executive agencies are required by statute to manage customer experience and improve service delivery using “best practices.”<sup>23</sup> Congress, OMB, and the U.S. Digital Service have established various guidelines intended to improve federal agencies’ digital services. According to OMB guidelines, “[f]ederal websites and digital services should always meet and maintain high standards of effectiveness and usability and provide quality information that is readily accessible to all.”<sup>24</sup> The U.S. Digital Service Playbook reiterates this goal and states that “[t]he American people expect to interact with government through digital channels, such as websites, email, and mobile applications.”<sup>25</sup> As such, the U.S. Digital Service developed a set of guidelines that are drawn from successful practices to help government build effective digital services.

Customer experience is defined by OMB as a “combination of factors that result from touchpoints between an individual, business, or organization and the federal government over the duration of an interaction and relationship.” Some examples include ease, efficiency, equity, and transparency of the process; effectiveness and perceived value of the service itself; interaction with any employees; and perceived responsiveness to individual needs and feedback.<sup>26</sup> In December 2021, the President signed Executive Order 14058 which states that every interaction between the federal government and the public should be seen as an opportunity for the government to save an individual’s time; the customer experience should be driven by the voice of the customer; and that agencies must deliver services more equitably and effectively, especially for those who have been historically underserved.<sup>27</sup> OMB guidance uses filing a tax return as an example of an interaction where the federal government has an obligation to help citizens.

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<sup>23</sup>Pub. L. No. 115-336, § 6, 132 Stat. at 5027–5028. Specifically, the Chief Information Officer of each executive agency or a designee is required to, among other things, (1) coordinate and ensure alignment of the internal and external customer experience programs and strategy of the executive agency; (2) continually examine the digital service delivery strategy of the agency to the public and submit recommendations to the head of the agency providing guidance and best practices suitable to the mission of the executive agency; and (3) using qualitative and quantitative data obtained from across the agency relating to the experience and satisfaction of customers, identify areas of concern that need improvement and improve the delivery of customer service.

<sup>24</sup>OMB, M-17-06 (2016).

<sup>25</sup>U.S. Digital Service, “The Digital Services Playbook” accessed September 7, 2021, <https://playbook.cio.gov/#play1>.

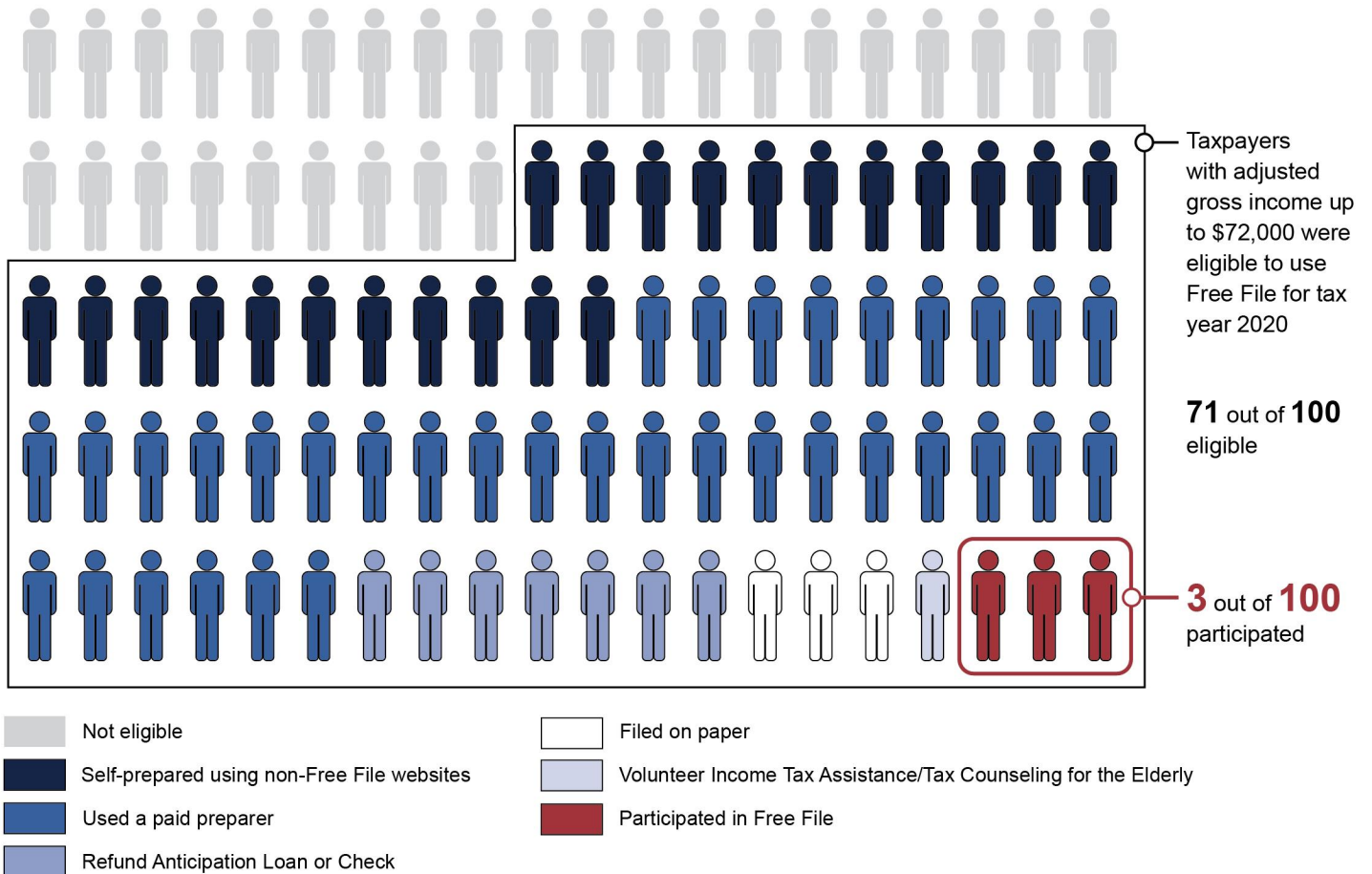
<sup>26</sup>OMB, Circular A-11, pt. 6, § 280.3 (2021).

<sup>27</sup>Exec. Order No. 14058, 86 Fed. Reg. at 71357–71358.

## Few Eligible Taxpayers Use Free File and They Tend to Be Young, Have No Dependents, and Have Lower Income Levels

Although Free File is designed to serve the majority of taxpayers, few taxpayers participate in the program. For tax year 2020, approximately 4.2 million or about 4 percent of eligible individual taxpayers used the program to file their federal return. As shown in figure 1, this is about 3 percent of all individual taxpayers.

Figure 1: Individual Taxpayers' Filing Methods by Percentage of Returns for Tax Year 2020



Source: GAO analysis of IRS data. | GAO-22-105236

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Notes: (1) Figures were rounded to have all filing methods add up to the percentage of eligible taxpayers. (2) While the target is 70 percent of individual taxpayers, 71 percent of taxpayers were eligible to use Free File for tax year 2020.

Most taxpayers who were potentially eligible for Free File used other options that likely would have required a fee to complete their tax returns. For example, using a paid preparer or self-preparing using a commercial website outside of the Free File program may require payment. Our analysis shows that for roughly every 71 taxpayers who qualified for Free File, approximately 64 used a filing method that may have required payment, with just seven out of 71 taxpayers using free methods. Other than Free File, the only other free filing methods are the Volunteer Income Tax Assistance or Tax Counseling for the Elderly programs and filing on paper.<sup>28</sup>

FFI officials told us that taxpayers who use a commercial website outside of the Free File program may find an offer that allows them to complete their returns for free. Officials explained that a company may offer free tax preparation and filing outside of the program to sell ancillary services to taxpayers receiving the free assistance. However, companies are under no obligation to provide tax preparation and filing services for free outside of the IRS Free File program.<sup>29</sup>

Our review of relevant research and discussions with IRS officials found no definitive answer as to why the majority of eligible taxpayers used another filing method. An IRS analysis of the benefits and costs of the Free File program suggested that taxpayer confusion and a lack of awareness about the Free File program may play a role in taxpayers' use of other filing methods. IRS's analysis found that taxpayers may confuse Free File with commercial products outside the program. The analysis also noted that commercial products are widely advertised unlike the Free File program.

The Department of the Treasury's (Treasury) Inspector General for Tax Administration reported in February 2020 that IRS had taken insufficient

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<sup>28</sup>These programs offer free in-person tax return preparation to individuals who generally make \$57,000 or less, persons with disabilities, limited English-speaking taxpayers, or persons who are 60 years of age or older. Filing on paper is free except for the cost of postage.

<sup>29</sup>Participating companies have collectively provided IRS with the number of taxpayers who receive a free return outside of the Free File program; however, we are not reporting these figures because we could not verify the reliability of the process used to collect the underlying data.

action to increase awareness of Free File, and that IRS lacked a formal strategy to promote the program.<sup>30</sup> Additionally, almost a third of Free File-eligible taxpayers surveyed who had paid a fee to file their taxes were unaware of Free File or how to access it. IRS agreed with the Inspector General's recommendation that it should develop a comprehensive communication plan. When asked about the status of this recommendation, IRS officials shared their 2020 Free File communication plan. The plan identified various marketing activities, including press releases, social media outreach, radio interviews, IRS.gov, and recorded messages for taxpayers waiting to speak with an IRS employee. IRS also sent 2.5 million postcards to paper filers encouraging taxpayers to switch to Free File in February 2021. IRS continues to promote the program through press releases, social media, and IRS.gov.

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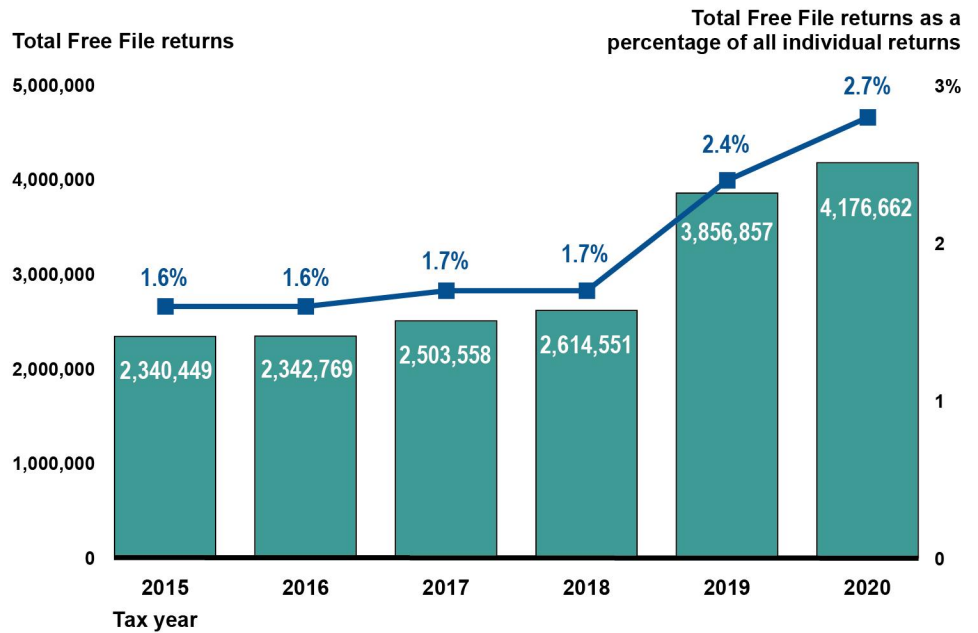
### Use of Free File Is Growing but Remains Limited

The share of Free File returns has remained a small percentage of total individual tax returns filed during the 6 most recent tax years. However program usage experienced a substantial increase between tax years 2018 and 2020 as shown in figure 2.

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<sup>30</sup>Treasury Inspector General for Tax Administration, *Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation*, 2020-40-009 (Washington, D.C.: Feb. 3, 2020).

