

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## Administration of the Individual Taxpayer Identification Number Program

January 26, 2022

Report Number: 2022-40-013

## Why TIGTA Did This Audit

This audit was initiated because the Protecting Americans From Tax Hikes Act of 2015 requires TIGTA to conduct an audit of the issuance of Individual Taxpayer Identification Numbers (ITIN) every two years.

The overall objective of this audit was to evaluate the effectiveness of the IRS's processes to ensure that only individuals with a tax need are assigned an ITIN. Specifically, this review followed up on recommendations made in TIGTA's prior report issued in September 2020.

TIGTA also evaluated the impact of the Coronavirus Disease 2019 pandemic on the ITIN program during Calendar Year 2020.

## Impact on Taxpayers

The IRS issues an ITIN to individuals who are required to have a Taxpayer Identification Number but do not have or are not eligible to obtain a Social Security Number. An ITIN allows individuals to obtain substantial Federal tax benefits.

As of December 31, 2020, the IRS has issued 25.1 million ITINs since the program's inception.

## What TIGTA Found

TIGTA continues to find that IRS processes and procedures do not ensure that ITINs are only issued to individuals who have a Federal income tax need. The IRS has addressed 10 of the 13 agreed recommendations from TIGTA's prior report. However, additional action is needed to address the three remaining agreed recommendations. These include improving processes to prevent the duplicate use of entity information (*e.g.*, name, date of birth, and country of birth) or supporting documents to obtain an ITIN and establishing processes to identify and address retroactive tax credit claims that are processed incorrectly.

IRS management disagreed with 11 of the 24 recommendations in TIGTA's prior report. TIGTA identified ongoing concerns with 10 of the 11 disagreed recommendations. Our review of ITINs issued between May 2019 and December 2020 identified no ongoing concerns with the IRS's processes to revoke ITINs and lock deceased ITINs.

The IRS's inaction on the remaining 10 disagreed recommendations continues to increase the risk of ITIN fraud and burden on taxpayers. IRS management is implementing actions to address one of the remaining 10 disagreed recommendations. According to the IRS, beginning in Processing Year 2022, all individuals who are submitting renewal applications must attach a tax return to their application unless they claim one of five exemptions listed on the application. TIGTA commends the IRS for implementing its prior recommendation and strengthening ITIN renewal requirements. However, additional action is needed to ensure that the IRS does not renew an ITIN if the required tax return is not provided.

The IRS has taken no action for the remaining nine disagreed recommendations for which TIGTA has ongoing concerns. These recommendations include establishing processes to ensure that ITINs issued for a treaty purpose are only used for this purpose; improve processes to control, track, and safeguard original supporting documents; and improve oversight of Certified Acceptance Agents.

## What TIGTA Recommended

TIGTA made 21 recommendations. These include ensuring that the IRS receives complete data extracts for identifying ITIN applications with duplicate entity information or supporting documents, regularly identifies and addresses retroactive claims that were processed incorrectly, updates programming to systemically identify and deactivate all ITINs when required, improve processes for returning original supporting documents to the applicant, discontinue using foreign Certified Acceptance Agents, and improve processes for addressing noncompliant Certified Acceptance Agents.

The IRS agreed with 11 of TIGTA's 21 recommendations.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

January 26, 2022

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in blue ink that reads "Michael E. McKenney".

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Administration of the Individual Taxpayer  
Identification Number Program (Audit # 202140022)

This report presents the results of our review to evaluate the effectiveness of the Internal Revenue Service processes to ensure that only individuals with a tax need are assigned an Individual Taxpayer Identification Number (ITIN). As part of this review, we also evaluated the impact of the Coronavirus Disease 2019 pandemic on the ITIN program during Calendar Year 2020. This review was part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management challenge of *Reducing Fraudulent Claims and Improper Payments*.

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

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

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## **Background**

Section 203 of the Protecting Americans From Tax Hikes Act of 2015 (PATH Act)<sup>1</sup> requires the Treasury Inspector General for Tax Administration (TIGTA) to conduct an audit of the Individual Taxpayer Identification Number (ITIN)<sup>2</sup> program not later than two years after enactment (December 18, 2015) and every two years thereafter. The PATH Act also requires that TIGTA report the results of this audit to the Senate Committee on Finance and the House Ways and Means Committee. Finally, the PATH Act requires the Internal Revenue Service (IRS) to deactivate ITINs based on nonuse and the issuance date of the ITIN.<sup>3</sup> As of December 31, 2020, the IRS has issued 25.1 million ITINs since the program's inception, 292,006 of which were issued during Calendar Year 2020. As of January 1, 2021, there were 5.4 million active<sup>4</sup> ITINs.

### **Submitting applications**

An ITIN is a tax processing number issued by the IRS for certain resident and nonresident aliens, their spouses, and their dependents who are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration. ITINs are issued regardless of immigration status because both individuals who are in the United States legally and not legally may have U.S. Federal tax filing and payment requirements under the Internal Revenue Code (I.R.C.). Only individuals who have a valid filing requirement, who are filing a return to claim a refund, or who are claiming reduced withholding under an applicable income tax treaty are eligible to receive an ITIN.

To obtain or renew an ITIN, an individual, their spouse, or their qualifying dependent(s) must complete Form W-7, *Application for IRS Individual Taxpayer Identification Number*. New applicants must also provide supporting documentation that establishes identity and connection to a foreign country. The new applicant must also generally include a U.S. Federal income tax return to show that they have a tax return filing need. There are some exceptions to this requirement.<sup>5</sup> The applicant must mark the applicable exception on their Form W-7. However, unlike new ITIN applicants, the IRS does not require all individuals who are renewing an ITIN to show that they still have a tax filing need (*i.e.*, provide a tax return).

Applicants generally mail the application and supporting documents to the IRS Tax Processing Center in Austin, Texas, or provide them to an IRS assistor at a Taxpayer Assistance Center

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<sup>1</sup> Consolidated Appropriations Act, 2016; Pub. L. No. 114-113, 129 Stat. 2242 (2015).

<sup>2</sup> See Appendix VII for a glossary of terms.

<sup>3</sup> In Calendar Year 1996, the U.S. Department of the Treasury issued regulations that introduced the ITIN. The regulations were intended to address the concern by the IRS and the Department of the Treasury that, without a unique number, taxpayers could not be identified effectively and tax returns could not be processed efficiently.

<sup>4</sup> An active ITIN is one that has not been revoked or placed in an inactive status.

<sup>5</sup> The exceptions to this requirement are listed in Publication 1915, *Understanding Your IRS Individual Taxpayer Identification Number*, (*i.e.*, third-party withholding on passive income or tax treaty benefits).

(TAC).<sup>6</sup> The applicant may also submit the application to an IRS authorized Acceptance Agent<sup>7</sup> or Certifying Acceptance Agent (CAA).<sup>8</sup>

### Supporting document requirements

Supporting documents are required to prove the applicant's identity and foreign status. The documents must show the applicant's name and support for the claim of foreign status. For individuals who are age 18 or over and not students, at least one valid identification document must show the applicant's photograph. Most applicants claimed as dependents must also prove U.S. residency unless the applicant is from Mexico or Canada or the applicant is a dependent of U.S. military personnel stationed overseas.

Applicants are required to submit one of three documentation types:

- Original documents – documents that are not changed from their initial issuance (*i.e.*, not a copy or a replica).
- Certified copies – documents that the original issuing agency provides and certifies as an exact copy of the original and that contain an official stamp or ink seal from the issuing agency or an embassy or consulate. For example, a foreign issuing agency could provide a certified copy of the applicant's passport. Faxes and photocopies are not acceptable supporting documents.
- Notarized copies – documents that are notarized are only accepted for military spouses and military dependents without an SSN who need an ITIN.

