



THE OFFICE OF THE TAXPAYER ADVOCATE OPERATES INDEPENDENTLY OF ANY OTHER IRS OFFICE AND REPORTS DIRECTLY TO CONGRESS THROUGH THE NATIONAL TAXPAYER ADVOCATE.

IRM PROCEDURAL UPDATE

DATE: 01/27/2023

NUMBER: tas-13-0123-0185

SUBJECT: Taxpayer Advocate Service (TAS) Case Acceptance Criteria for File Year (FY) 2023 Filing Season

AFFECTED IRM(s)/SUBSECTION(s): 13.1.7

CHANGE(s):

IRM 13.1.7.4 updated FY 2023 TAS Case Acceptance and consolidated guidance from IRM 13.1.7.4.1.

1. There are certain cases that should not be accepted into TAS.
2. The taxpayer’s complaint or inquiry only questions the constitutionality of the tax system.
3. The focus of the taxpayer’s inquiry solely involves frivolous tax strategies intended to avoid or delay the filing or paying of federal taxes.
4. Pre-Refund Wage Verification Hold (PRWVH) cases

If	Then
Congressional TAS Criteria 9	<ul style="list-style-type: none"> ○ TAS will not accept current tax year cases referred by a Congressional office where the taxpayer’s refund has been stopped by the Return Integrity Verification Operations (RIVO) filters from January 1st through March 14th. ○ TAS will still accept cases for prior tax year returns that are delayed in processing.
Non-Congressional Criteria 1 through 8	<ul style="list-style-type: none"> ○ TAS will not accept current tax year cases where the taxpayer’s refund has been stopped by the RIVO filters from January 1st through June 30th. ○ TAS will still accept cases for prior tax year returns that are delayed in processing.

5. TAS will generally not accept the following types of inquires involving the Processing of Original Returns, Unpostable/Rejected Returns, Injured Spouse

Claims, Processing of Amended Returns, and Identity Theft Issues that fall within Systemic Burden Criteria 5-7. See IRM 13.1.16.14, Contacts Not Meeting TAS Criteria (Nonfrivolous Inquiries).

6. Processing of Original or Amended Returns for non-congressional cases (Criteria 1-4 and Criteria 8)

Question	Response
<p>A. Does the taxpayer's situation meet TAS Economic Burden (Criteria 1 - 4) or Best Interest of the Taxpayer (Criteria 8) and filed their return electronically?</p>	<ul style="list-style-type: none"> ○ Yes - Create a TAS Case. ○ No - See item B.
<p>B. Does the taxpayer's situation meet TAS Economic Burden (Criteria 1 - 4) or Best Interest of the Taxpayer (Criteria 8) and mailed their paper return to the IRS?</p>	<ul style="list-style-type: none"> ○ Yes - See item C. ○ No - Taxpayer does not meet case acceptance criteria. Do not create a TAS case. See IRM 13.1.16.14.
<p>C. Has it been more than 6 months from the date of mailing the paper return to the IRS (per the taxpayer's records or statement) and there is no indication of the return on IDRS?</p> <p>NOTE: If return is showing as received on IDRS go to item D.</p>	<ul style="list-style-type: none"> ○ Yes - Apologize and explain to the taxpayer that the IRS system has no record of their return and recommend that the taxpayer refile the return and maintain proof of mailing. Do not create a TAS case. ○ No - Apologize for the delay and recommend that the taxpayer continue to wait for the IRS to process their return. They can contact TAS again, if needed, after 6 months from the date of filing to determine if the IRS has received their return or if they should consider refiling their return. Do not create a TAS case. <p>See IRM 13.1.16.14.</p>
<p>D. Is the return showing as received on IDRS?</p>	<ul style="list-style-type: none"> ○ Yes, and it has been more than 60 days since the return was received by the IRS. Create a TAS case.

<p>NOTE: For original returns use Command Code TRDBV to identify the return's received date and for amended returns the received date is the transaction date of the TC 971 AC 120 on the taxpayer's account.</p>	<ul style="list-style-type: none"> ○ Yes, but it has been less than 60 days since the return was received by the IRS. Apologize for the delay and recommend that the taxpayer continue to wait for the IRS to process their return. They can contact TAS again, if needed, after 60 days from the date the IRS received the return. Do not create a TAS case. See IRM 13.1.16.14. ○ No, go to item C.
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7. In the categories of cases in paragraphs (5) and (6), the processing delays typically arise either because the affected functions are overloaded with work or because of systemic processing glitches. TAS's role is typically limited to issuing an Operations Assistance Request (OAR) to the appropriate function to advocate for resolution of the taxpayer's problem, providing updates to taxpayers, and looking for patterns of delay to identify systemic problems. There are two notable exceptions under which TAS will continue to accept cases involving the scenarios identified above.
- a. The first exception is for cases received from a Congressional Office, see IGM TAS-13-0123-0001, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy.
 - b. The second exception is for cases related to other issues for which TAS may advocate, such as an open examination or collection action that a refund from, or the processing of, the original return would resolve.