**Figure 2: Number of Free File Returns for Tax Years 2015–2020 and as a Percentage of All Individual Returns**



Source: GAO analysis of IRS data. | GAO-22-105236

**Accessible Data Table for Figure 2**

Tax year	Total Free File returns	Total Free File returns as a percentage of all individual returns
2015	2,340,449	1.6%
2016	2,342,769	1.6%
2017	2,503,558	1.7%
2018	2,614,551	1.7%
2019	3,856,857	2.4%

IRS officials stated that they believe the recent increase could be due in part to effects of the COVID-19 pandemic, and the resulting lower employment that may have given taxpayers an incentive to find free services and more time to investigate Free File. Additionally, the officials suggested that other possible explanations for the recent increase in participation could include IRS using social media to increase awareness of the program, and changes have made to IRS.gov, which will be discussed later in this report.

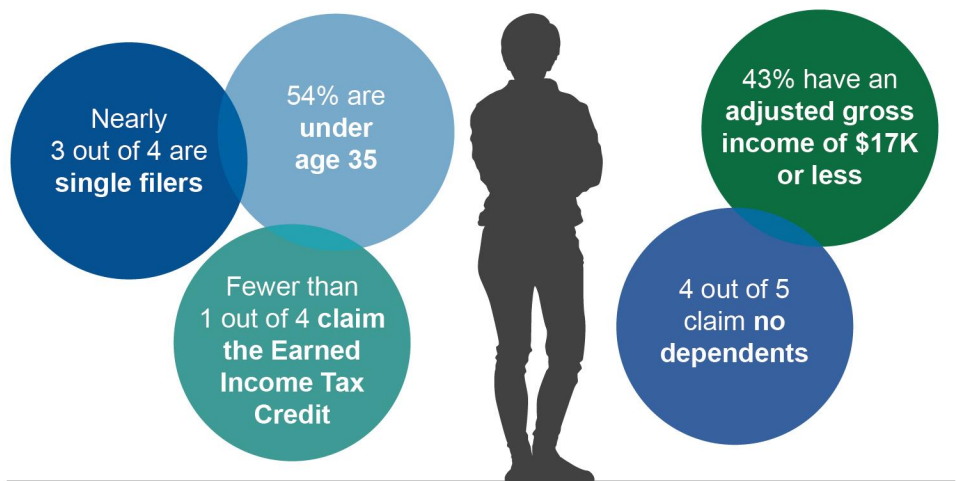
IRS officials cautioned that there may be challenges in comparing the Free File participation rate across multiple years. This is because for tax



years 2019 and 2020, millions of Americans who do not normally file a tax return filed a simple return outside of the Free File program to receive Economic Impact Payments. These payments were distributed to eligible individuals to address financial stress due to the pandemic.<sup>31</sup>

IRS prepares an annual analysis of the demographic characteristics of taxpayers who use Free File. IRS's most recent analysis is based on tax year 2019 data. The characteristics summarized in figure 3 for tax year 2019 were similar for tax years 2015 through 2018.

**Figure 3: Selected Demographic Characteristics of Free File Taxpayers for Tax Year 2019**



Source: GAO analysis of IRS data. Image from Rawpixel/stock.adobe.com. | GAO-22-105236

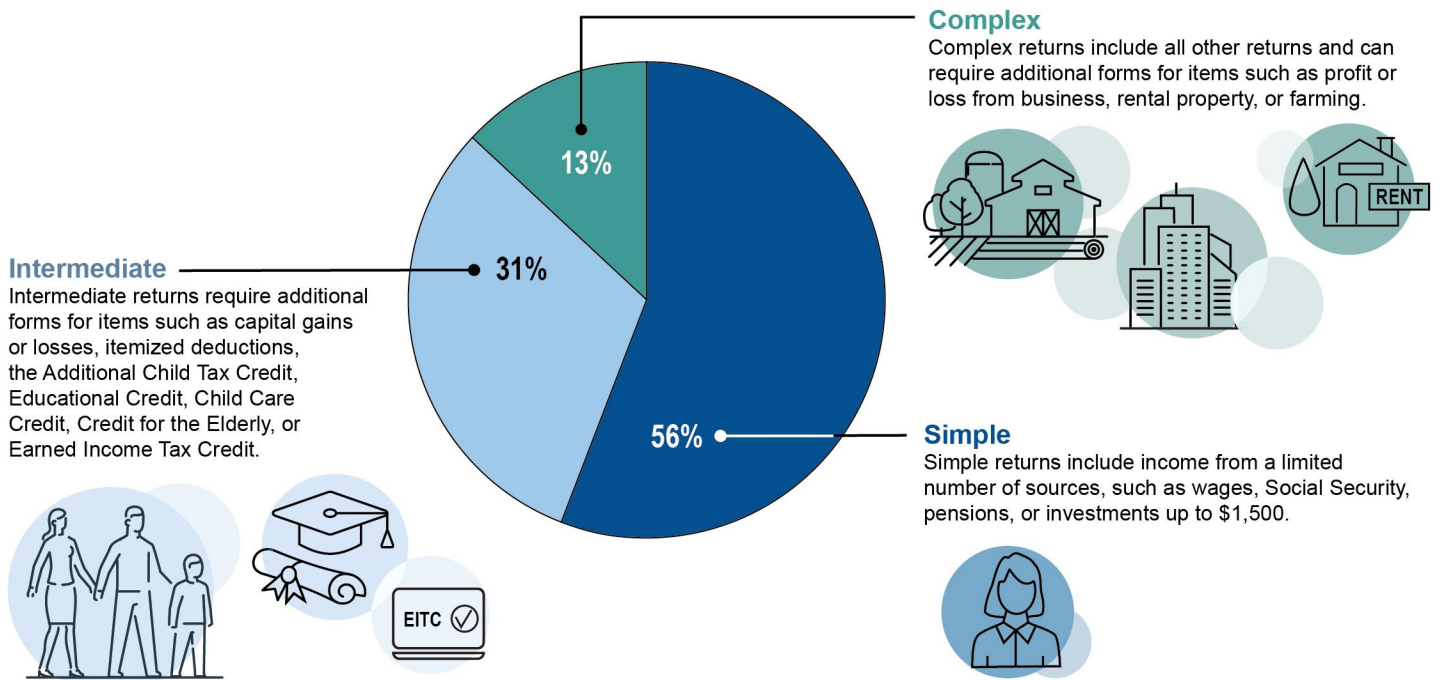
IRS collects demographic data that are directly related to administering the tax code. For example, a taxpayer's age, marital status, and whether the person has dependents may affect whether the taxpayer qualifies to use the standard deduction or itemize deductions. However, IRS officials noted that some demographic data, such as race and gender, are not collected because these characteristics are not needed to administer the tax code. The data IRS provided on the Free File program tabulate each demographic characteristic separately. The data provided are summary-level data and do not allow for analysis of the extent to which a characteristic, such as filing status, may be correlated with other

<sup>31</sup>Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335–340 (2020); Pub. L. No. 116-260, § 272, 134 Stat. 1182, 1965–1976 (2020); Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138–144 (2021).

characteristics, such as age. However, one potential factor that could contribute to the prevalence of single filing status is that eligibility for Free File is based on the adjusted gross income of the household filing a return. Married taxpayers who file a joint return and may have two incomes are still subject to the same income limit as a single filer.

Similarly, we were unable to determine how many Free File taxpayers were eligible for the Earned Income Tax Credit but did not claim it.<sup>32</sup> IRS data provide some perspective on the extent to which Free File taxpayers claim credits and deductions by classifying returns into three levels of complexity. As shown in figure 4, IRS classifies a return as simple, intermediate, or complex based on which, if any, schedules are attached.

**Figure 4: Percentage of Free File Tax Returns by IRS-Determined Levels of Complexity for Tax Year 2019**



Source: GAO analysis of IRS data. Image from turbodesign/stock.adobe.com. | GAO-22-105236

Note: IRS defines the categories by accompanying schedules or additional forms associated with specific tax credits. Simple returns are without any schedules. Intermediate returns are with schedules A, B, D, and forms associated with the Additional Child Tax Credit, Educational Credit, Child Care Credit, Credit for the Elderly, or Earned Income Tax Credit. Complex returns are all other returns, including returns with schedules C, E, F, or other schedules.

<sup>32</sup>Appendix I provides additional data on how many Free File taxpayers claim other tax credits for which IRS has data.

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Although the data show that the majority of Free File taxpayers file simple returns and do not claim dependents or tax credits, more than 40 percent of Free File taxpayers had intermediate or complex returns. For example, a Free File taxpayer who earns wage income and claims the EITC would be classified by IRS as having a return of intermediate complexity. An example of a Free File taxpayer who could be classified as having a complex return might be an individual who earns wage income while also owning a rental property.

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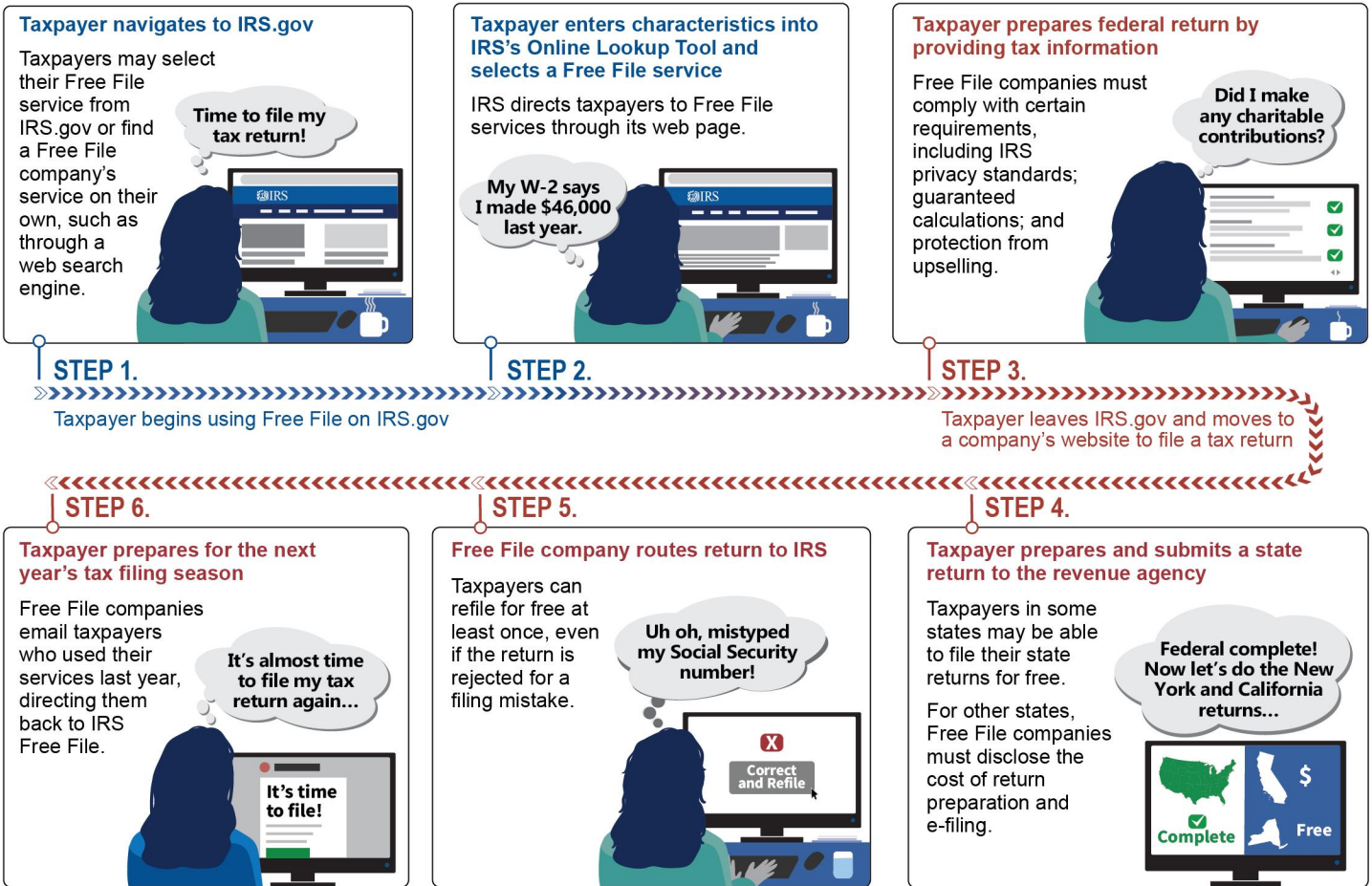
## IRS Has Taken Steps to Improve the Taxpayer Experience with Free File, but Opportunities Exist to Better Align with Government-wide Guidelines

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### IRS Has Tried to Strengthen Taxpayer Experience Requirements in Response to Feedback

The Free File MOUs between IRS and FFI have contained a variety of requirements for participating companies which address taxpayer experience and other topics, such as security standards. The MOU has been periodically updated and renewed, including changes that strengthened the taxpayer experience requirements. We found that the current MOU and its 2019 addendum included 52 provisions that affect taxpayer experience. Our analysis of the MOU and IRS.gov identified six steps an eligible taxpayer may take to file a federal and, in some cases, state tax return. Each step is governed by requirements in the MOU which participating companies must follow (see figure 5).