See Appendix IV for the types of acceptable documentation that can be used to prove foreign status and identity of the ITIN applicant.

### Processing applications

The ITIN operation, located in the Tax Processing Center in Austin, Texas, is responsible for processing all ITIN applications. Tax examiners in the ITIN operation review ITIN applications and supporting documentation. Typical processing times may take up to seven weeks during nonpeak tax time and 11 weeks during peak tax time. Applications mailed from abroad may take considerably longer.

The ITIN operation was closed, due to the Coronavirus Disease 2019 (COVID-19) pandemic, from March 25, 2020, to June 1, 2020. During this time, ITIN applications were not processed as ITIN employees did not telework due to the sensitive original supporting documents they work with. When operations reopened, approximately 45 to 47 percent of the ITIN staff remained on weather and safety leave. As such, a backlog of applications occurred, and application

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<sup>6</sup> An IRS office with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.

<sup>7</sup> The role of an Acceptance Agent is to assist applicants in completing Form W-7, ensure that the applicant's supporting documentation is accurate, and forward the completed form and original or certified documentation to the Austin Tax Processing Center.

<sup>8</sup> An individual who is authorized, pursuant to a written agreement with the IRS, can verify original documentation and certified copies of the documentation from the issuing agency for primary and secondary applicants and their dependents. For dependents, CAAs can only verify passports and birth certificates. CAAs must conduct an in-person interview with each applicant (primary, secondary, and dependent) in order to complete the Form W-7. The CAA can use video conferencing if the CAA has the original identification documents in their possession during the interview.

## Administration of the Individual Taxpayer Identification Number Program

processing times increased. For example, renewal applications were processed within 41 days in Calendar Year 2020 compared with 22 days in Calendar Year 2019. However, IRS management reports that, as of March 11, 2021, they had completed processing the backlog of renewal ITIN applications.

Tax examiners review the application and supporting documentation and make a determination as to whether an ITIN should be issued. The tax examiner updates the application in the ITIN Real-Time System (RTS)<sup>9</sup> to reflect the disposition, and the RTS issues the applicable letter to the applicant. The disposition will be updated as either:

- **Assigned:** The IRS mails systemic notice Computer Paragraph (CP) 565A/CP 565A-SP, *Original Assignment Notice*, with the original assigned ITIN to the applicant. If an application for renewal is accepted, the IRS mails systemic notice CP 565B/CP 565B-SP, *Reissue Assignment Notice Reissue Renewal Notice*, advising the applicant of their renewal.
- **Rejected:** The IRS mails systemic notice CP 567/CP567-SP, *Reject Notice*, or manual notice CP 574/CP 574-SP, *Hard Reject Notice*, informing the individual that the ITIN application was rejected. The notice informs the taxpayer of the reason for the rejection and that they must file another application if they would like to reapply for an ITIN.
- **Suspended:** The IRS mails systemic notice CP 566/CP 566-SP, *Suspense Notice*, informing the applicant that their ITIN application is suspended for a procedural issue or because the application has questionable information. Applicants are given 45 days to respond while the IRS maintains the applications and documents. If there is no response, the RTS will systemically reject the ITIN. Additionally, the IRS holds the applications in a suspense cabinet, which is purged after 65 days.

Figure 1 provides an overview of the total applications, by disposition, received during Calendar Year 2020.

**Figure 1: Total Forms W-7 by Disposition for Calendar Year 2020**

Disposition	New	Renewal	Total
Assigned	292,006	418,190	710,196
Rejected	117,754	108,096	225,850
Suspended	16,361	17,551	33,912
Other <sup>10</sup>	45,259	104,830	150,089
<b>Total Applications</b>	<b>471,380</b>	<b>648,667</b>	<b>1,120,047</b>

Source: IRS ITIN Production Report provided by ITIN program management.

Tax returns attached to the application are sent for processing after the application has been assigned a disposition. Once the application is processed, the source documents are mailed back to the applicant using regular, noncertified mail service.

<sup>9</sup> The RTS is a modernized application processing system used to control and track Forms W-7 and Acceptance Agent applications and provide management information.

<sup>10</sup> Includes pending, awaiting input, Office of Foreign Asset Control inventory, and adjustments.

This audit presents the results of our continued evaluation of the effectiveness of IRS processes to ensure that only individuals with a tax need were assigned an ITIN. Specifically, we followed up on prior audit recommendations issued by TIGTA in September 2020.<sup>11</sup> In that report, we made 24 recommendations to improve the ITIN program. These include requiring individuals to provide proof of a tax need when renewing an ITIN, implementing processes to identify ITIN applications that use duplicate supporting documents, establishing processes to revoke or deactivate ITINs that are associated with applications identified as having potentially fraudulent supporting documents, and no longer allowing CAAs to authenticate an applicant's identity and foreign status. The IRS agreed with 13 of the 24 recommendations and disagreed with 11 of them. Refer to Appendix III for a list of prior TIGTA audits on this subject.

## Results of Review

IRS processes and procedures still do not ensure that ITINs are only issued to individuals who have a Federal income tax need. Our review identified that the IRS has addressed 10 of the 13 agreed recommendations from our prior review. These recommendations address weaknesses in IRS processes to identify ITIN applications that use duplicate entity information (*e.g.*, name, date of birth, and country of birth) or supporting documents and prevent the issuance of retroactive refundable and nonrefundable tax credit claims. However, additional action is needed to fully address the three remaining agreed recommendations.

As we detailed previously, the IRS did not agree to take actions to address 11 recommendations we made in our prior review. However, subsequent to the issuance of our prior report, IRS management changed their position for one disagreed recommendation, and beginning in Processing Year 2022, all individuals who are submitting renewal applications must attach a tax return to their application unless they claim one of the five exemptions listed on Form W-7.<sup>12</sup> Management stated this change was because they had fulfilled the provision of the PATH Act that required all ITINs issued prior to 2013 to expire, which would result in a reduced volume of renewal applications.

Finally, we found that IRS management's inaction on the remaining 10 disagreed recommendations from our prior review continues to increase the risk of ITIN fraud as well as burden on taxpayers. These recommendations include establishing processes to ensure that ITINs issued for a treaty purpose are only used for this purpose; improving processes to control, track, and safeguard original supporting documents; and improving oversight of CAAs.

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<sup>11</sup> TIGTA, Report No. 2020-40-064, *Processes Do Not Ensure That Individual Taxpayer Identification Numbers Are Issued Only to Qualifying Individuals With a Tax Administration Need* (Sept. 2020).

<sup>12</sup> Individuals who claim one of the five exceptions on Form W-7 will continue to be exempt from providing a tax return.



## Additional Actions Are Needed to Address Three Prior Agreed Recommendations

Our review of IRS processes and procedures identified no concerns with the actions taken for 10 of the 13 agreed recommendations from our prior report. However, additional actions are warranted to fully address the remaining three recommendations. Figure 2 summarizes the actions the IRS took for the 10 agreed recommendations for which we identified no additional concerns. The reference number provided indicates the number of the recommendation and page number it appears on in our prior report.

**Figure 2: Prior Agreed Recommendations That Were Fully Implemented**

Reference Number	Recommendation	Actions Taken
#3 (page 9)	Ensure that employees are aware of the processes and procedures to review ITIN applications when the ITIN applicant has the same name, date of birth, and country of birth as another ITIN holder and are taking appropriate actions as outlined in current procedures.	IRS management issued a quality alert to employees on December 1, 2020, and provided additional training as part of new hire and return to duty training.
#4 (page 9)	Ensure compliance with interim processes to capture key information from supporting documents associated with CAA and TAC applications in the RTS and that the information captured in the RTS is used to identify questionable applications to be addressed.	The IRS implemented RTS programming changes in June 2020 that allow employees to capture key information from supporting documents associated with applications from CAAs and TACs.
#6 (page 10)	Review the 562 ITINs with duplicate name, date of birth, and country of birth information and the 2,239 ITINs with duplicate supporting documents that TIGTA identified and take appropriate actions to revoke or deactivate the ITINs.	IRS management initiated actions to merge or revoke ITINs we identified. <sup>13</sup> However, IRS management noted that at least 1,559 ITINs were not duplicates but were the result of processing errors when entering the application into the RTS.
#9 (page 12)	Move the Personally Identifiable Information (PII) review after the Secondary Review Team (SRT) review to allow the SRT more time to review ITIN applications before ITINs are issued.	IRS management moved and prioritized the SRT review before the PII review on January 15, 2020. This change allows SRT and clerical employees more time to review questionable ITIN applications.

