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MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Bridget Roberts
Deputy National Taxpayer Advocate

SUBJECT: Interim Guidance on Exceptions to TAS Case Acceptance Criteria
Taxpayer Issues Solely Related to the Processing of Original and
Amended Returns with No Indication of IRS Receipt of the Return

This memorandum revises TAS case acceptance criteria to generally exclude taxpayer issues solely related to the processing of original and amended returns where there is no indication of receipt of the return on IRS systems.¹ Under existing TAS case acceptance criteria, TAS would accept these cases under criteria 1-4 and 8 (but not 5-7). See [IRM 13.1.7.3](#). TAS will continue to accept these cases under criteria 9, Public Policy, which includes Congressional referrals to TAS. As discussed below, TAS will also accept these cases in limited circumstances where TAS has recommended the taxpayer refile their return but this has not resolved the problem.

TAS is taking these unprecedented steps because the complete or partial shutdown of certain core IRS operations due to COVID-19 created a significant backlog of paper-filed returns. Until the IRS systems indicate the receipt of a return, TAS cannot meaningfully advocate on behalf of the taxpayer. Because of these limitations, TAS is making the following adjustments to the criteria for accepting new cases:

I. TAS will not accept new cases solely related to the processing of original and amended returns where there is no indication of receipt of the return on IRS systems and the case would normally meet TAS Case Criteria 1 – 4 or 8.

TAS will not accept new cases solely related to the processing of original and amended returns that would normally meet TAS Case Criteria 1 – 4, Economic Burden ([IRM 13.1.7.2.1](#)) or TAS Case Criteria 8, Best Interest of the Taxpayer ([IRM 13.1.7.2.3](#)) where there is no indication of receipt of the return on IRS systems. This also includes inquiries from taxpayers with related issues that require the processing of a return before TAS can provide assistance (Example: Taxpayers seeking a copy of a transcript related to a return that has not been processed).

Exception: TAS will continue to accept cases involving Offset Bypass Refunds.

¹ Where the guidance discusses issues from taxpayers, the guidance also covers issues from representatives.

See [IRM 13.1.24.6.2](#), Advocating for Taxpayers Seeking Offset Bypass Refunds.

Research and Action to Perform

The tone of TAS's response to these inquiries and requests is vitally important. Many taxpayers have waited months for their returns to process. TAS employees should be empathetic and understand the financial hardship this may cause for some taxpayers and the frustration they may feel. However, **under no circumstances** will employees ask the taxpayer to send an original return or amended return to TAS. As explained in [IRM 13.1.18.6.3](#), Taxpayers Delivering Returns to TAS and TAS Date Stamp, any return mailed to TAS is not considered filed with the IRS.

TAS employees will follow the procedures in [IRM 21.4.1.4.1](#), Locating the Taxpayer's Return, to attempt to locate the return. If, upon completing these procedures, TAS cannot find any indication of IRS receipt of the return and the normal processing time has passed,² employees will:

- a. Advise the taxpayer that even though the processing centers have partially reopened, the IRS is still working to resolve delays caused by the previous closures and limited staffing due to social distancing requirements.
 - b. Determine when the taxpayer filed the return.
 - c. Research IRS's [IRS Operations During COVID-19: Mission-critical functions continue](#) webpage to determine whether sufficient time has passed for the IRS to receive, open, and begin processing the return based on the status of the current backlog. The IRS will periodically update this webpage for changes in operations status. For example, this site currently says the IRS is processing returns received as early as April 15, 2020.
1. IF THE TAXPAYER SENT THEIR RETURN TO THE IRS AFTER THE EARLIEST DATE LISTED ON THE IRS'S WEBPAGE,
- a. Explain to the taxpayer that he or she should continue waiting as it appears that the IRS has not yet begun processing the return. DO NOT advise the taxpayer to refile their return.
 - b. Sincerely apologize for the frustration and inconvenience this delay has caused.
 - c. Create an AMS history by selecting:
Title of the Drop-Down: TAS – Unprocessed Return – Non-Criteria
History Item: TAS will not accept new cases solely related to the processing of original and amended returns where there is no indication of receipt of the return on IRS systems, as TAS can't meaningfully advocate on behalf of the taxpayer until the return shows it has been received.
 - d. Create a contact record in TAMIS for the discussion with the taxpayer.
 - e. Research AMS to see if the taxpayer previously contacted TAS about this issue and 90 days has passed from the date of the AMS History entered by TAS as shown above in (c). If so, follow the procedures in (2) below,

² See [IRM 21.4.1.4\(2\)](#), Refund Inquiry Response Procedures.

instructing the taxpayer to consider refiling the return. TAS should explain to the taxpayer that if the taxpayer refiles an amended return when the IRS processes the amended return previously filed by the taxpayer, this could cause further delays.