**Figure 5: One Taxpayer’s Potential Journey through the Free File Program and Examples of Taxpayer Experience Provisions**



Source: GAO analysis of IRS data. | GAO-22-105236

Note: Taxpayer may need to follow up with the state revenue agency if the state return is rejected. As illustrated in the following examples, IRS has periodically negotiated changes to the MOU that have resulted in taxpayer experience improvements:

**Prohibit the Marketing of Paid Products.** Beginning early in the program's history, IRS and FFI changed the Free File MOU to limit participating companies' ability to market paid commercial products to Free File users. The original MOU allowed participating companies to offer Refund Anticipation Loans (RAL). RALs are short-term loans that provide taxpayers with the amount of their refund in advance subject to

finance charges and conditions.<sup>33</sup> The original MOU also allowed participating companies to offer Free File users other paid commercial services unrelated to tax preparation.<sup>34</sup>

IRS stated in a December 2006 news release that while a small percentage of Free File users surveyed reported purchasing an ancillary service, nearly half said they had not intended to do so.<sup>35</sup> In 2007, IRS and FFI agreed to explicitly prohibit companies from any selling activity with a few specifically defined exceptions, including certain state returns.<sup>36</sup> IRS and FFI also agreed to prohibit the use of RALs.<sup>37</sup> According to FFI and IRS leadership, eliminating the marketing of RALs and other ancillary services from the Free File program was a major step forward in improving the taxpayer's experience with the program.

IRS has continued to restrict participating companies from advertising paid services to taxpayers using their Free File websites. In 2018, IRS reached agreement with FFI to prohibit value-add buttons that link to commercial services of the program and include paid products.<sup>38</sup> In a January 2019 press release, IRS stated that this change was "designed to improve the transparency of the program, and to make the navigation easier."<sup>39</sup> These requirements may mean that participating companies

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<sup>33</sup>Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC, (January 2006) (2006 Free File MOU), para. 4.2. For more information on RALs, see GAO, *Tax Refund Products: Product Mix Has Evolved and IRS Should Improve Data Quality*, [GAO-19-269](#) (Washington, D.C.: Apr. 5, 2019).

<sup>34</sup>2006 Free File MOU, para. 4.12. Commercial services not related to tax preparation could be offered with the taxpayer's consent.

<sup>35</sup>Internal Revenue Service, *RALs Removed on Free File; 93 Million Eligible for Program*, IR-2006-187 (Washington, D.C.: Dec. 5, 2006).

<sup>36</sup>Second Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2007) (2007 Free File MOU), para. 4.28.

<sup>37</sup>2007 Free File MOU, para. 4.28(c); 2018 Free File MOU, para. 4.32.3.

<sup>38</sup>2018 Free File MOU, para. 4.32.6.

<sup>39</sup>See also, Internal Revenue Service, *IRS Free File opens today in advance of tax season: Changes strengthen program; Free File can also help navigate new tax law provisions*, IR-2019-02 (Washington, D.C.: Jan. 11, 2019).

must design the Free File sections of their websites differently from the commercial sections intended for paying customers.

**Gather Feedback from Free File Taxpayers.** The original MOU between IRS and FFI required participating companies to provide resources for surveying Free File users about their experiences with the program.<sup>40</sup> This requirement has continued through to the current MOU.<sup>41</sup> However, in 2018, the National Taxpayer Advocate found that IRS was not using these resources. This limited IRS's ability to oversee the program and make any necessary improvements.<sup>42</sup>

Following the Advocate's report, IRS and FFI re-committed in the 2019 addendum to surveying taxpayers "regarding their customer experience and satisfaction," and included more specific requirements for customer surveys.<sup>43</sup> Participating Free File companies must now use a statistically valid method to randomly select and survey Free File users who completed the process of filing their tax returns and provide the results to IRS, which they did for the 2020 and 2021 filing seasons. The summary results FFI officials provided showed that taxpayers were generally satisfied with their experience. In addition, the vast majority said they would use Free File again.

Finally, while the MOU does not require IRS to survey taxpayers who used the IRS look-up tool to find a participating company, the Office of Online Services has introduced a random, voluntary user survey to gather real-time feedback about the tool. For the 2021 filing season, the Free File program staff held monthly meetings with the Office of Online Services staff to discuss these survey results and use them to improve the tool.

**Regulate State Tax Return Marketing.** Taxpayers' experiences with filing their state tax returns vary. Taxpayers with income in 22 states may use participating companies' state preparation and electronic filing services for free (see figure 6). The MOU says that FFI offers free

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<sup>40</sup>2006 Free File MOU, para. 4.26.8.

<sup>41</sup>The MOU says they will provide the "necessary support." See 2018 Free File MOU, para. 4.28.

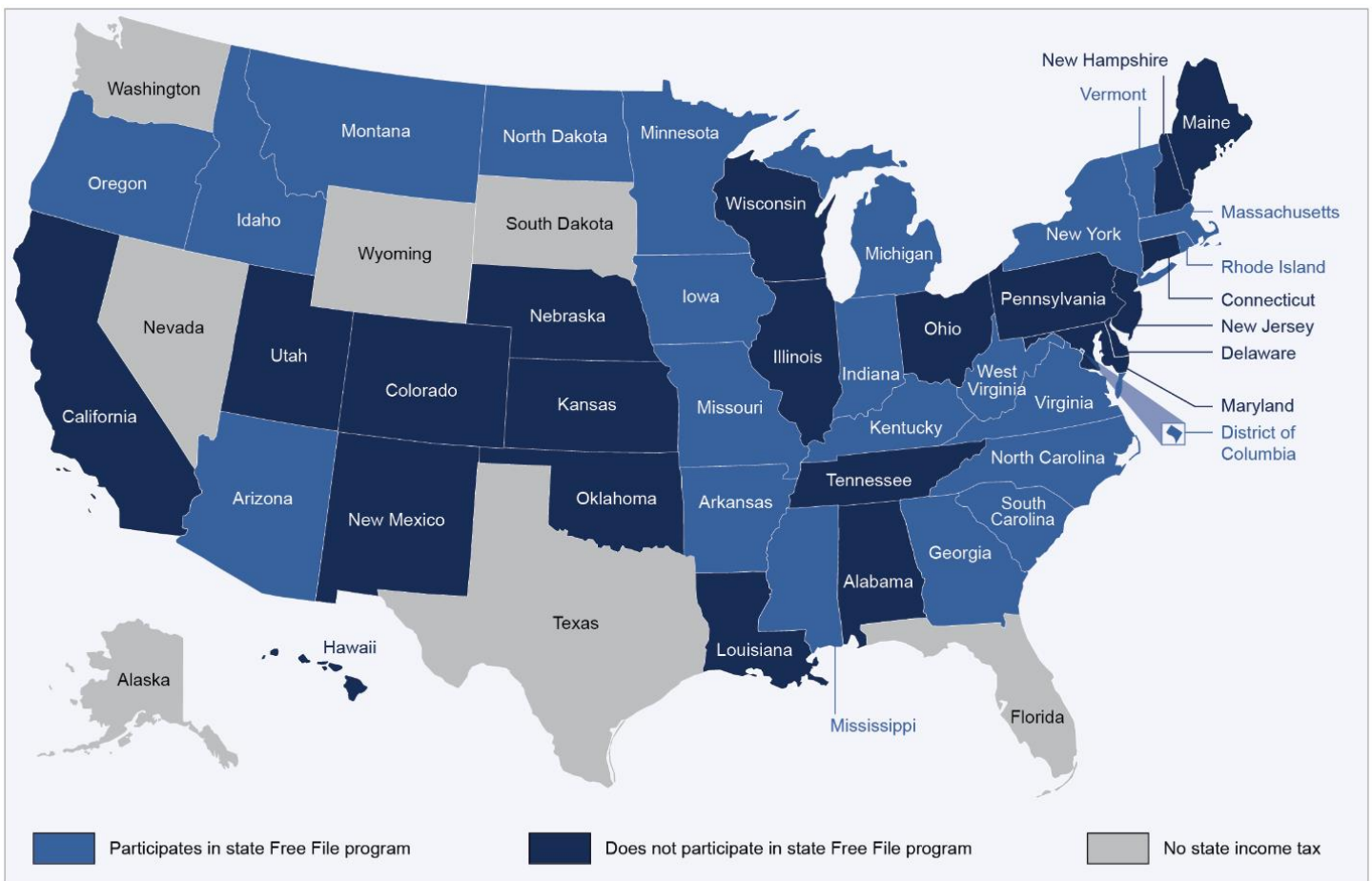
<sup>42</sup>The National Taxpayer Advocate, *Annual Report to Congress 2018*, vol. 1 (Washington, D.C.: 2018), 70.

<sup>43</sup>2019 Free File MOU Addendum, para. VII.



preparation and electronic filing of state individual tax returns based on criteria materially consistent with the federal program. The MOU further says that these state governments do not provide taxpayer funded websites for preparing and filing a state tax return.

Figure 6: Availability of State-Level Free File Program as of 2021



Source: IRS, Free File, Inc., and GAO analysis of selected state laws and Tax Foundation documents. | GAO-22-105236

**Accessible Data Table for Figure 6**

<b>Participates in state Free File program</b>	<b>Does not participate in state Free File program</b>	<b>No state income tax</b>
Arkansas, Arizona, District of Columbia, Georgia, Idaho, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Montana, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Vermont, Virginia, West Virginia	Alabama, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Louisiana, Maine, Maryland, Nebraska, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Utah, Wisconsin	Alaska, Florida, Nevada, South Dakota, Texas, Washington, Wyoming

Notes: (1) While New Hampshire does not tax wage income, residents are required to pay income taxes on interest and dividend income. (2) As of January 1, 2021, Tennessee repealed its tax on dividends and interest. Thus, it no longer has income tax. (3) The District of Columbia no longer participates in the state-level free file program as of 2022. (4) Under state statute, as of January 1, 2022, Washington State taxes certain capital gains; however, a state court held in March 2022 that the statute violated the state constitution. Washington State is currently seeking direct review of the order by the Washington Supreme Court (Order Granting Plaintiffs’ Motion for Summary Judgment and Denying Defendants’ Motion for Summary Judgment at 3, *Quinn v. State of Washington* (No. 21-2-00075-09), 2022).