<sup>13</sup> IRS management informed us that they expect it will take between six and 24 months to complete these actions because the Accounts Management operation that works them is currently experiencing a significant backlog of work due to the COVID-19 pandemic.

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Reference Number	Recommendation	Actions Taken
#10 (page 12)	Establish an additional suspense action in the RTS to allow the SRT to suspend certain types of applications if additional time is needed to complete its review of the application.	IRS management updated RTS programming on January 21, 2021.
#11 (page 12)	Review the 39 ITINs identified by the SRT and 613 active ITINs identified by TIGTA for which the Form W-7 used an address identified by the SRT as part of a pattern of Forms W-7 with potentially fraudulent supporting documents to determine whether the ITINs need to be revoked or deactivated.	IRS management completed their review as of April 16, 2021. However, IRS management stated that they could not determine whether any of the ITINs were fraudulent based on the information available. IRS management did note that they referred some of these ITINs to IRS Criminal Investigation for review.
#12 (page 12)	Develop processes and procedures to revoke or deactivate ITINs after issuance when the SRT determines that the supporting documents submitted with the application are fraudulent.	IRS management updated the SRT procedural guidance for ITIN referrals to management and deactivation on May 5, 2020. As of June 29, 2021, 55 ITINs have been referred to management for deactivation by the SRT.
#16 (page 17)	Review the 509 ITINs we identified that have not been deactivated as required and take the actions needed to revoke, deactivate, or renew them as appropriate.	IRS management reviewed the ITINs we identified and took action to address them as of July 26, 2021. Of the 509, 261 were deactivated, 229 were revoked, and 19 ITINs were renewed.
#18 (page 18)	Review the 6,729 ITINs we identified as deactivated in error and reactivate as appropriate.	IRS management took no actions to renew these 6,729 ITINs since they were set to expire soon. Instead, individuals were notified of the pending deactivation and instructed to submit a renewal application in order to receive their eligible tax benefits, such as applicable tax credits.
#21 (page 20)	Review the 371 tax returns we identified for which the IRS incorrectly denied retroactive credit claims and take the steps needed to ensure that these taxpayers receive the benefits to which they are entitled.	IRS management reviewed the 371 tax returns and took actions to provide taxpayers their benefits.

*Source: TIGTA's review of actions taken in response to recommendations made in Report No. 2020-40-064 issued in September 2020.*

### **Additional actions are needed to fully implement prior agreed recommendations**

Figure 3 summarizes the actions the IRS took for the three agreed recommendations for which we determined that additional action is needed. The reference number provided indicates the number of the recommendation and page number in our prior report.

**Figure 3: Prior Agreed Recommendations Where Additional Action Is Needed**

Reference Number	Recommendation	Actions Taken
#5 (page 10)	Ensure that monthly analysis of ITIN RTS data is performed to identify Forms W-7 submitted using duplicate supporting documents and take actions on the identified applications as appropriate.	IRS management has continued to perform monthly analysis of RTS data to identify Forms W-7 that were submitted with duplicate entity information or supporting documents.  <b>Audit Note:</b> IRS management’s analysis did not identify all applications with duplicate supporting documents. As such, not all uses of duplicate entity information or supporting documents were identified.
#8 (page 10)	Review the 89 ITINs identified as revoked and still active and the 51 ITINs assigned to deceased individuals that are not locked that TIGTA identified and take appropriate action to deactivate the ITINs or add a “deceased” lock on the tax account.	IRS management initiated actions to address the 89 revoked ITINs and the 51 ITINs of deceased ITINs. IRS management extended the due date for resolving the 89 revoked ITINS until February 15, 2022.  <b>Audit Note:</b> We confirmed that the IRS has locked the tax accounts for the 51 ITINs assigned to decedents. We will continue to monitor the actions taken on the 89 revoked ITINs.
#20 (page 19)	Develop processes and procedures to identify retroactive claims erroneously paid and erroneously disallowed due to tax examiner errors. <sup>14</sup> Once these claims are identified, take steps to recover erroneous credit payments or ensure that taxpayers receive the benefits to which they are entitled.	IRS management informed us that they started discussions on creating a systemic process to identify retroactive claims that were erroneously granted or denied. However, due to COVID-19 and the priority of Filing Season 2021, IRS management stated that resources were not available to continue these discussions.  <b>Audit Note:</b> Our analysis of Tax Years 2017 and 2018 tax returns processed during Processing Year 2020 found that IRS employees are still erroneously granting retroactive claims when the taxpayer’s TIN was not issued prior to the return due date or erroneously denying retroactive claims when the taxpayer’s TIN was timely issued.

Source: TIGTA’s review of actions taken in response to recommendations made in TIGTA Report No. 2020-40-064 issued in September 2020.

<sup>14</sup> A tax credit claimed on a tax return that is filed after the tax return due date (e.g., Tax Year 2018 tax return with an April 2019 due date that is filed in Calendar Year 2020).

### **IRS management's monthly reviews are not identifying all ITINs with duplicate identity information or supporting documents**

This review found that IRS management is conducting monthly reviews in an attempt to identify ITIN applications that use duplicate entity information (*e.g.*, name, date of birth, and country of birth) or supporting documentation. However, our review of ITIN applications received between May 9, 2019, and December 31, 2020, identified 478 ITINs with duplicate entity and 969 ITINs with duplicate supporting documents that were not identified by IRS management's review. We shared the results of our analysis with IRS management, and they agreed that the monthly reviews did not identify all of these ITINs. IRS management informed us that they are continuing to work with the Information Technology organization team to determine why they received incomplete extracts from the RTS for their monthly analysis.

In addition, our review of the systemic RTS controls found that the RTS alerts tax examiners when the entity information on the application they are processing matches the entity information of an issued ITIN. Tax examiners are instructed to research the potential duplicate before assigning a new ITIN. However, the RTS has no processes to alert tax examiners when the supporting documents (passport, birth certificate, marriage certificate, *etc.*) associated with the application they are processing match the supporting documents of a previously issued ITIN. Our review of ITINs issued between May 2019 and December 2020 identified 1,269 ITINs for which the supporting documents submitted with the application had already been used by another applicant.

Expanding RTS alerts can also prevent tax examiner error. IRS management informed us that their review of the ITINs we identified during our prior review with duplicate entity information or supporting documents identified 472 ITINs that were the result of tax examiner input errors. For example, the tax examiner may have had two applications on their desk at one time and entered the same document number on both applications. Had the RTS alerted the tax examiner of the duplicate entry of the supporting documents, the tax examiner could have corrected their error, thus improving the reliability of RTS data.

The Commissioner, Wage and Investment Division, should:

**Recommendation 1:** Work with the IRS Information Technology organization to ensure that ITIN managers receive complete RTS extracts for use in the monthly reviews to identify ITIN applications with duplicate entity information or supporting documents.

**Management's Response:** The IRS agreed with this recommendation and plans to ensure that ITIN managers receive complete RTS extracts.