2. IF THE TAXPAYER SENT THEIR RETURN TO THE IRS AT LEAST FOUR (4) WEEKS BEFORE THE EARLIEST DATE LISTED ON THE IRS'S WEBPAGE,

- a. Tell the taxpayer that the IRS should have already begun processing the return but has not. Therefore, the taxpayer should refile the return. Advise the taxpayer to obtain proof of mailing for the second return filed.

Note: Research IDRS to determine if there are any statute expiration issues. If a statute date is approaching, ask the taxpayer if they have proof of the IRS's receipt of the original or amended return (*i.e.*, certified mail receipt). If they do not, instruct the taxpayer to refile the original or amended return with the IRS in order to ensure the claim is received before the statute expires. DO NOT instruct the taxpayer to send the original or amended return to TAS, as TAS does not have the delegated authority to accept returns. Advise the taxpayer to obtain proof of mailing for the second return filed.

- b. Explain there is no action TAS can currently take to assist with this issue, however the taxpayer can continue to monitor for the IRS's receipt of their return by visiting [IRS.gov](https://www.irs.gov) to use the [Get Your Refund Status](#) or [Where's My Amended Return](#) applications.
- c. Sincerely apologize for the frustration and inconvenience this delay has caused. If you instructed the taxpayer to refile the return, explain that if the refiled return still has not processed 90 days from the date of refiling, to contact TAS for assistance. Advise the taxpayer to obtain proof of mailing for the second return filed. Create a contact record in TAMIS for the discussion with the taxpayer.

Note: If the taxpayer has proof of filing for the first return instruct the taxpayer to preserve that record, as it may be needed at a later date to dispute penalty or interest on a balance due or make a claim for refund if the first return is never processed by the IRS.

- d. TAS will only accept cases involving the processing of unreceived original and amended returns meeting TAS Case Acceptance Criteria 1 – 4 or 8 once 90 days has passed from the date the second return was mailed based on the taxpayer's proof of filing or AMS history discussed in (f) below. When accepting these cases TAS employees will add the literal ****RTNDLY**** to the TAMIS history and place the case in monitor (M) status.
- e. If the return is showing on IDRS and before the 90 days has expired and the taxpayer meets case acceptance criteria, TAS can accept the case without having to wait for the 90-day period to expire.
- f. Create an AMS history by selecting:

Title of the Drop-Down: TAS – Unprocessed Return – Non-Criteria

History Item: TAS will not accept new cases solely related to the

processing of original and amended where there is no indication of receipt of the return on IRS systems, as TAS can't meaningfully advocate on behalf of the taxpayer until the return shows received.

II. TAS acceptance of cases from Congressional office, TAS Case Criteria 9

In accordance with [IGM TAS-13-1120-0019](#), TAS will continue to accept new cases referred by Congressional offices under TAS Case Criteria 9, Public Policy ([IRM 13.1.7.2.4](#)) related to the processing of original and amended returns where there is no indication of receipt of the return on IRS systems. TAS Case Criteria 9 will be used regardless if the taxpayer's situation may also meet TAS Case Criteria 1 – 8. This will give TAS a national perspective on taxpayer problems across the country to help TAS identify and resolve systemic IRS problems processing returns. In these situations, the following actions will be performed:

- a. The LTA must have a conversation with the Congressional office explaining the current processing delay. The conversation should include an apology that TAS cannot assist the taxpayer without the return being processed and should assure the Congressional office that TAS will monitor these cases for the processing of the returns. Talking points will be provided to LTAs to assist with these conversations. Once this prerequisite conversation with the Congressional office has occurred the LTA may call or send a letter to the Congressional office on subsequent cases. These later communications with the Congressional office about new cases will serve as the initial contact, if it was not previously performed during the intake process. The Congressional office will be informed that they will be contacted by TAS again once the return is showing as received by the IRS in IDRS and TAS is able to provide an update on the status of the return. Use of the Congressional letter is optional, as some LTA offices may prefer to have these discussions over the phone with their Congressional offices.
- b. The newly created case will be placed in Monitor (M) status in TAMIS. No Next Contact Date (NCD), Follow Up Date (FUD), or Estimated Completion Date (ECD) are set in TAMIS at this time.
- c. The case will then be transferred to TAMIS Org 1X, Area 1, using the procedures in [IRM 13.1.17.6](#), Transferring TAS Cases. Employees will use Transfer Reason Code 53, Congressional. Once transferred to TAMIS Org 1X, Area 1 Technical Analysis & Guidance (TAG) will be responsible for monitoring the case for receipt of the return.
- d. TAG will prepare regular reports to monitor the cases transferred to TAMIS Org 1X, Area 1. When the report indicates that the taxpayer's return has been received by the IRS per IDRS, the case will be reassigned to the LTA office aligned with the Congressional district that initiated the inquiry, see [IRM 13.1.8.4.1](#), Congressional Office Inquiries Received By TAS.
- e. Within five (5) workdays of reassignment, the receiving LTA will review the case, add or update the TAMIS action plan, set an ECD, and contact the Congressional office with update on the case status, and work the case following normal case processing procedures.

Note: If 90 days have passed from the case creation date and there is still no indication in IDRS that the IRS has received the return, TAG will

contact the LTA assigned to the Congressional office to discuss the case. The LTA will then contact the Congressional office within five (5) workdays, and if appropriate, advise them the taxpayer should refile the return and obtain proof of mailing for the second return filed. Following this discussion, the LTA will advise TAG if continued monitoring is needed or if the case can be reassigned to the LTA office for closure.

III. Cases currently open in TAS solely related to the processing of original and amended returns where there is no indication of receipt of the return on IRS systems.

TAS employees will continue to work existing cases by taking the following actions:

- a. Placing the case in Monitor (M) status in TAMIS. TAG will monitor for receipt on the return on IDRS during the 90-day period.
- b. Inputting the literal ****RTNDLY**** in the TAMIS history.
- c. Contacting the taxpayer by phone or letter explaining that we are monitoring for the IRS's receipt of the return and will contact them again once the IRS has received the return.
- d. Do not set a new NCD. TAG will run a regular report every two weeks based on the literal ****RTNDLY**** to monitor IDRS for receipt of these returns. Once the return is showing on IDRS, TAG will notify the LTA and assigned employee.
- f. Once notified by TAG, the LTA or assigned employee will contact the taxpayer within five (5) workdays to provide an update on the case, and work the case following normal case processing procedures.

Note: If 90 days have passed since the literal ****RTNDLY**** was added to the TAMIS history and there is still no indication in IDRS that the IRS has received the return, TAG will alert the LTA of the office assigned to the case. The LTA will contact the taxpayer, and if appropriate, recommend they refile the return and obtain proof of mailing for the second return filed. Based on this discussion, the LTA will advise TAG if continued monitoring is needed or if the LTA office will be closing the case.

IV. TAS will continue to advocate for the processing of Criteria 1-4, 8 and 9 original or amended returns where TAS can identify IRS receipt of the return on IRS systems and the normal processing time has passed.

TAS employees will follow the procedures in [IRM 21.4.1.4.1](#), Locating the Taxpayer's Return, to attempt to locate the return. If, upon completing these procedures, TAS finds the return, but it is not processed, TAS employees will accept those cases meeting case acceptance criteria 1 – 4, 8 and 9 into TAS. [IRM 21.4.1.4.1.2](#), Return Found/Not Processed, provides procedures for IRS employees to identify where the return is located and what actions to perform to get the return processed. TAS employees assigned these cases will use this information to advocate for the taxpayer via the Operations Assistance Request process (or by exercising delegated authority, when appropriate).

Reminder: TAS will continue to accept inquiries from taxpayers with other related issues

that are not dependent on processing a return before TAS can provide assistance. For example: Taxpayers seeking assistance with the balance due of a prior return where the taxpayer is hoping the processing of the current year return will help lower his or her balance due. TAS will accept this case to assist the taxpayer with collection alternatives.

TAS will continue to monitor Submission Processing's ability to process original and amended returns in a timely manner. The Deputy National Taxpayer Advocate may modify or rescind this guidance at any time by notifying TAS employees through the issuance of a TAS Welcome Screen article discussing the change in guidance.

Effect on Other Documents: TAS may incorporate aspects of this guidance into the next revision of IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria.

Please contact Michael Kenyon, Deputy Executive Director of Case Advocacy, Technical Support, at (701) 237-8299, if you have questions.

cc: www.irs.gov