For taxpayers with income in the states that do not participate in the state Free File program, the MOU does not require FFI to provide free state tax filing services.<sup>44</sup> The MOU allows participating companies to charge taxpayers to prepare and file a state tax return for these non-Free File states—one of only two opportunities the MOU provides for participating companies to earn revenue.<sup>45</sup> However, IRS officials told us that two of the participating companies will prepare and file a return for any state with an income tax at no cost to the taxpayer.

While IRS has taken a number of steps to improve taxpayer experiences with the Free File program, some provisions remain in the MOU that can limit use of the program. For example, we found in 2019 that taxpayers in 21 non-Free File states may be able to prepare and file state tax returns on their state revenue agencies’ websites.<sup>46</sup> The IRS Free File webpage

<sup>44</sup>2018 Free File MOU, para. 4.32.1.

<sup>45</sup>The other selling opportunity participating companies have is that they may offer their paid federal tax preparation and e-filing commercial services to taxpayers who do not qualify for their Free File product. 2018 Free File MOU, para. 4.32.5.

<sup>46</sup>[GAO-19-269](#). A change since the 2019 report is that FFI officials told us the District of Columbia no longer participates in Free File.



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may not provide links to these state revenue agency websites.<sup>47</sup> Further, another MOU provision says that if IRS were to provide such links, it would be grounds for FFI to immediately dissolve the obligations established by the MOU.<sup>48</sup> In other words, IRS cannot tell taxpayers that there may be a free option without putting the entire program at risk. Documents IRS provided on its MOU negotiations with FFI do not discuss the reasons for these provisions. IRS's Advisory Council recommended the agency explore mandating that participating companies offer free state returns for all users either through the companies' websites or a free state electronic filing alternative.<sup>49</sup>

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## IRS Has Expanded Free File Oversight Activities

IRS monitors participating companies' compliance with taxpayer experience requirements and has initiated new activities in recent years. Before the filing season begins, IRS officials visit each participating company's Free File web pages to perform and document checks to ensure that the company is complying with a variety of MOU provisions, including 27 of the 52 taxpayer experience provisions.

We found that IRS's review focuses on taxpayer experience provisions that affect the quality of the service being provided or which limit participating companies' ability to market paid commercial products. For example, officials check that the company's service does not include a "value-add" button by looking for an icon, link, or any other functionality that would offer a Free File user access to the company's commercial products or services. Officials also conduct checks on other aspects of the websites, such as potential security vulnerabilities. However, an example of a provision IRS does not check is whether persons with limited vision can complete the CAPTCHA authentication (a security check intended to prove a human is using the service) required by the MOU.<sup>50</sup> In preparing for the 2021 filing season, IRS documentation shows that reviewers encountered and resolved a variety of issues when testing participating companies' services. When IRS officials identify a

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<sup>47</sup>2018 Free File MOU, para. 4.21.

<sup>48</sup>2018 Free File MOU, para. 4.22.

<sup>49</sup>Internal Revenue Service Advisory Council, *Public Report*, Publication 5316 (Washington, D.C.: November 2018), 18.

<sup>50</sup>2018 Free File MOU, para. 4.6.8.

discrepancy between the MOU requirements and the company's web page, officials say they work with the company to resolve it.

In addition to checking websites of participating companies, IRS also developed a program management plan in 2017 to better retain institutional knowledge about the Free File program. The management plan describes program activities and general timelines to prepare for each filing season, including a review for compliance with the MOU. The plan also identifies the IRS official or other party responsible for each task and the general time frame for initiating and completing the task.

While the management plan does include most of the important program oversight tasks, we found that it has not been updated to reflect new provisions in the 2019 addendum. For example, it neither mentions when IRS should receive customer satisfaction survey results from FFI nor how the agency should use this information as part of its oversight activities. IRS officials told us in early 2022 that they have not finished updating the plan due to resource constraints and recent retirements, but that they have started the task and expect to finish by June 2022. Officials told us they will review the current MOU and its 2019 addendum to identify which provisions are checked as part of their current compliance reviews and which other provisions, including taxpayer experience provisions, should be checked for compliance. IRS officials said they plan to document which provisions they are unable to review and the reasons why.

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## Opportunities May Exist to Better Align the Taxpayer Experience of Free File with Guidelines for Federal Digital Services

IRS has used existing statutory authority to impose certain requirements on all tax preparation software providers, including providers participating in Free File.<sup>51</sup> However, any changes specific to the Free File program must be negotiated between IRS and FFI. IRS documentation shows that officials have compiled a list of recommended changes to the program. However, IRS is unable to implement many of these recommendations on its own. Based on the Free File agreement, implementing the recommendations first requires negotiation and agreement with FFI.

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<sup>51</sup>26 U.S.C. § 6011(e)(1). Specifically, electronically filed returns must be made in accordance with applicable revenue procedures and publications. See 26 C.F.R. § 301.6011-2; IRS Pub. 4164.

These recommendations include changes that the National Taxpayer Advocate, the MITRE Corporation, the IRS Advisory Council, and Treasury Inspector General for Tax Administration have suggested to improve the taxpayer experience as well as other aspects of the program.<sup>52</sup> For example, the Advisory Council's report prepared at IRS's request included a recommendation that the MOU be revised to limit third-party advertising on participating companies' websites. The council's members believed such activity may be confusing and potentially misleading depending on the content of the advertising.<sup>53</sup> Other recommendations that would affect taxpayer experience also remain unaddressed.

Another emerging challenge is how to address guidelines OMB has issued on how agencies should improve the customer experience for those using federal digital services.<sup>54</sup> These guidelines are based on leading practices for online customer experience. While IRS officials emphasized that they address the 21st Century Integrated Digital Experience Act (21st Century IDEA Act) requirements on IRS.gov, IRS does not have plans to discuss with FFI officials how to address these and OMB guidelines for participating companies' Free File websites. As private companies, they are not required to follow the OMB guidelines.

Our analysis identified several differences between MOU requirements and federal guidelines:

**Optimizing Free File for Mobile Devices.** The current MOU does not require participating companies to ensure their services are optimized for mobile devices. However, this is an area where Congress and OMB have signaled that agencies should improve. The 21st Century IDEA Act contains a provision requiring that new executive branch agency websites or digital services (or redesigns of legacy sites or services) be fully

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<sup>52</sup>National Taxpayer Advocate, 78; IRS Advisory Council, 17-18; MITRE Corporation, *Independent Assessment of the Free File Program: Free File Program Assessment Final Report* (McLean, Va.: October 3, 2019), xvi-xxii; Treasury Inspector General for Tax Administration, 14-18.

<sup>53</sup>IRS Advisory Council, 18.

<sup>54</sup>OMB, Circular A-11, pt. 6, § 280.7 (2021); OMB M-17-06 (2016).

functional and usable on common mobile devices.<sup>55</sup> OMB guidelines contain a similar directive.<sup>56</sup>

While the 21st Century IDEA Act and OMB guidelines do not apply to the companies that provide Free File's tax preparation and filing services, they do apply to the IRS.gov Free File look-up tool and related IRS.gov Free File web pages. Recent data show the importance of mobile optimization in the Free File program. In fiscal year 2021, visits from a mobile device or smart tablet made up nearly half of all visits to the IRS.gov Free File look-up tool according to IRS data. IRS officials suggested that some of these taxpayers may be browsing and not ready to prepare their return. IRS officials expressed skepticism that people use mobile devices to prepare and file their tax returns. However, according to data from the Pew Research Center, U.S. adults with low incomes—the group that is eligible to use the Free File program—are more likely to rely on mobile devices to access the internet.<sup>57</sup>

In December 2021, IRS officials told us they thought all the participating companies had mobile-friendly (optimized) web pages; however, IRS had only asked participating companies to report whether their websites are accessible on a mobile device. Making a web page accessible to a mobile device is not the same as optimizing it for a mobile device. According to FFI officials, as of February 2022, seven of the eight participating companies' Free File services are mobile optimized.

**Access for Taxpayers with Disabilities.** The MOU contains one requirement addressing service for taxpayers who have disabilities. As mentioned above, the MOU requires participating companies to take steps so that persons with limited vision can access and complete the authentication.<sup>58</sup> However, the MOU does not cover other issues that may affect taxpayers with disabilities, such as a person who may use a screen reader to navigate a website. FFI officials told us in February 2022 that

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<sup>55</sup>Pub. L. No. 115-336, § 3(a)(8), 132 Stat. at 5026.

<sup>56</sup>OMB M-17-06 (2016), 6.

<sup>57</sup>More than a quarter of U.S. adults from households with annual incomes lower than \$30,000 relied on smartphones for online access in 2021, according to the Pew Research Center. See, Pew Research Center, "Internet/Broadband Fact Sheet" (Washington, D.C.: Apr. 7, 2021), accessed December 9, 2021, <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/?menulitem=480dace1-fd73-4f03-ad88-eae66e1f4217>.

<sup>58</sup>2018 Free File MOU, para. 4.6.8.

they have not surveyed participating companies concerning the extent to which they may take additional steps to allow taxpayers with disabilities to use their Free File websites and have not compiled data on this topic.

The 21st Century IDEA Act includes a requirement that new or redesigned federal websites be accessible to individuals with disabilities.<sup>59</sup> OMB guidance says the experience in using federal services should be comparable for all users regardless of whether the person has a disability.<sup>60</sup>

**Languages and Free File.** The MOU does not require participating companies to provide services in any foreign languages. According to IRS, a Spanish-language version of Free File is available.<sup>61</sup> IRS's Commissioner has stated that IRS should serve taxpayers in many languages.<sup>62</sup> According to IRS officials, the IRS.gov website is available in seven non-English languages: Spanish, Russian, Korean, Vietnamese, Simplified Chinese, Traditional Chinese, and Haitian Creole. Users can both navigate the website and access content in these languages. IRS.gov also features limited tax information in several additional languages, including Arabic, Portuguese, and Tagalog.

However, FFI officials told us few taxpayers use the Spanish language version of Free File. They expressed skepticism about the costs and benefits of adding additional languages. According to FFI officials, participating companies would only agree to offer Free File services in other languages if they provided commercial offerings outside the program in these languages.

IRS has made progress in implementing program recommendations and improving the taxpayer experience. It has collected more customer feedback, added a Spanish language Free File option, and restricted participating companies' ability to sell commercial products to Free File users. Pursuing further improvements, such as mobile optimization, accessibility, and non-English language versions, will require negotiation

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<sup>59</sup>Pub. L. No. 115-336, § 3(a)(1), 132 Stat. at 5025. This provision references section 508 of the Rehabilitation Act of 1973, which is codified as amended at 29 U.S.C. § 794d.

<sup>60</sup>OMB, M-17-06 (2016), at 15.

<sup>61</sup>The MOU states that participating companies that provide their services in Spanish should attach an indicator to those returns. 2018 Free File MOU, para. 4.25.

<sup>62</sup>Internal Revenue Service, *IRS expands help to taxpayers in multiple languages with new forms, communication preferences*, IR-2021-56 (Mar. 16, 2021).

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with FFI. The participating companies may view additional changes as burdensome, not commercially feasible, and not part of their existing commercial products. However, further implementing recommended taxpayer experience changes and incorporating leading practices from OMB's guidelines for federal digital services may allow IRS to further improve the program. Taxpayers who rely on the Free File program to file their federal tax returns—which is required by law and necessary to claim important government benefits such as the Earned Income Tax Credit and Child Tax Credit—may have a better experience to the extent IRS can successfully negotiate and implement these changes to the program.