**Recommendation 2:** Implement systemic RTS processes to alert tax examiners when the supporting documents associated with an ITIN application have already been used by another ITIN applicant and require tax examiners to research the potential duplicate before assigning a new ITIN.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that funding and resource constraints are obstacles to obtaining an

automated solution, and they established a manual process to conduct monthly analysis to identify these types of discrepancies and take action as appropriate.

**Office of Audit Comment:** As reported in our September 2020 report, IRS management implemented the manual monthly review as an interim process. This review is conducted after ITINs are issued and does not prevent unscrupulous individuals from fraudulently obtaining an ITIN. Establishing systemic RTS processes will prevent the issuance of an ITIN for a questionable application, enable tax examiners to correct RTS entry errors at the time applications are processed, and help ensure that the IRS's limited resources are used effectively.

### **Actions still have not been implemented to identify and correct retroactive tax credit claims that were erroneously paid or disallowed**

An individual must have a Taxpayer Identification Number (TIN) that is issued on or before the due date of the tax return to be eligible to claim certain tax credits.<sup>15</sup> Our updated analysis of Tax Years 2017 and 2018 tax returns processed during Processing Year 2020 identified that credits continue to be erroneously issued and incorrectly disallowed. For example, we identified:

- 5,298 tax returns for which the IRS paid almost \$7.8 million in erroneous retroactive refundable and nonrefundable tax credits to individuals whose TIN was not issued prior to the return due date.
- 719 tax returns with refundable and nonrefundable credit claims totaling almost \$1.1 million that were incorrectly disallowed when the taxpayer's TIN was timely issued.

We previously recommended that the IRS establish processes to identify retroactive claims that were erroneously denied or paid and take steps to correct them. IRS management agreed with our recommendation. However, we found that no action has been taken to establish this process. As a result, the IRS still is not always recovering tax credits that were paid in error or taking action to ensure that eligible taxpayers receive the tax credits to which they are entitled.

IRS management informed us that they began discussing the feasibility of implementing programming to identify tax examiner errors as previously recommended. However, IRS management stated that, because of COVID-19 and the priority of the 2021 Filing Season, resources were not available to continue these discussions. In addition, IRS management stated that they like the idea of establishing processes to identify these tax returns. However, they are concerned with the amount of resources that will be needed to review and correct the number of tax returns we identified.

We understand the IRS's concern regarding the resources required to identify and correct these tax returns. However, the resources required are dependent on how often the IRS evaluates retroactive claims. For example, our analysis covered two tax years and identified 6,017 tax returns that need correction. The IRS can potentially reduce the number of claims it will need to address at any given time by analyzing retroactive tax credit claims more often (*e.g.*, quarterly or annually versus every two years).

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<sup>15</sup> For the purpose of our analysis, these TINs include an SSN, ITIN, or Adoption Taxpayer Identification Number.

The Commissioner, Wage and Investment Division, should:

**Recommendation 3:** Implement processes and procedures, as previously agreed, to periodically identify retroactive claims that were erroneously paid or disallowed and correct the identified tax accounts to ensure that taxpayers receive only the amounts to which they are entitled.

**Management's Response:** The IRS agreed with this recommendation and plans to perform a periodic review of cases with retroactive claims that are erroneously paid or disallowed in error resolution. IRS management stated that the review will be limited and subject to the availability of resources.

**Recommendation 4:** Review the 719 tax returns we identified for which the IRS incorrectly denied retroactive credit claims and take steps needed to ensure that these taxpayers receive the benefits to which they are entitled.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 719 tax returns that were denied benefits from retroactive claims and correct, as appropriate.

**Recommendation 5:** Review the 5,298 tax returns we identified for which the IRS incorrectly allowed retroactive credit claims and take steps to ensure that these erroneous benefits are recovered.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 5,298 tax returns incorrectly allowed benefits from retroactive claims and correct, as appropriate.

### **Management's Disagreement With Prior Recommendations Continues to Increase the Risk of Fraud and Burden on Taxpayers**

As noted previously, IRS management disagreed with 11 recommendations in our prior report. For one of these recommendations, IRS management subsequently changed their position and informed us that, beginning in Processing Year 2022, all individuals who renew an ITIN will be required to provide a tax return with their application unless they claim one of the five exceptions listed on Form W-7. This expanded renewal requirement will significantly improve the IRS's ability to ensure that ITINs are only issued or renewed for individuals who have a tax need.

However, manual verification processes increase the risk that an ITIN will be renewed in error. Unlike original ITIN applications, there are no systemic controls in the RTS to reject a renewal application when a required tax return is not provided. Instead, tax examiners are instructed to forward spouse and dependent renewal applications that have a missing tax return to an ITIN operation work lead to be manually rejected. There are no such instructions for applications for which an individual is renewing their own ITIN. Our review of 77,060 spouse and dependent renewal applications received between May 1, 2019, and December 31, 2020, identified 6,688 (9 percent) ITINs that were renewed without the required tax return. Our analysis of ITIN renewal applications received during this same period identified 484,641 ITINs that were

renewed when the individual was renewing their own ITIN to file a tax return, but no return was provided.

**Recommendation 6:** During this audit, we issued an e-mail alert to the IRS recommending that the Commissioner, Wage and Investment Division, implement systemic RTS processes to reject ITIN renewal applications when the required tax return is not provided.

**Management Action on Recommendation 6:** IRS management agreed with this recommendation. However, management stated that, although they submitted a request for an RTS programming change, it might not be deployed by January 2022 due to competing information technology priorities, funding, and resources. In the interim, employees will be able to use a workaround procedure to reject a primary and a spouse or dependent renewal application manually if a tax return is not provided as required. IRS management subsequently indicated that the anticipated implementation date for the systemic processes is July 15, 2022.

**Recommendation 7:** The Commissioner, Wage and Investment Division, should review the 6,688 ITINs TIGTA identified and take appropriate actions to ensure that these ITINs do not remain active unless the individual can demonstrate a continued tax filing need.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 6,688 ITINs and take action as appropriate.

In addition, we recommended the IRS develop processes and procedures to identify active ITINs assigned to individuals whose ITIN was revoked or who are deceased and take appropriate actions to deactivate the ITIN or add a deceased lock on their tax account. IRS management stated that existing procedures allowed them to adequately identify this scenario and take actions to deactivate or add a deceased lock on a tax account when applicable. Although the IRS disagreed with our recommendation, our review of ITINs issued between May 2019 and February 2020 identified no ongoing concerns with the IRS's processes to timely revoke ITINs or lock ITINs of decedents.

Figure 4 summarizes the nine remaining disagreed recommendations from our September 2020 report. The reference number provided indicates the number of the recommendation and page number in our prior report.

**Figure 4: Prior Disagreed Recommendations**

Reference Number	Recommendation	Management's Response
#2 (page 7)	Implement processes to identify ITINs issued solely for claiming tax treaty benefits that are not being used for such purpose. Once identified, the IRS should correspond with the ITIN holder to identify the purpose for which they continue to need an ITIN and update the RTS accordingly.	IRS management stated that the IRS's position is that an ITIN issued for purposes of claiming tax treaty benefits is also valid for filing tax returns for which the individual may subsequently be liable. The IRS applies the same degree of rigorous scrutiny to applicants requesting an ITIN for tax treaty benefit purposes as it does to all ITIN applicants.
#13 (page 15)	Develop processes and procedures to log, track, and safeguard original documents and certified copies of documents from IRS receipt until returned to the applicant.	IRS management stated that documents are maintained with the application in a secure Government space, with access restricted to only IRS employees, from the time of receipt until they are returned to the applicant.
#14 (page 15)	Extend the six-month storage period before loose original documents are destroyed or returned to the issuing country's embassy to allow applicants more time to request their documents.	IRS management explained that loose or undeliverable documents were previously held in storage up to one year. However, the longer period did not improve the rate at which undeliverable documents were returned to owners. The extension of the document maintenance period did not prompt applicants to inquire about or request documents.
#15 (page 17)	Modify computer programming to ensure that all ITINs that have a blank status in the RTS are identified for deactivation.	IRS management stated that, when this issue was initially identified in Calendar Year 2017, the IRS's Information Technology organization specialists were unable to identify the cause or replicate the condition. IRS management stated that they are not pursuing further programming changes because the issue will be resolved at the end of Calendar Year 2020 when the remaining ITINs issued prior to Calendar Year 2013 are scheduled for deactivation.
#17 (page 17)	Develop processes and procedures to identify ITINs that are used on paper-filed prior year returns, subsequently updated to a valid status during tax return processing, or used on a tax return that the IRS was initially unable to post to the Individual Master File that was subsequently corrected and ensure that actions are taken to reactivate these ITINs.	IRS management stated that procedures are already in place to require these individuals to submit a renewal application in order to reactivate their ITIN.