The following examples illustrate these guidelines:

EXAMPLE: Single-Issue Systemic Burden Inquiry:

Facts: The normal processing time for a paper Form 1040, U.S. Individual Income Tax Return, is approximately six to eight weeks. The taxpayer filed 2021 Form 1040 more than four months ago expecting a refund and has no other outstanding issues with examination or collection. Because of the IRS delay in processing the original return, the taxpayer's circumstances meet TAS Criteria 5. Under the guidelines, refer the taxpayer to the appropriate IRS function for resolution and do not establish a case.

EXAMPLE: Systemic Burden Inquiry Referred by Congressional Office:

Facts: Assume the same facts as in Example 1, except that the case has been referred by a congressional office. Create a TAS case.

EXAMPLE: Systemic Burden Inquiry Affecting Other Tax Issues:

Facts: Assume the same facts as in Example 1, except that the taxpayer has an outstanding balance for tax year 2019 and has been receiving IRS collection

notices. The taxpayer's expected refund would fully pay the balance due and leave the taxpayer with a small refund. Accept the taxpayer's inquiry and establish a TAS case because facilitating the processing of the original return will resolve an open collection issue.

8. For any issue where TAS is not able to directly assist the taxpayer, TAS will:
 - a. Educate the taxpayer and direct them to any available IRS resources and provide the appropriate IRS toll-free number, if available;
 - b. Use outreach and other forums to gather feedback and improve the IRS's educational resources; and
 - c. Identify systemic problems using the Systemic Advocacy Management System (SAMS) and work with the IRS to correct them.

IRM 13.1.7.4.1 removed section and consolidated guidance to IRM 13.1.7.4(6).

IRM 13.1.7.3.4 grammatical correction and updated Interim Guidance and link for TAS Case Criteria 9, Public Policy Interim Guidance.

1. Criteria 9 -- Per IRC 7811(a)(1)(B) and Treas. Reg. 301.7811-1(a)(4)(ii), the NTA determines compelling public policy warrants assistance to an individual or group of taxpayers. The NTA has the sole authority for determining which issues are included in this criterion and will so designate by memo.

EXAMPLE: The NTA determined inquiries related to organizations where the IRS automatically revoked their tax-exempt status because the organization did not file an annual return or notice for three consecutive years met this criterion.

NOTE: Criteria 9 should only be used when the taxpayer's case does not fit within any other criteria.

2. TAS issues interim guidance at least once every two years on case issues authorized for acceptance under Criteria 9. See e.g., IGM TAS-13-0123-0001, Accepting Cases Under TAS Case Criteria 9, Public Policy.

IRM 13.1.7.3 grammatical correction.

1. As an independent organization within the IRS, TAS helps taxpayers resolve problems with the IRS and recommends changes to prevent future problems. TAS fulfills its statutory mission by working with taxpayers to resolve problems with the IRS. TAS case acceptance criteria fall into four main categories:
2. **Economic Burden** - Economic burden cases are those involving a financial difficulty to the taxpayer: an IRS action or inaction has caused or will cause negative financial consequences or have a long-term adverse impact on the taxpayer.

- **Criteria 1:** The taxpayer is experiencing economic harm or is about to suffer economic harm.
 - **Criteria 2:** The taxpayer is facing an immediate threat of adverse action.
 - **Criteria 3:** The taxpayer will incur significant costs if relief is not granted (including fees for professional representation).
 - **Criteria 4:** The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.
3. **Systemic Burden** - Systemic burden cases are those in which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond to or resolve a taxpayer's issue.
- **Criteria 5:** The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.
 - **Criteria 6:** The taxpayer has not received a response or resolution to the problem or inquiry by the date promised.
 - **Criteria 7:** A system or procedure has either failed to operate as intended or failed to resolve the taxpayer's problem or dispute within the IRS.
4. **Best Interest of the Taxpayer** - TAS acceptance of these cases will help ensure that taxpayers receive fair and equitable treatment and that their rights as taxpayers are protected.
- **Criteria 8:** The manner in which the tax laws are being administered raises considerations of equity or has impaired or will impair the taxpayer's rights.
5. **Public Policy** - Acceptance of cases into TAS under this category will be determined by the NTA and will generally be based on a unique set of circumstances warranting assistance to certain taxpayers.
- **Criteria 9:** The National Taxpayer Advocate determines compelling public policy warrants assistance to an individual or group of taxpayers.

IRM 13.1.7.3.1(4) grammatical correction.

4. Criteria 4 -- IRC 7811(a)(2)(D) and Treas. Reg. 301.7811-1(a)(4)(ii)(D), the taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted. This includes situations where a taxpayer may lose assets, income, or potential income if relief is not provided. Some situations include loss of the ability to be licensed or bonded as part of the taxpayer's occupation, or loss of borrowing power or clients due to filing of a Notice of Federal Tax Lien. Other situations may involve damage to credit ratings resulting in denial of a loan.

EXAMPLE: The taxpayer has a lien on a property due to an outstanding tax liability. The taxpayer is trying to refinance their mortgage, which would result in a lower monthly payment and would allow them to pay the outstanding tax liability. The taxpayer has filed an amended return which would eliminate the tax liability. The amended return has been selected for examination, but no action has been taken. This case should be accepted into the TAS program as a Criteria 4 case.