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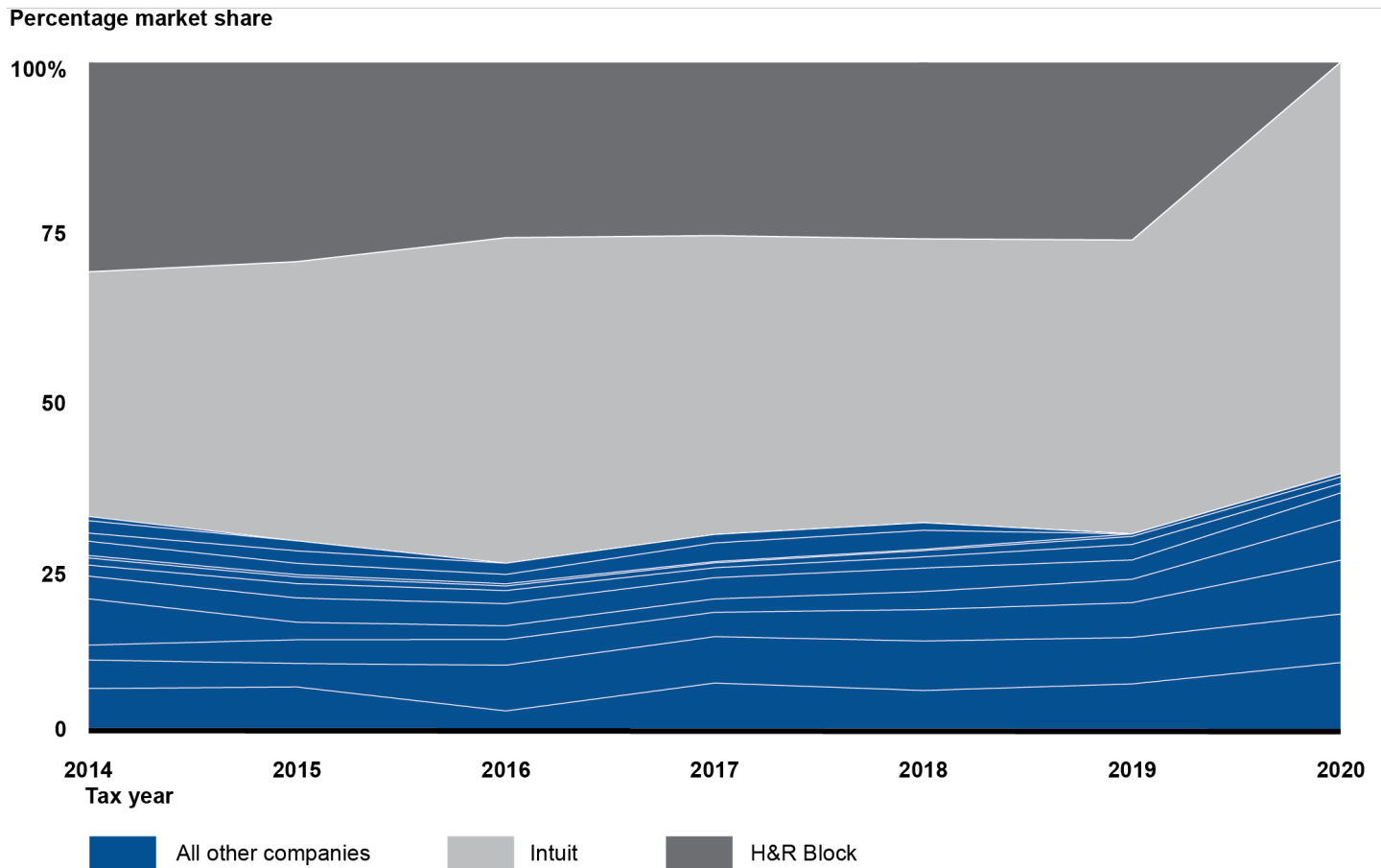
## IRS Faces Mounting Risks by Continuing to Rely on Industry to Provide Free Tax Filing Services

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### The Largest Companies Have Stopped Participating in Free File

Between 2016 and 2021, IRS officials reported that five companies left the Free File program. Two of these companies—H&R Block and Intuit—together served approximately 70 percent of Free File taxpayers for tax year 2019, as shown in figure 7. H&R Block left the program at the end of the 2020 tax filing season; Intuit left at the end of the 2021 season.

**Figure 7: Market Share of the Largest Companies Serving Traditional Free File Taxpayers, between Tax Years 2014 and 2020**



Source: GAO analysis of IRS data. | GAO-22-105236

**Accessible Data Table for Figure 7**

Tax year	All other Companies (percentage market share)												Intuit	H&R Block
2014	6.37	4.26	2.23	6.92	3.39	1.64	1.06	0.38	2.13	1.22	1.85	0.63	36.55	31.38
2015	6.6	3.51	3.55	2.61	3.63	2.15	0.99	0.35	1.68	1.87	1.49	0	41.72	29.85
2016	3.02	6.83	3.84	2.05	3.31	1.96	0.68	0.33	1.39	1.68	0	0	48.64	26.27
2017	7.19	6.93	3.64	2	3.17	1.48	0.74	0.19	2.78	1.27	0	0	44.65	25.96
2018	6.08	7.39	4.69	2.69	3.52	1.68	0.93	0.19	2.84	1.14	0	0	42.4	26.46
2019	7.06	6.94	5.2	3.5	2.88	2.32	1.2	0.37	0	0	0	0	43.91	26.62
2020	10.25	7.26	8.03	6.06	4.02	1.4	0.97	0.51	0	0	0	0	61.5	0

The MOU between IRS and FFI states that a company participating in FFI may provide written notice that it does not wish to be listed on the Free File website, continue in the Free File program, or both.<sup>63</sup> The MOU also states that each participating company must make its services available to not less than 10 percent and not more than 50 percent of individual taxpayers.<sup>64</sup> In other words, no single participating company can offer its services to every eligible taxpayer. Despite this effort to prevent one company from dominating the program, the IRS Free File program was heavily dependent on two companies which are no longer participating in the program.

After noting its long participation in the Free File program, Intuit stated that it left the program due to “limitations of the Free File program and conflicting demands from those outside the program.”<sup>65</sup> For example, while Intuit wants to provide taxpayers with access to financial services, the company says the Free File program’s “focus [is] solely on tax preparation and [electronic] filing with strict requirements for user experiences.” Further, Intuit stated in a regulatory filing that its departure from the Free File program may increase the likelihood that the program ends. This could lead to IRS developing its own online filing system and competing with the tax preparation industry.<sup>66</sup> Intuit’s statement shows how efforts to strengthen the taxpayer experience may affect participating companies’ participation in the program, leaving taxpayers with fewer options.

H&R Block officials said on an earnings call in June 2020 that they will continue to offer opportunities for taxpayers to file for free outside of the Free File program. They said leaving was in the best interests of the

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<sup>63</sup>2018 Free File MOU, para. 6.1.5.

<sup>64</sup>2018 Free File MOU, para. 4.1.3(i). This provision exempts active duty military personnel from this cap provided that their adjusted gross income is no more than the 70 percent of all U.S. taxpayers.

<sup>65</sup>Intuit, “Accelerating Technology Innovation to Better Help Consumers Solve Their Most Pressing Financial Problems,” (July 15, 2021). Available from <https://www.intuit.com/blog/news-social/accelerating-technology-innovation-to-better-help-consumers-solve-their-most-pressing-financial-problems/> (accessed August 31, 2021).

<sup>66</sup>Intuit, *Form 10-K: Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934: For the fiscal year ended July 31, 2021* (Mountain View, Calif.: Sept. 8, 2021).



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company.<sup>67</sup> Representatives from both companies declined our request to discuss their experience in the program.

IRS and FFI officials told us they are confident that the remaining eight Free File companies will be able to handle the volume of returns during the 2022 filing season. Nonetheless, the number of companies in the Free File program, and thus the number of choices for taxpayers, is smaller.

Preliminary IRS data suggests that Intuit's departure from the program has coincided with a decrease in the number of taxpayers using Free File. As of April 12, 2022, IRS had accepted approximately 1.83 million Free File returns compared to approximately 2.85 million returns accepted at the same point during the 2021 filing season. The 2021 filing season was the final one Intuit participated in as a member of FFI. As of April 12, 2021, IRS had accepted approximately 1.75 million returns prepared by Intuit alone within the Free File program. IRS's data do not track the extent to which Intuit's Free File customers from the 2021 filing season may have used another Free File participating company's website or the number who may have paid to continue filing with Intuit's commercial services. Some participating companies have had noticeable increases in taxpayers using their website through the Free File program during the 2022 filing season. However, the data show that none of the current participating companies have replaced the volume of Free File users who previously used Intuit's and H&R Block's websites.

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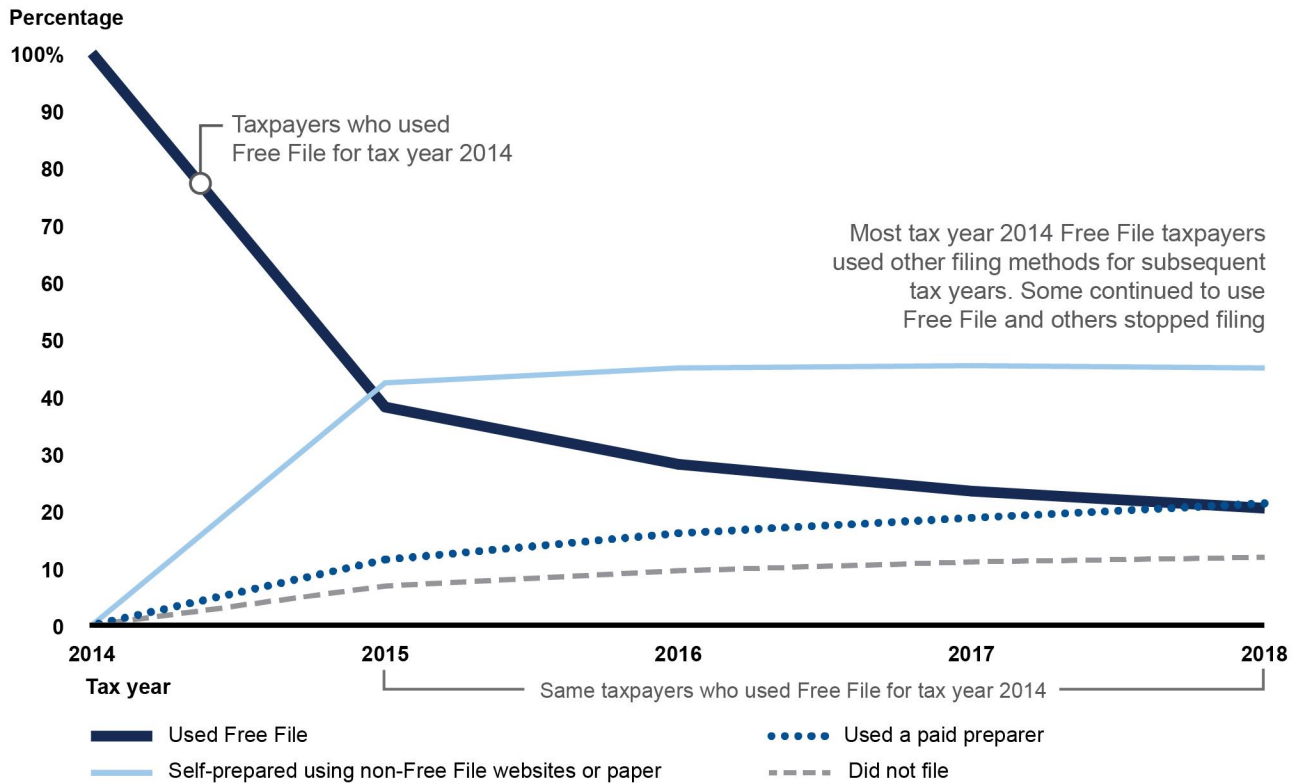
## Many Taxpayers Do Not Return to the Program

Another challenge the program faces is retaining Free File users. IRS data show that many taxpayers do not come back to the program. For taxpayers who used Free File for their tax year 2014 return, more than 40 percent of those continued to use a "do it yourself" method for the following year's tax return, but they used options outside of the program, as shown in figure 8. The pattern continues in the subsequent years.