## Administration of the Individual Taxpayer Identification Number Program

Reference Number	Recommendation	Management's Response
#19 (page 18)	Ensure that the taxpayers associated with the 7,003 ITINs that were erroneously deactivated and subsequently used on a tax return receive the benefits to which they are entitled.	IRS management stated that the 7,003 ITINs are a subset of the initial 8,793 that were noted as deactivated in error. Management reviewed the 8,793 ITINs and found that 2,064 ITINs subsequently expired on January 1, 2020. Management also determined that the remaining 6,729 ITINs were scheduled for deactivation on December 31, 2020, and therefore will not be reactivated.
#22 (page 22)	Discontinue allowing CAAs to authenticate an applicant's identity and foreign status. Limit CAAs' involvement to assisting individuals in gathering applicable documents and completing the ITIN applications.	IRS management believes this action may be contradictory to the PATH Act, which encourages the geographic expansion of community-based CAAs to facilitate the Form W-7 application process.
#23 (page 22)	Ensure that follow-up reviews are conducted, as required, if the IRS continues to allow CAAs to authenticate an applicant's identity and foreign status.	IRS management stated that they have existing processes to ensure that follow-up reviews are conducted.
#24 (page 23)	If the IRS continues to allow CAAs to authenticate an applicant's identity and foreign status, change the program requirements to prohibit or put further conditions on reentry into the program for CAAs that were terminated due to significant noncompliance.	IRS management stated that CAAs that receive a compliance review finding of termination are suspended from program participation for a period of one year from the date of notification. However, the participants are allowed to reapply to the program after their suspension period and should take corrective actions to prevent a repeat of prior sanctions should they do so. If approved, existing measures will identify them for a subsequent compliance review if they are not compliant with program guidelines. The IRS prohibits reentry into the program if the CAA is found to have engaged in fraudulent behavior.

*Source: TIGTA's review of actions taken in response to recommendations made in TIGTA Report No. 2020-40-064 issued in September 2020.*

### **The IRS still does not have processes in place to identify ITINs issued solely for tax treaty purposes as required by the PATH Act**

The IRS has still not taken action to identify ITINs issued solely for a tax treaty purpose that are not used for that purpose (*i.e.*, not used to claim tax treaty benefits). Our analysis of ITINs assigned between May 10, 2019, and December 31, 2020, found that the IRS issued 9,337 ITINs to individuals for a tax treaty purpose. However, we found that 8,472 (91 percent) of these ITINs were not used for such purpose. Specifically, as of September 23, 2021:

- 6,550 (70 percent) ITINs have not been used on a tax return between Processing Years 2019 and 2021.
- 1,922 (21 percent) were used on a tax return, but the return did not claim a tax treaty benefit.
- 865 (9 percent) were used on a tax return that claimed a tax treaty benefit.

IRS management's position continues to be that, once an individual meets eligibility requirements and obtains an ITIN, the individual is able to use the ITIN for any tax purpose. IRS management stated that it has consulted with IRS Office of Chief Counsel on this issue and concluded that the IRS is fully compliant with the requirements of the PATH Act. As our analysis shows, IRS management's position continues to allow individuals who have not demonstrated a tax treaty or tax return filing need to retain their ITIN. Individuals who request an ITIN for tax treaty purposes are not required to attach a tax return to their ITIN application or renewal. The IRS's records for these ITINs incorrectly show that the individual needs the ITIN for tax treaty purposes. In addition, processes and procedures do not prevent individuals from fraudulently obtaining an ITIN for a nontax purpose. Figure 5 shows the nontax benefits offered to ITIN holders.

**Figure 5: Nontax Benefits of Obtaining an ITIN**



Source: TIGTA's summary of various research.

The Commissioner, Wage and Investment Division, should:

**Recommendation 8:** Establish processes to identify ITINs that are not being used for a tax treaty purpose and update IRS data to reflect the current reason for which the ITIN is being used (to meet a tax return filing requirement, claim a refund, etc.).

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that they consulted with the Office of Chief Counsel and concluded that the IRS is fully compliant with the PATH Act because it does not assign ITINs to be used solely for purposes of tax treaty benefits. Management stated that I.R.C. § 6109(i)(4) addresses a situation that does not and will not apply.

**Office of Audit Comment:** We continue to believe that the intent of I.R.C. § 6109(i)(4) is for the IRS to establish a process to identify ITINs that were issued to individuals who request an ITIN for tax treaty purposes and ensure that the

ITINs are only used for such purposes.<sup>16</sup> The IRS issued 8,472 ITINs between May 10, 2019, and December 31, 2020, for a tax treaty purpose that were not used on a tax return or did not claim a tax treaty benefit. These individuals indicated on their application that the reason they needed an ITIN was to claim a tax treaty benefit.

**Recommendation 9:** Require individuals who indicate that they have a tax treaty need for an ITIN to provide documentation to support their need (*e.g.*, tax return claiming a treaty benefit, proof of excludable income, withholding agent documentation, *etc.*).

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that I.R.C. § 6109(i)(1) of the PATH Act requires that all ITIN applicants submit an application and include the "required documentation." I.R.C. § 6109(i)(2) establishes that the required documentation for all ITIN applicants is original documents or certified copies that prove the applicant's identity, foreign status, and residency. I.R.C. § 6109(i)(4) acknowledges that applicants must also have a tax need and that, under prior practice, some ITIN applicants submit an application with a tax return and some ITIN applicants submit it without a tax return to obtain an ITIN for treaty benefits purposes.

**Office of Audit Comment:** I.R.C. §§ 6109(i)(1) and 6109(i)(2) require applicants to provide documentation that proves the applicant's identity, foreign status, and residency. These I.R.C. sections do not require documentation to substantiate that the applicant has a Federal tax need. I.R.C. § 6109(i)(4) requires the Secretary of the Treasury to implement a system that ensures ITINs issued solely for purposes of claiming tax treaty benefits are used only for such purposes. As stated previously, we continue to identify individuals who are issued an ITIN for tax treaty purposes who did not claim a tax treaty benefit on their tax return or did not file a tax return.

### ITINs still are not deactivated as required or are erroneously deactivated

Our analysis of IRS data as of October 3, 2021, identified 910 ITINs that were not deactivated as required on December 31, 2020. These included:

- 716 ITINs that were not used on at least one Tax Year 2017, 2018, or 2019 tax return.
- 194 ITINs that should have been deactivated based on the ITIN issuance date.

In addition, we continue to find that the IRS is erroneously deactivating ITINs that should have remained active. Our analysis identified 2,118 ITINs that the IRS deactivated in error. These taxpayers will be unable to file a tax return to receive the tax benefits to which they are entitled until their ITIN is reactivated or renewed. We shared the 2,118 ITINs that we identified with IRS management. IRS management indicated that these ITINs were systemically deactivated in error for nonuse.