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<sup>67</sup>The Motley Fool Transcribers, "H&R Block, Inc. (HRB) Q4 2020 Earnings Call Transcript: HRB earnings call for the period ending April 30, 2020" (Alexandria, VA: Jun. 16, 2020), accessed January 18, 2022, <https://www.fool.com/earnings/call-transcripts/2020/06/16/hr-block-inc-hrb-q4-2020-earnings-call-transcript.aspx>.

**Figure 8: Tracking Filing Methods of Taxpayers Who Used Free File for Tax Year 2014 across Later Years**



Source: GAO analysis of IRS data. | GAO-22-105236

**Accessible Data Table for Figure 8**

Tax year	Used free file	Self-prepared using non-Free File websites or paper	Did not file	Used a paid preparer
2014	100%	0	0	0
2015	38%	42%	7%	11%
2016	28%	45%	10%	16%
2017	23%	45%	11%	18%
2018	20%	45%	12%	21%

Note: A small proportion of taxpayers not shown in this figure subsequently used Free File Fillable Forms, the Volunteer Income Tax Assistance program, or Tax Counseling for the Elderly program.

IRS’s data do not provide information on how many taxpayers may have seen their incomes increase, which could have made them subsequently ineligible for Free File. However, as noted earlier, the typical Free File user has an income well below the eligibility limit. This suggests that relatively few taxpayers would “outgrow” the program in a year.

Regarding Free File users who no longer file a return, officials said possible explanations include a taxpayer who passes away or a single taxpayer who gets married and whose combined income then becomes higher than the Free File program limit. The officials also noted some taxpayers enter and leave the workforce. For example, a taxpayer may go back to school and no longer have an income high enough to trigger the filing requirement.

More recent IRS data show that the retention rate has improved. For tax year 2017 (the most recent available data), 56 percent of taxpayers returned to Free File to prepare their 2018 returns compared to 38 percent of tax year 2014 taxpayers who returned to the program in 2015. However, data are unavailable on the filing method these taxpayers used in subsequent years.

The MOU does not specify a goal for retaining taxpayers from year to year. IRS officials said their research shows that taxpayers tend to stick with the same filing method once they find one that works. Thus, some Free File users may follow the companies out of the program. Further, officials said taxpayers who leave the program may be finding free offers from companies outside the program. The IRS data do not track the extent to which taxpayers leaving the program found free offers elsewhere.

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## Stakeholders Differed on Whether IRS Should Continue to Rely on Industry or Develop Additional Online Filing Options

Our prior work reviewing the experiences of selected foreign countries and states, analysis of the literature, and discussions with stakeholders identified two plausible options for ensuring continued access to free tax preparation and filing services for a majority of taxpayers: (1) maintaining the status quo with Free File or a similar program, or (2) IRS developing its own online filing system for preparing and filing a return as a supplement or alternative to Free File.<sup>68</sup> These two options are not mutually exclusive. The MOU no longer prohibits IRS from offering its own online filing system, but we will discuss below a provision of the MOU which would present significant risks to the interests of IRS and taxpayers if the government funded an alternative system. Given that the law generally requires taxpayers to file a return, and because many federal benefits are only available to those who file, it is reasonable to

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<sup>68</sup>GAO-20-71.

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expect the federal government to help citizens with their filing obligations at the lowest possible cost.

**Potential Advantages of Continuing Free File.** One stakeholder said that the Free File program has influenced tax preparation and software companies to be more civically minded than they would otherwise have been citing the filing services they provide for free outside of the program.<sup>69</sup> This stakeholder believed that the government has trouble keeping up with technology and said IRS has too few staff and resources. Further, this stakeholder suggested that policymakers consider how an IRS-run system could affect taxpayers who presently obtain a free federal return outside of Free File. The stakeholder noted that not all of these taxpayers would immediately move to an IRS-run system. In addition, the stakeholder cautioned that an IRS-run system could discourage future innovation by the private sector.

While not all stakeholders agreed with the perspective summarized above, we heard from other stakeholders that the program has provided some benefits. For example, one stakeholder believed that the program helped increase electronic filing, which is widely recognized for reducing IRS's costs and helping reduce errors. Further, this stakeholder believed the program had improved collaboration between IRS, industry, and state revenue agencies in combating identify theft refund fraud.<sup>70</sup>

**Potential Advantages of IRS Developing Its Own Online Filing System.** Three other stakeholders we spoke with had different perspectives and said IRS should help taxpayers prepare and file a return electronically more directly. For example, one stakeholder believed that IRS is in the best position to help taxpayers with low incomes, those with limited financial literacy, and those who speak a language other than English. This stakeholder noted that IRS will not try to sell additional services to taxpayers.

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<sup>69</sup>John N. Friedman, "The IRS Free File Program: Tip of the Iceberg for Free Federal Returns-Follow-Up Study: October 2015" [unpublished study.] The author states that the research was supported by funding from FFI.

<sup>70</sup>In 2015, IRS formed the Security Summit to protect the nation's taxpayers and the tax system from identity theft refund fraud. The summit has representatives from IRS, state tax administrators, and industry including the software industry, tax professional associations, and payroll and tax financial product processors. GAO, *Taxpayer Information: IRS Needs to Improve Oversight of Third-Party Cybersecurity Practices*, [GAO-19-340](#) (Washington, D.C.: May 9, 2019).

This stakeholder stated that IRS has an informational advantage compared to industry, referring to the data IRS receives from third parties, such as employers reporting wages paid to an employee. Two stakeholders discussed the possibility of IRS potentially prepopulating tax returns—which means that the revenue agency automatically enters third-party information into a taxpayer’s return. Our analysis of the MOU shows that prepopulating tax returns potentially could be done within the existing Free File program. However, laws intended to ensure the privacy of taxpayer information would make it easier for IRS to offer this capability than industry. The 2015 and 2018 Free File MOUs encourage participating companies to incorporate information from the taxpayers’ prior year return into the current year return when a taxpayer revisits the same company’s website.<sup>71</sup> For example, a taxpayer who lives at the same address could save time because that address would already be in the system. FFI officials noted this is consistent with commercial practices.

Another provision of the 2015 and 2018 MOUs states that companies should incorporate technology that permits taxpayers to upload information from forms such as Form W-2 for wages paid and taxes withheld by employers and Form 1099 used to document miscellaneous income.<sup>72</sup> This information is reported to both the taxpayer and IRS. Federal law generally prohibits IRS from sharing taxpayer information with outside entities.<sup>73</sup> This is why the taxpayer must upload the information to a participating company’s website. FFI officials added that this same consideration applies to returns that industry prepares outside of Free File. Thus, IRS is in a stronger position than industry to pre-populate returns because it has direct access to taxpayer data.

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<sup>71</sup>2018 Free File MOU, para. 4.36.1; 2015 Free File MOU, para. 4.37.1

<sup>72</sup>2018 Free File MOU, para. 4.36.2; 2015 Free File MOU, para. 4.37.2. This provision further states that FFI will make a good faith effort to obtain this technology for free and, if successful, will offer this technology to participating companies for free. It also allows participating companies to use their own technology for this purpose.

<sup>73</sup>26 U.S.C. § 6103.

Having IRS prepopulate returns would come with challenges, as a 2003 Treasury study reported.<sup>74</sup> Treasury found that many taxpayers surveyed were interested in having IRS prepare their returns, but noted that IRS would face challenges, including getting third-party data in a timely manner. Taxpayers would also need to check the returns IRS prepared for accuracy, which raises the possibility of refunds being delayed. According to the study, such a delay eroded support among taxpayers for this kind of approach. While these challenges remain relevant today and could make it difficult for IRS to reduce the taxpayer burden, some third party information is now provided to IRS earlier in the filing season. The Protecting Americans from Tax Hikes Act of 2015 moved the deadline for filing information returns for wages and nonemployee compensation forward to allow IRS to check the information before issuing refunds.<sup>75</sup>

**IRS Capacity and Potential Costs.** Our discussions with the former IRS commissioner—a fifth stakeholder we interviewed and who oversaw the creation of the Free File program in the early 2000s—provides a cautionary perspective on IRS’s capacity to develop its own website. The Commissioner told us that IRS, in the early 2000s, lacked the capacity to develop tax return preparation and filing software comparable to industry. Furthermore, at that time, IRS was already having difficulty providing an acceptable level of service to taxpayers calling for assistance. Thus, it could not provide the necessary level of customer support for an IRS-developed tax preparation and filing system.

While the former commissioner did not consider Free File as a completely satisfactory solution, he said it leveraged the companies’ concerns that IRS might establish its own online filing system to create a free option for eligible taxpayers. The former commissioner’s observations about IRS’s customer service challenges remain relevant today. We reported earlier this year that IRS has continued to struggle to provide customer service

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<sup>74</sup>The Internal Revenue Service Restructuring and Reform Act of 1998 required Treasury to develop procedures for the implementation of a return-free system in the United States for “appropriate” individuals by 2007. Pub. L. No. 105-206, § 2004, 112 Stat. 685, 726 (1998). Department of the Treasury, *Report to the Congress on Return-Free Tax Systems: Tax Simplification Is a Prerequisite* (Washington, D.C.: Dec. 23, 2003).

<sup>75</sup>Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div. Q, § 201, 129 Stat. 2242, 3076 (2015). Prior to enactment of the Act, the deadlines were the end of February for paper-filed returns and the end of March for electronically filed returns.

due to long-standing challenges exacerbated by the COVID-19 pandemic.<sup>76</sup>

The MOU divides customer service responsibilities between participating companies and IRS. Participating companies are required to list their customer service options. The MOU stipulates that options listed must be free.<sup>77</sup> IRS is permitted to provide phone-based, web-based, or electronic customer service for issues once a return has been accepted by IRS.<sup>78</sup> Calls today can go to either IRS or participating companies depending on when the issue arises in the tax-filing process. If IRS took a more direct role in helping taxpayers file online, more taxpayers would likely call IRS seeking assistance.

Regarding potential capacity challenges for IRS, stakeholders who supported this concept offered several comments. One stakeholder praised IRS's Office of Online Services for its recent work. Further, stakeholders believed that IRS could gain additional capacity by collaborating with the U.S. Digital Service which helps agencies with specific modernization efforts. Stakeholders also mentioned Code for America as a not-for-profit organization which IRS could work with.<sup>79</sup> One stakeholder suggested IRS issue a request for proposals which would help it define the product. The stakeholder said that IRS could then work with other federal agencies or industry to develop the product.

IRS and Treasury's recent experience distributing economic impact payments and advanced payments of the expanded Child Tax Credit during the COVID-19 pandemic involved working with FFI and later with Code for America. In April 2020, IRS worked with FFI to develop a website where people who do not normally file a tax return could file simplified returns and receive their economic impact payments.<sup>80</sup> The new

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<sup>76</sup>GAO, *Tax Filing: Preliminary Observations on IRS's Efforts to Address Persistent Challenges*, [GAO-22-105802](#) (Washington, D.C.: Feb. 17, 2022).

<sup>77</sup>2018 Free File MOU, para. 4.15.4.

<sup>78</sup>2018 Free File MOU, para. 4.36.4.

<sup>79</sup>Code for America, founded in 2009, is a civic tech nonprofit organization that focuses on improving government digital services for all.

<sup>80</sup>IRS, *Treasury, IRS launch new tool to help non-filers register for Economic Impact Payments*, IR-2020-69 (Washington, D.C.: Apr. 10, 2020).

website was based on the Free File Fillable Forms website (also part of the Free File program) which helped accelerate the process.

While IRS and FFI's efforts helped millions of Americans quickly obtain their payments, we found that eligible individuals who relied on a mobile device faced challenges with accessibility and navigation.<sup>81</sup> Further, we found this same challenge continued into the second year of the pandemic when in 2021 FFI developed for IRS the Child Tax Credit Non-filer Sign-Up Tool. An added challenge for some individuals was the absence of a Spanish-language version of the tool.<sup>82</sup>

More recently, the Executive Office of the President and Treasury collaborated with Code for America to help taxpayers complete a simplified tax return to claim advance payments of the expanded Child Tax Credit. Code for America stated that its website is intended to offer new capabilities, such as being mobile friendly and providing more guidance to help taxpayers understand the credit's requirements.<sup>83</sup> These examples illustrate new options that IRS and Treasury have used to expand their capacity to help Americans file a tax return and access social benefits.

In 2007, we examined the benefits and costs state revenue agencies experienced in developing their own systems for electronically filing a state tax return.<sup>84</sup> We found that states' costs for setting up their own electronic filing systems were modest and that the benefits varied depending on the number of taxpayers using the system. We also noted that IRS's costs could be higher given that the federal tax system is more complex and its potential to realize savings would depend, in part, on the cost and the number of taxpayers converted from paper to electronic

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<sup>81</sup>GAO, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, [GAO-20-701](#) (Washington D.C.: Sept. 21, 2020).

<sup>82</sup>GAO, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, [GAO-22-105051](#) (Washington, D.C.: Oct. 27, 2021).

<sup>83</sup>Code for America, "Ensuring Families Who Qualify for the Child Tax Credit Aren't Left Behind," (San Francisco, Calif.: August 5, 2021), accessed March 2, 2022, <https://codeforamerica.org/news/ensuring-families-who-qualify-for-the-child-tax-credit-arent-left-behind/>.

<sup>84</sup>GAO, *Taxpayer Service: State Experiences Indicate IRS Would Face Challenges Developing an Internet Filing System with Net Benefits*, [GAO-07-570](#) (Washington, D.C.: Apr. 5, 2007).



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filing. In 2021, IRS completed a benefit cost analysis of the Free File Program but did not estimate the cost to develop an alternative.

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## IRS Is Not Managing the Potential Risks of Its Current Reliance on the Free File Program

Currently, IRS does not plan to develop additional options for free online filing if participating companies in Free File continue to leave the program. In addition, there are limitations on its ability to do so. While the MOU originally contained a provision constraining IRS from trying to develop additional options to supplement or replace Free File, IRS and FFI agreed to remove this language in 2019. However, the 2018 MOU still contains another provision requiring IRS to notify FFI immediately if it commits funding “to offer services for free to taxpayers.” FFI then has the option of promptly ending the MOU.<sup>85</sup> Such a decision on the part of FFI would end a guaranteed free filing option for taxpayers. Even if taxpayers who formerly used Free File found a website where they could prepare and file their returns for free, they would no longer benefit from the program’s taxpayer experience provisions, such as restrictions on marketing paid products.

Compounding this issue is the risk IRS faces that individual companies can suddenly leave the Free File program, as the recent departures of H&R Block and Intuit illustrate. There is no requirement in the 2018 MOU that FFI or participating companies give notice to IRS if they are planning to leave the program. Thus, while IRS must notify FFI if it takes certain steps toward creating its own system for online filing, IRS risks sudden changes to the program from companies departing, which can affect taxpayer options. Indeed, three stakeholders we interviewed expressed concern that the structure of the Free File program makes IRS too dependent on industry.

The remaining provision described above also constrains IRS’s efforts to respond to new developments. For example, the President signed an executive order in December 2021 that directed the Secretary of the Treasury to consider expanded automatic direct deposit refunds based on prior year tax returns, tax credit eligibility tools, and expanded electronic filing options.<sup>86</sup> IRS officials said in January 2022 that they yet to address

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<sup>85</sup>2018 Free File MOU, para. 10.3. This provision requires a transition period allowing the current filing season to be completed if IRS gives notice during the filing season.

<sup>86</sup>Exec .Order No. 14058, 86 Fed. Reg. at 71359.

this order, but noted that any decisions that would mean funding services for free to taxpayers would potentially jeopardize the Free File program. Without eliminating this remaining provision from the MOU, IRS will continue to be constrained in undertaking efforts to explore or develop additional online filing options for taxpayers.

IRS faces the risk of companies leaving Free File or other disruptions to the program because it has limited leverage over the participating companies. While there is always the risk that an arrangement between a company and federal agency will fail for some reason (e.g., the company declares bankruptcy), IRS is at particularly high risk because it does not pay FFI or the participating companies for their services. Initially, companies saw value in IRS pledging not to develop its own online filing system, but this provision was removed from the MOU.<sup>87</sup> Participating companies may have a taxpayers referred to them by the IRS.gov Free File look-up tool, which may help boost their name recognition. However, beyond this referral service, IRS has little leverage in asking companies for a long-term commitment or additional taxpayer experience improvements. A breakdown of the program could leave some taxpayers scrambling to find another online filing option with a taxpayer experience comparable to Free File.

One of IRS's strategic goals is to empower and enable all taxpayers to meet their tax obligations, which includes simplifying the processes for tax filing.<sup>88</sup> IRS also issued an information technology modernization plan in 2019 that includes an objective stating that IRS will expand digital options for individual taxpayers.<sup>89</sup> IRS's Taxpayer Experience Office has recently published a roadmap stating that expanding electronic filing options and making tax forms digital are among the top capabilities that could improve the taxpayer experience.<sup>90</sup>

We have noted in prior work that a strategic plan should identify key external factors that could significantly affect the achievement of the

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<sup>87</sup>2019 Free File MOU Addendum, para II.

<sup>88</sup>Internal Revenue Service, *Strategic Plan: FY2018-2022* (Washington, D.C.: 2018).

<sup>89</sup>Internal Revenue Service, *IRS Integrated Modernization Business Plan*, Publication 5336 (Washington, D.C.: April 2019).

<sup>90</sup>Internal Revenue Service, *Taxpayer Experience Strategy Roadmap—Overview* (Washington, D.C.: Sept. 30, 2021).

agency's goals and objectives.<sup>91</sup> Changes in the Free File program could present such risks to IRS, but there is no discussion of the program in IRS's current strategic plan. While IRS has signed short-term extensions of the MOU with FFI, there is no vision outlined for how IRS plans to move forward with the program and mitigate any potential risks. IRS's current MOU was recently extended through October 2023 with no changes and no plans for developing additional online filing options that could supplement the Free File program. IRS has not considered the potential risks of relying on companies to continue providing tax filing services for free. Strategic plans are intended to help agencies manage risks, but IRS's plan does not explain how it intends to persuade companies to continue participating in Free File, or what additional options could be pursued that would provide free online filing to taxpayers.

Developments since 2018 make such planning even more important. A provision of the MOU which FFI and companies used to view as compensation is gone. Two major companies, which served 70 percent of program users, have left the program. While the long history of the Free File program may make IRS officials believe it will continue, assuming that a program will continue is risky. Further, Treasury has shown in recent years that there may be potential opportunities to think more broadly about organizations that may be able help taxpayers prepare and file tax returns online.

IRS's recent report to Congress on its taxpayer experience strategy briefly notes that the agency works with organizations which provide volunteer, in-person assistance in helping individuals who meet certain eligibility criteria complete a tax return. This example and Treasury's work with a not-for profit organization on an online filing system for taxpayers show that potential exists for exploring additional online filing options. Exploring such options could help millions of taxpayers who want to prepare and file their returns for free online while also ensuring IRS does not have to solely rely on the IRS Free File program.

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## Conclusions

In 2022, IRS's Free File program will mark its 20th anniversary of providing free federal tax return preparation and electronic filing for

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<sup>91</sup>GAO, *Agencies' Strategic Plans Under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1, 1997).

taxpayers. The program has reduced the costs for eligible taxpayers, reduced IRS administrative costs by aiding the adoption of online filing, and facilitated access to critical social benefits, such as the Earned Income Tax Credit. The creation of the Free File Program in 2002 sent an important signal that it was time to move from paper to electronic filing.

The current Free File program presents a number of challenges for IRS and taxpayers. IRS has pursued some changes to improve the taxpayer experience, however additional opportunities to do so by incorporating guidelines for federal digital services are present. For example, these guidelines help taxpayers with disabilities access services. Negotiating and making such improvements to the taxpayer experience may come at the cost of certain companies deciding to no longer participate in the program. Two major companies departed in each of the previous 2 years, which challenges IRS's efforts to maintain the program. However, continuing to implement recommended taxpayer experience changes and incorporating leading practices from OMB's guidelines for federal digital services may allow IRS to further improve the program and provide the best taxpayer experience possible.

Looking ahead, stakeholders provided a range of views on whether industry or IRS can provide a better experience for taxpayers. One view is that government cannot effectively develop and manage technology solutions. So, IRS should continue to rely on industry to provide tax preparation and electronic filing services. Furthermore, IRS has long-standing challenges providing customer service, which is an integral component of online tax filing. Another view is that an IRS-run system could simplify tax filing by prepopulating tax returns and help low-income taxpayers access social benefits. These stakeholders believed IRS can expand its capacity by working with other federal agencies and with organizations outside the government.

While both perspectives should be considered, IRS should work to manage the risk of taxpayers having fewer options to electronically file their federal taxes for free. IRS's mission is to help taxpayers meet their filing obligations. Ensuring that taxpayers have readily available options to file for free through IRS.gov is essential to achieving its mission. IRS's new taxpayer experience strategy demonstrates that IRS leadership has started to think more broadly about diverse strategic partnerships and innovative approaches to provide additional online filing options for taxpayers. By developing additional options, IRS can help ensure that the government secures ways for eligible taxpayers to prepare and file their tax returns online at no cost with a robust taxpayer experience.

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## Recommendations for Executive Action

We are making the following three recommendations to IRS:

The Commissioner of IRS should seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services, such as the 21st Century Integrated Digital Experience Act requirements regarding access for users with disabilities. (Recommendation 1)

The Commissioner of IRS should seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers. (Recommendation 2)

The Commissioner of IRS should, before the expiration of the current Free File MOU in October 2023, work with relevant stakeholders to identify and develop additional options for free online filing of tax returns that would reflect current guidelines for federal digital services. (Recommendation 3)

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## Agency Comments, Third-Party Views, and Our Evaluation

We provided a draft of this report to IRS for review and comment. In its comments, reproduced in appendix II, IRS agreed with our first recommendation to seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services.

IRS disagreed with our second recommendation to seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers. IRS stated that it believes this provision is necessary to maintain trust and transparency with industry. We understand IRS's concerns about maintaining trust in the program and our report recognizes officials' efforts to communicate and coordinate with FFI.

However, under the terms of the MOU, individual companies have always had the flexibility to leave the program if they choose, as Intuit and H&R Block did in recent years. In contrast, should IRS start to develop a supplemental or alternative option to Free File, the MOU gives FFI the option to end the agreement and the entire Free File program. This would cause even more disruption than the departure of individual companies

as taxpayers would be left with no guaranteed free option until IRS completed work on developing an alternative. We continue to believe that IRS should work to eliminate this provision so that IRS can freely pursue new filing options for taxpayers as resources and technology permit. Eliminating the provision would in no way prohibit IRS from choosing to discuss its plans with FFI to maintain transparency and trust.

IRS also disagreed with our third recommendation to work with relevant stakeholders to identify and develop additional options for free online filing of tax returns. IRS stated that it currently does not believe a public free filing option would significantly improve the taxpayer experience and it does not have sufficient funding to do this. IRS leaves open the possibility that it would reconsider its position if Congress enacted new legislation and provided funding. We understand this would be a new area for IRS and it would likely take time for IRS to develop a high quality service. However, we believe that IRS may be understating its potential to improve certain aspects of the taxpayer experience. As noted in the report, IRS has an information advantage over private tax preparation and filing companies that could simplify the filing process. Further, IRS would not necessarily need to develop new filing options on its own. Stakeholders we interviewed suggested ways IRS could address resource challenges by leveraging entities such as the U.S. Digital Service and Code for America.