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<sup>16</sup> I.R.C. § 6109(i)(4) requires the Secretary of the Treasury to implement a system that ensures that ITINs issued solely for purposes of claiming tax treaty benefits are used only for such purposes, by distinguishing such numbers from other ITINs issued.

Section 203 of the PATH Act requires the IRS to deactivate ITINs for nonuse in three consecutive tax years. The PATH Act also requires the IRS to deactivate all ITINs issued prior to Calendar Year 2013. The IRS deactivates ITINs that are due to expire after December each year.

IRS management stated that no direct action was taken to ensure that the 7,003 individuals we identified in our prior review with an erroneously deactivated ITIN received the tax benefits to which they are entitled. Instead, the IRS caused these individuals additional burden by requiring them to needlessly submit an ITIN renewal application to receive their tax benefits. As discussed previously, it took the IRS up to 41 days to process a renewal application during Calendar Year 2020. Our analysis of IRS data found that only 668 (9.5 percent) of the 7,003 ITINs had been renewed as of July 1, 2021.

The Commissioner, Wage and Investment Division, should:

**Recommendation 10:** Review the 716 ITINs we identified to determine why these ITINs were not identified by systemic programming for deactivation due to nonuse and modify the programming as appropriate.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 716 ITINs and take action as appropriate.

**Recommendation 11:** Review the 910 ITINs we identified that were not deactivated as required and revoke or deactivate them as appropriate.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 910 ITINs and take action as appropriate.

**Recommendation 12:** Review the 2,118 ITINs we identified that were deactivated in error and reactivate as appropriate.

**Management's Response:** The IRS agreed with this recommendation and plans to review the 2,118 ITINs and take action as appropriate.

**Recommendation 13:** Ensure that the taxpayers associated with the 2,118 ITINs who had a tax return rejected because their ITIN was no longer valid receive the benefits to which they are entitled.

**Management's Response:** The IRS agreed with this recommendation. IRS management plans to take action to restore any benefits to which these individuals were entitled, yet denied, because of the erroneous deactivation.

### **Insufficient processes continue to increase the risk that original supporting documents will be lost, stolen, or prematurely destroyed**

The IRS still does not have sufficient custody controls over sensitive original supporting documents submitted with an ITIN application. These control weaknesses increase the risk that these sensitive supporting documents will become separated from the application or be lost or stolen. Specifically:

- ***Supporting documents are still not recorded or tracked until the ITIN application is processed by a tax examiner.*** Numerous individuals have access to an ITIN application and related supporting documents before the application is processed. For example,

ITIN clerks open and batch applications and place the applications on carts. These carts are placed in a staging area waiting to be processed. However, the IRS does not track these sensitive documents until the ITIN application is processed.

- ***Current processes still provide little or no information to an applicant who contacts the IRS looking for their documents.*** When an application is processed, the tax examiner enters the document type and identification number into the RTS. However, the IRS does not record when the documents were returned to the applicant. The IRS also returns sensitive original documents via regular mail, which the IRS does not track, to ensure that the documents reach their intended destination. As such, the IRS cannot tell an applicant who contacts the IRS when their documents were returned or when the documents were (or should be) delivered to the address where they were mailed.
- ***Processes result in documents being destroyed or returned to the issuing country when a better address may be available.*** The ITIN operation holds undeliverable and loose documents<sup>17</sup> for six months. During this time, employees periodically research IRS records for a better address to return the documents to the applicant. After six months, the ITIN operation returns original passports to the issuing country's embassy. All other documents are destroyed.

Our review of a judgmental sample<sup>18</sup> of 50 applicant files from the IRS Loose Document database that were at the end of the six-month holding period found that the IRS destroyed or returned documents to an embassy for 40 of the 50 applicants. Our research identified a better address for 16 (40 percent) of these 40 applicants. IRS employees did not always follow procedures for researching applicants' addresses. In addition, we used data systems that are not used by the ITIN operation despite being available to the IRS.<sup>19</sup>

Finally, while IRS management's response to our prior recommendation implied that they had studied the impact of extending the holding period for loose documents, no study was conducted. Rather, the decision to shorten the hold period was made after ITIN operation management notified IRS Headquarters that there was a lack of physical storage space. However, IRS management told us there is no known negative impact of the decision to shorten the storage period as no better address was being identified even after a year. The IRS received 383 document requests during Calendar Year 2020 from applicants for documents that had already been destroyed or returned to the issuing country's embassy.

We notified IRS management of our ongoing concerns and recommended the IRS establish processes to issue Forms 3210, *Document Transmittal*, to track all original supporting documents received in the mailroom, use trackable means to return documents to the applicant, and require the mailroom to provide the mail tracking number on the Form 3210 that is returned to the ITIN program. Finally, we recommended the IRS record the mail tracking number in the RTS along with the date the original documentation was mailed. IRS management disagreed with these additional recommendations.

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<sup>17</sup> Original or certified copies of supporting documents with no attachments, *i.e.*, Form W-7, tax return with ITIN applicant or letter.

<sup>18</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

<sup>19</sup> We used Accurant, CLEAR, and the Integrated Data Retrieval System to conduct our research.

The Commissioner, Wage and Investment Division, should:

**Recommendation 14:** Evaluate whether extending the six-month holding period for original identification documents will improve the identification of a better return address and reduce the number of applicants who request documents that have been destroyed or returned to an embassy.

**Management's Response:** The IRS agreed with this recommendation and plans to evaluate the current processes to determine if they should be updated.

**Recommendation 15:** Ensure that existing processes and procedures for researching IRS systems for a better address to use in returning loose original supporting documents are being followed.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that they make every effort to ensure that existing processes and procedures for researching IRS systems for a better address in returning loose original documents are being followed.

**Office of Audit Comment:** As discussed previously, our research identified a better address for 16 (40 percent) of the 40 applicant files we reviewed in which the IRS destroyed or returned loose documents to an embassy. The IRS did not identify these addresses because employees did not always follow procedures for researching applicants' addresses.

**Recommendation 16:** Obtain access to the Accurint and CLEAR databases for use in researching addresses.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that these databases are research tools that are used in certain IRS functions, usually associated with compliance or investigative work and only provide a proximal match. There would be inherent disclosure and PII risks in sending sensitive taxpayer documents to an address that the taxpayer has not confirmed.

**Office of Audit Comment:** We are not suggesting that the IRS send sensitive identity documents to an unconfirmed address. The IRS could use the addresses identified in these databases to contact the ITIN applicant and request that they confirm their address. Once confirmed, their documents can be returned.

**Recommendation 17:** Establish processes and procedures to control original supporting documents from receipt by the IRS to the return of the documents to the mailroom for mailing to the applicant.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that the processes and procedures currently in place to control original and certified copies of identification documents, from the time they are received and returned to the applicant, safeguard all documents and remittances received by the IRS against the risk of loss, destruction, or theft.

**Office of Audit Comment:** Contrary to IRS management's assertion, existing custody controls are not sufficient to safeguard documents against the risk of

loss, destruction, or theft. As our report states, identification documents are not recorded or tracked until the application is processed. Numerous individuals have access to these documents prior to processing. In addition, the IRS does not record when documents are returned to an applicant and cannot confirm that the documents reached their intended destination.

**Recommendation 18:** Establish processes to return original supporting documents to applicants using trackable means. These processes should include a requirement for the mailroom to provide the tracking number to the ITIN program.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that it is cost prohibitive to return all original identification documents using expedited mail with tracking due to volume and weight. Instead, IRS management updated the procedures to return original identification documents to applicants after initial input if documents were not deemed questionable.

**Office of Audit Comment:** While the IRS's actions will expedite the return of sensitive documents, they will not ensure that the applicant's sensitive identification documents reach their intended destination. Our recommendation is consistent with processes used by the U.S. Department of State to mail passports to individuals.