Further, IRS did not outline specific steps to mitigate the risks we identified. The departure of the two largest companies from the program raises questions about its continued viability. While IRS expressed concern about the resources required to develop an alternative, such concern needs to be weighed against the potential of an abrupt end to the program and the customer service challenges it would present. Working to identify and develop options in line with our recommendation could help IRS avoid such an outcome. IRS's new taxpayer experience strategy emphasizes the need to put taxpayers first and address their service expectations. Ensuring IRS is well-positioned to offer free online filing services to taxpayers would help mitigate the risks and uncertainty associated with the Free File program.

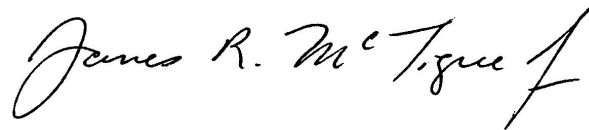
IRS also provided technical comments, which we incorporated as appropriate.

We provided relevant sections of this report to FFI officials for review and comment. They provided technical comments, which we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees, the Commissioner of the IRS, the Executive Director of FFI, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or [mctiguej@gao.gov](mailto:mctiguej@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

A handwritten signature in black ink that reads "James R. McTigue, Jr." with a stylized flourish at the end.

James R. McTigue, Jr.  
Director, Tax Policy and Administration, Strategic Issues

# Appendix I: Additional Information Concerning Agreements between the Internal Revenue Service and Free File, Inc.; and Demographic Characteristics of

The Internal Revenue Service and Free File, Inc. (FFI) signed the first Free File program memorandum of understanding (MOU) in 2006. This agreement expanded on the initial program requirements established in 2002. IRS and FFI have renewed the MOU seven times with modest changes.<sup>1</sup>

Among the states, Oregon has the highest participation rate with 3.8 percent of its taxpayers using the Free File program for their federal returns. New Jersey has the lowest rate at 1.6 percent (see table 1). States participating in the Free File program had on average 2.8 percent of their taxpayers participate in the federal Free File program. This

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<sup>1</sup>IRS and FFI officials continue to sign documents called agreements. In recent years, the more detailed taxpayer requirements are established in the MOUs which are referenced in the agreements. There have been eight MOUs in total. Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC, (January 2006) (2006 Free File MOU); Second Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2007) (2007 Free File MOU); Third Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2008); Fourth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2009) (January 2009 Free File MOU); Fifth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (November 2009); Sixth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (May 2014); Seventh Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (March 2015); Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (October 2018) (2018 Free File MOU). The 2018 Free File MOU has had one Addendum. Addendum to the Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Inc. (December 2019) (2019 Free File MOU Addendum).



**Appendix I: Additional Information Concerning Agreements between the Internal Revenue Service and Free File, Inc.; and Demographic Characteristics of**

compares to an average of 2.3 percent of taxpayers participating in the remaining states with a state income tax, but not part of the program.<sup>2</sup> Tables 2 and 3 show the percentage of taxpayers who used Free File and claimed the education tax credit or child and dependent care expenses—two tax provisions for which IRS tracks usage among Free File users.

**Table 1: Free File Returns by U.S. State or Territory Tax Year (TY) 2020**

State	Total Free File Returns TY 2020	Total Individual Returns TY 2020	Free File Returns as a Percentage of Individual Returns TY 2020
Alaska†	8,458	340,098	2.5%
Alabama	56,779	2,115,582	2.7%
Arkansas*	40,827	1,285,632	3.2%
Arizona*	105,774	3,277,692	3.2%
California	425,706	18,426,530	2.3%
Colorado	77,788	2,791,298	2.8%
Connecticut	38,114	1,772,618	2.2%
District of Columbia*	10,683	332,885	3.2%
Delaware	12,450	476,936	2.6%
Florida†	249,815	10,640,982	2.3%
Georgia*	149,365	4,744,980	3.1%
Hawaii	14,339	669,903	2.1%
Iowa*	35,032	1,493,924	2.3%
Idaho*	25,291	827,705	3.1%
Illinois	145,415	5,975,821	2.4%
Indiana*	105,389	3,200,594	3.3%
Kansas	33,517	1,343,606	2.5%
Kentucky*	60,191	1,989,082	3.0%
Louisiana	55,414	1,981,984	2.8%
Massachusetts*	82,744	3,435,229	2.4%
Maryland	71,599	2,911,580	2.5%
Maine	19,836	673,852	2.9%
Michigan*	126,026	4,799,428	2.6%
Minnesota*	76,710	2,767,102	2.8%
Missouri*	89,740	2,841,019	3.2%
Mississippi *	42,188	1,274,218	3.3%

<sup>2</sup>For purposes of this analysis, we included the District of Columbia’s participation rate in the mean of states not part of Free File.

**Appendix I: Additional Information Concerning  
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Service and Free File, Inc.; and Demographic  
Characteristics of**

<b>State</b>	<b>Total Free File Returns TY 2020</b>	<b>Total Individual Returns TY 2020</b>	<b>Free File Returns as a Percentage of Individual Returns TY 2020</b>
Montana*	16,415	527,402	3.1%
North Carolina*	150,388	4,772,821	3.2%
North Dakota*	9,367	361,373	2.6%
Nebraska	22,672	917,728	2.5%
New Hampshire	17,338	706,469	2.5%
New Jersey	76,026	4,421,963	1.7%
New Mexico	28,631	944,729	3.0%
Nevada†	37,266	1,512,182	2.5%
New York*	262,115	9,654,456	2.7%
Ohio	174,065	5,687,137	3.1%
Oklahoma	50,253	1,679,721	3.0%
Oregon*	75,753	1,981,180	3.8%
Pennsylvania	164,047	6,263,996	2.6%
Rhode Island*	13,825	551,904	2.5%
South Carolina*	78,163	2,370,831	3.3%
South Dakota†	10,066	428,821	2.3%
Tennessee	91,866	3,171,326	2.9%
Texas†	311,079	13,162,304	2.4%
Utah	38,361	1,424,717	2.7%
Virginia*	131,052	3,978,838	3.3%
Vermont*	11,326	328,606	3.4%
Washington†	107,585	3,676,285	2.9%
Wisconsin	78,693	2,877,689	2.7%
West Virginia*	24,825	786,935	3.2%
Wyoming†	5,903	274,598	2.1%
Othera	30,392	1,010,292	3.0%
<b>Total</b>	<b>4,176,662</b>	<b>155,864,583</b>	

Source: GAO analysis of IRS data. | GAO 22 105236

Notes: 1) One asterisk (\*) indicates a state with a Free File program. A dagger mark (†) indicates a state without an income tax; and 2) the District of Columbia no longer participates in the state-level free file program as of 2022.

a"Other" includes domestic foreign military bases (Armed Forces Americas, Armed Forces Europe, Armed Forces Pacific), domestic territories, and foreign countries/unknown state codes.

**Table 2: Education Tax Credit Claimed by Volume and Percentage of Tax Year (TY) 2019 Free File Returns**

<b>Education Tax Credit</b>	<b>Volume of Free File Returns TY 2019</b>	<b>Percentage of Free File Returns TY 2019</b>
Education Tax Credit Claimed	269,389	7

**Appendix I: Additional Information Concerning Agreements between the Internal Revenue Service and Free File, Inc.; and Demographic Characteristics of**

<b>Education Tax Credit</b>	<b>Volume of Free File Returns TY 2019</b>	<b>Percentage of Free File Returns TY 2019</b>
No Education Tax Credit Claimed	3,587,468	93

Source: GAO analysis of IRS data. | GAO 22 105236

**Table 3: Child and Dependent Care Expenses Reported by Volume and Percentage of Tax Year (TY) 2019 Free File Returns**

<b>Child &amp; Dependent Care Expenses</b>	<b>Volume of Free File Returns TY 2019</b>	<b>Percentage of Free File Returns TY 2019</b>
Form 2441 Present	76,045	2
No Form 2441 Present	3,780,812	98

Source: GAO analysis of IRS data. | GAO 22 105236

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# Appendix II: Comments from the Internal Revenue Service

**Appendix II: Comments from the Internal Revenue Service**



DEPUTY COMMISSIONER

**DEPARTMENT OF THE TREASURY**  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

April 11, 2022

Mr. James R. McTigue  
Director, Tax Policy and Administration  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Mr. McTigue:

I have reviewed the draft report entitled *Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free (GAO-22-105236)* and appreciate the opportunity to provide comments.

The 2022 filing season will mark the twentieth year of the IRS Free File Program providing free online tax filing options to taxpayers through a unique public-private partnership with a consortium of private tax preparation software companies. The services provided through the Free File Program include online guided tax preparation and filing, and a fillable forms product. This program serves as a gateway to help taxpayers meet their tax obligations by providing greater access to taxpayers, with an emphasis on meeting the needs of economically disadvantaged and underserved populations, at little to no cost for the federal government.

During the pandemic, we collaborated with Free File Inc. (FFI) and industry partners to assist qualifying individuals, who did not otherwise have a filing requirement, obtain Economic Impact Payments and advanced payments of the Child Tax Credit. These individuals were offered the opportunity to provide the basic information needed to determine their eligibility for the two initiatives and to issue the payments. This service was provided at no cost to the participants through the Free File program.

We take the concerns discussed about the Free File Program in the report seriously. We appreciate the Government Accountability Office's assessment of the program and the value it provides to taxpayers. The IRS continues to collaborate with the FFI to identify and explore ways to better help low-income to moderate-income taxpayers. The IRS is also looking at opportunities to promote the Free File Program and improve the overall taxpayer experience.

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**Appendix II: Comments from the Internal  
Revenue Service**

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Our responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact Dietra D. Grant, Director, Customer Account Services, at 470-639-3504.

Sincerely,

Douglas W.  
O'Donnell

 Digitally signed by Douglas W.  
O'Donnell  
Date: 2022.04.11 16:42:22 -0400'

Douglas W. O'Donnell  
Deputy Commissioner for  
Services and Enforcement

Enclosure

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**Appendix II: Comments from the Internal Revenue Service**

Enclosure

**Recommendations for Executive Action**

We are making the following three recommendations to IRS:

**RECOMMENDATION 1**

The Commissioner of IRS should seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services, such as the 21<sup>st</sup> Century IDEA Act requirements regarding access for users with disabilities.

**COMMENTS**

We agree with this recommendation. The IRS will continue to look at opportunities to improve both the taxpayer experience and satisfaction with the Free File Program. We will discuss with Free File, Inc. (FFI), possible areas of improvement to enhance the taxpayer experience with using digital services.

**RECOMMENDATION 2**

The Commissioner of IRS should seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers.

**COMMENTS**

We disagree with this recommendation. In the spirit of the public-private partnership that has existed over the last 20 years, we believe this provision, which requires notification but does not prohibit the IRS from developing its own service offerings, is necessary to maintain a level of trust and transparency with our industry partners.

**RECOMMENDATION 3**

The Commissioner of IRS should, before the expiration of the current Free File MOU in October 2023, work with relevant stakeholders to identify and develop additional options for free online filing of tax returns that would reflect current guidelines for federal digital services.

**COMMENTS**

We disagree with this recommendation. Currently, the IRS does not believe a public free-filing option would significantly improve the taxpayer experience nor do we have sufficient funding to develop this solution. If new legislation and funding were approved, then the IRS would expect to assess the feasibility and utility of offering additional free tax preparation and filing options.

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## Appendix III: GAO Contact and Staff Acknowledgments

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### GAO Contact

James R. McTigue, Jr., (202) 512-6806 or [mctiguej@gao.gov](mailto:mctiguej@gao.gov).

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### Staff Acknowledgments

In addition to the individual named above, Jason Vassilicos (Assistant Director), Michael O'Neill (Analyst in Charge), Zachary Conti, Gina Hoover, Roshan Khan, Amalia Konstas, Krista Loose, Andrew J. Stephens, Leanne Violette and Alicia White made significant contributions to the report.



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