**Recommendation 19:** Modify the RTS to enable employees to record the actions taken on loose or undeliverable documents, including the date the documents were returned and the mail tracking number or the date the document was destroyed, so that all ITIN Program employees have access to this information when assisting applicants who contact the IRS asking about their documents.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that existing procedures require the employee to record action taken on loose or undeliverable documents in the RTS, including the date the documents were returned or destroyed. Because IRS management does not plan to implement the tracking of mail, this information is not needed in the RTS.

**Office of Audit Comment:** As noted previously, the IRS's planned actions still will not ensure the applicant's sensitive identification documents reach their intended destination.

### Insufficient CAA compliance review processes increase the risk of fraud within the Federal tax system and beyond

An ITIN provides individuals with access to significant tax benefits. An ITIN has also become widely accepted as a valid identification number for many nontax purposes.<sup>20</sup> As such, it is critical that the IRS establish sufficient processes to ensure that CAAs are complying with CAA program requirements. We are particularly concerned with the IRS's use of foreign CAAs. These individuals are not subject to in-person compliance reviews and therefore may have no vested interest in ensuring that the documents they receive from clients seeking an ITIN are valid.

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<sup>20</sup> Figure 5 on page 14 of this report provides a summary of the nontax benefits for which an ITIN is accepted.

Our review of the IRS’s CAA compliance review selection process found that these processes do not ensure that the highest risk CAAs are reviewed. In addition, the IRS did not select any of the 181 active foreign CAAs for compliance treatment. This is despite the fact that 58 foreign CAAs met the IRS’s criteria for high and medium risk. Figure 6 shows the number of CAAs we identified in the IRS’s defined risk categories and the number of CAAs selected for review.

**Figure 6: CAAs by Risk Category and Compliance Review Selection**

Risk		High Volume	Medium Volume	Low Volume
High Risk	Total	34	182	773
	Selected	17	12	1
Medium Risk	Total	177	355	285
	Selected	51	26	1
Low Risk	Total	989	822	1,188
	Selected	59	27	6

*Source: TIGTA analysis of IRS ITIN data and CAA compliance review selections for Fiscal Year 2019.*

I.R.C. § 6109(i)(1), as amended, permits individuals seeking an ITIN to provide their documents to a community-based CAA, including a foreign CAA. The use of a CAA can decrease the burden on foreign individuals who have a U.S. tax responsibility by allowing them to retain custody of their sensitive identity documents. According to the IRS, there were 6,168 active CAAs as of January 2021. In addition, 47,344 of the 1.1 million ITINs issued between January 1, 2020, and December 31, 2020, were based on a CAA application.

When we asked IRS management why no foreign CAAs were selected for a Fiscal Year 2019 compliance review, IRS management told us that the IRS may not include foreign CAAs in every compliance review selection cycle due to resources or geographic location. Instead, during our prior review, IRS management told us that foreign CAAs receive a correspondence compliance review. IRS management informed us that the correspondence reviews were equally effective to on-site reviews, and CAAs are required to submit copies of all documents. IRS management also told us that foreign CAAs have proven to be more thorough in record retention than domestic CAAs.

The IRS conducts in-person compliance reviews of domestic CAAs. IRS management informed us that, due to limited resources, they select CAAs based on consideration of risk, CAAs currently on probation, available resources, and geographic location to ensure sufficient compliance coverage. However, the IRS can significantly increase the number of CAAs it can address if it uses multiple compliance treatment streams. For example, the IRS can address an additional 1,977 CAAs if it sends a compliance letter to the low-risk/medium-volume and low-risk/low-volume CAAs and free up resources to conduct 33 additional in-person compliance reviews of high-risk CAAs.

The use of alternative treatment streams will also enable the IRS to maintain a minimum level of oversight when the IRS is unable to conduct in-person reviews. For example, IRS management informed us that, although they selected CAAs for a Fiscal Year 2020 review, no compliance visits were made due to the COVID-19 pandemic, and it is unlikely they will conduct reviews for Fiscal Year 2021.



We alerted IRS management of our concerns during our review. We recommended that the IRS use designees at a U.S. diplomatic mission or consular post to authenticate ITIN applicants' documents rather than foreign CAAs. At a minimum, we recommended that the IRS partner with IRS programs abroad such as Criminal Investigation, Examination, or Collection to conduct in-person compliance reviews of foreign CAAs should the IRS continue to use them. IRS management disagreed with our recommendations but stated that they can explore partnering with Examination if it is feasible.

We also recommended that the IRS implement varying degrees of compliance treatment for CAAs based on risk, ensure that limited resources are used to conduct in-person compliance reviews for the highest risk CAAs, and include foreign CAAs in the IRS's ITIN compliance review selections. IRS management disagreed with the recommendation to implement varying degrees of treatment, citing a lack of staffing resources and budget to implement the recommendation. Management partially agreed with two recommendations to ensure that the IRS's resources are used for the highest risk CAAs and to include foreign CAAs in compliance review selections. IRS management stated that they currently prioritize in-person resources for the highest risk CAAs, which includes those currently on probation. Management stated that going forward, they will include foreign CAAs in the compliance review selections every other year, at a rate no greater than their program participation, which is currently 4.9 percent.

The Commissioner, Wage and Investment Division, should:

**Recommendation 20:** Terminate CAAs located in foreign countries from the IRS's CAA program and update policies to no longer allow foreign individuals entry into the CAA program. However, if the IRS continues to allow foreign individuals entry into the CAA program, it should include foreign CAAs in its compliance reviews to ensure that they are complying with the requirements of the program.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that approved CAAs are geographically disbursed as encouraged by the PATH Act. However, IRS management also stated that they have a shared commitment to ensure proper oversight and monitoring of all CAAs, domestic and abroad, and will strive to incorporate more foreign CAAs in future compliance reviews, proportionate to their rate of participation and the IRS's risk criteria.

**Office of Audit Comment:** While IRS management disagreed with our recommendation, management stated that they will strive to incorporate more foreign CAAs in future compliance reviews. We will continue to evaluate the IRS's oversight of foreign CAAs in subsequent ITIN reviews.

**Recommendation 21:** Implement varying levels of compliance treatment for CAAs based on the risk level to ensure that the highest risk CAAs receive in-person compliance reviews.

**Management's Response:** The IRS disagreed with this recommendation. IRS management stated that under current compliance review guidelines, all CAAs are subject to compliance reviews. Resources for in-person compliance reviews are prioritized to those CAAs that pose the greatest risk to the program. Follow-up reviews, such as CAAs on probation, high-risk CAAs, and referrals, though rare, are all prioritized. Initial reviews will also be prioritized if they fall in any of the aforementioned review

types. Otherwise, they are subject to the available resources and compliance review selection limit. Compliance review selections of low-risk CAAs are not made before considering high-risk CAAs. Additional considerations for selections that meet the criteria include CAAs currently on probation, available Small Business Self Employment resources, and geographic locations. Priority is given to high risk.

**Office of Audit Comment:** As stated in our report, the IRS's CAA compliance review process does not ensure that the highest risk CAAs are reviewed, including 58 foreign CAAs who met the IRS's criteria for high and medium risk. The IRS acknowledges that it has limited resources for conducting in-person compliance reviews. The use of varying levels of compliance treatment would allow the IRS to significantly increase the number of CAAs it can address and maintain a minimum level of oversight when it is unable to conduct in-person reviews.

## Appendix I

### Detailed Objective, Scope, and Methodology

The overall objective of this audit was to evaluate the effectiveness of IRS processes to ensure that only individuals with a tax need were assigned an ITIN. As part of this review, we also evaluated the impact of the COVID-19 pandemic on the ITIN program during Calendar Year 2020. To accomplish our objective, we:

- Met with IRS employees, performed a site visit, reviewed relevant reports, and performed analysis of RTS data to determine the severity of the impact of the COVID-19 pandemic on the ITIN program.
- Analyzed IRS tax return and ITIN data to determine whether processes ensured that renewal ITINs were only issued to those with a legitimate tax purpose.
- Determined if the IRS issued ITINs only to individuals who were entitled to them and that it identified and took appropriate actions when duplicate supporting documentation was used.
- Determined if the IRS had adequate controls to prevent the use of revoked ITINs and decedent's ITINs from filing a tax return.
- Determined if processes ensured that original supporting documents were tracked and safeguarded.
- Performed a judgmental sample<sup>1</sup> of 50 ITIN applicant files from the Loose Documents cabinets to determine if the IRS took appropriate actions to ensure that a better address was located before destroying ITIN applicants' supporting documents. A judgmental sample was selected due to a lack of data and unknown population size at the time.
- Analyzed tax return and ITIN data to determine if ITINs were deactivated as required.
- Determined if retroactive claims for credits were paid in error or were incorrectly denied.
- Determined if IRS employees or former employees had RTS access without a current business need.
- Analyzed Acceptance Agent/CAA files to determine if noncompliant CAAs continued to authenticate the identity of ITIN applicants.

### **Performance of This Review**

This review was performed at the IRS Wage and Investment Division's ITIN operation in Austin, Texas, and with information obtained from the ITIN Policy Section in Atlanta, Georgia, during the period February through September 2021. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe

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<sup>1</sup> A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services); Deann L. Baiza, Director; Jeffrey D. Cullum, Audit Manager; Jaclynne O. Durrant, Lead Auditor; Jordan D. Bunte, Auditor; Nathan J. Cabello, Auditor; and Johnathan D. Elder, Information Technology Specialist.

### **Validity and Reliability of Data From Computer-Based Systems**

During this review, we relied on RTS data obtained from TIGTA's Data Center Warehouse that contains all Forms W-7 and the RTS extract provided by the IRS of all CAA data present on the RTS. We also relied on the National Account Profile (NAP), Individual Master File entity data, and the Individual Return Transaction File on TIGTA's Data Center Warehouse to verify ITIN status. Before relying on the data, we ensured that each file contained the specific data elements we requested. In addition, we selected random samples of each extract and verified that the data in the extracts were the same as the data captured in the IRS's Integrated Data Retrieval System and the RTS. Based on the results of our testing, we believe the data used in our review are reliable.

### **Internal Controls Methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: controls to ensure that the RTS correctly issues ITINs when applications and documents were approved by tax examiners, controls to prevent ITINs from being active on the NAP when Forms W-7 are rejected, controls to prevent revoked ITINs from being active on the NAP and valid on the Individual Master File, controls to prevent individuals from obtaining multiple ITINs, and controls to ensure that CAAs comply with program requirements. We evaluated these controls by interviewing IRS management and performing analyses of data in the RTS, Individual Master File, NAP, and Individual Return Transaction File located on TIGTA's Data Center Warehouse.

## Outcome Measures

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

### **Type and Value of Outcome Measure:**

- Reliability of Information – Potential; 1,447 ITINs issued to individuals who used the same PII or the same supporting identification documents (see Recommendations 1 and 2).

### **Methodology Used to Measure the Reported Benefit:**

We obtained a data extract from the IRS's RTS ITIN Status file for active ITINs and matched to the IRS's RTS ITIN W-7 Application file for assigned ITINs received between May 9, 2019, and December 31, 2020. We identified 478 ITINs with duplicate use of the same entity information (name, date of birth, country of birth, and State/province of birth). We also identified 969 ITINs that used duplicate supporting identification documents. We matched the original population to the IRS's RTS ITIN Documentation file for supporting documents.

### **Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 719 returns of taxpayers who were incorrectly disallowed \$1,081,802 in tax credits on their Tax Years 2017 and 2018 tax returns (see Recommendations 3 and 4).

### **Methodology Used to Measure the Reported Benefit:**

We identified returns claiming the Additional Child Tax Credit, Child Tax Credit, American Opportunity Tax Credit, and Earned Income Tax Credit for Tax Years 2017 and 2018 and determined the TINs used as the primary taxpayer, secondary taxpayer, or dependents to claim a credit by analyzing the IRS's Individual Return Transaction File. We analyzed the issuance dates to determine if the TINs used as the primary taxpayer, secondary taxpayer, or dependents to claim a tax credit were issued by the due date of the return.

If all TINs were issued by the due date of the return, the tax credit(s) should not have been disallowed based on the TIN's issuance date. We determined that 719 returns were incorrectly disallowed \$1,081,802 in tax credits, and the IRS sent an incorrect notice based on a TIN issuance date.

### **Type and Value of Outcome Measure:**

- Cost Savings (Funds Put to Better Use) – Potential; \$5,634,868 in erroneous refundable tax credits paid to 3,411 taxpayers for Tax Years 2017 and 2018 tax returns with a TIN that was not timely issued (see Recommendation 5).

### **Methodology Used to Measure the Reported Benefit:**

We identified 1,335,352 Tax Years 2017 and 2018 tax returns that claimed a tax credit (Additional Child Tax Credit, Child Tax Credit, American Opportunity Tax Credit, and Earned Income Tax Credit) and reviewed the TINs used as the primary taxpayer, secondary taxpayer, or dependents to claim the tax credit by analyzing the Individual Return Transaction File. We analyzed the issuance dates to determine if the TINs used to claim the tax credits were issued by the due date of the returns. If the primary or secondary taxpayer TIN are not issued by the due date of the return, no tax credit should be paid on the tax return.

For those returns on which the dependent TIN was not issued by the due date of the return, we computed the amount of the refundable credit associated with that dependent. We determined that 924 returns received \$2,048,945 in Earned Income Tax Credits using TINs that were not issued by the due date of the returns. We determined that 2,386 returns received \$3,490,761 in Additional Child Tax Credits using TINs that were not issued by the due date of the returns. We determined that 101 returns received \$95,162 in American Opportunity Tax Credits using TINs that were not issued by the due date of the returns.

Total refundable tax credits:  $\$2,048,945 + \$3,490,761 + \$95,162 = \$5,634,868$

Total tax returns:  $924 + 2,386 + 101 = 3,411$

### **Type and Value of Outcome Measure:**

- Reliability of Information – Potential; 6,688 spouse and dependent ITINs were renewed in error (see Recommendations 6 and 7).

### **Methodology Used to Measure the Reported Benefit:**

We obtained a data extract from the IRS's ITIN RTS W-7 Application file and identified 806,215 ITINs assigned for applications received between May 1, 2019, and December 31, 2020. Of these, 561,701 ITINs were identified as applications whose 'Reason for applying' on Form W-7 self-identified the need to file, or be listed on a tax return based upon selecting reasons B, C, D, E, or G. We identified 77,060 spouse and dependent applications (reasons E and D), then selected records with an 'Attachment ID' equal to 3, which represents applications without a tax return attached. Finally, we selected records with a 'Create Timestamp' date of February 13, 2020, or later as the date the application was input into the RTS system and identified 6,688 ITIN applications renewed in error.

### **Type and Value of Outcome Measure:**

- Reliability of Information – Potential; 8,472 ITINs issued for the purposes of claiming tax treaty benefits but not associated with a filed tax return or the associated return did not claim tax treaty benefits (see Recommendations 8 and 9).

### **Methodology Used to Measure the Reported Benefit:**

We obtained a data extract from the IRS's ITIN RTS W-7 Application file for ITINs in assigned status, claiming application reasons A, F or H, and with an IRS received date between May 10, 2019, and December 31, 2020. We identified 9,449 ITINs but eliminated 112 duplicates, which left 9,337 assigned ITINs. Of these 9,337 assigned ITINs, we found:

- 6,550 ITINs did not file a tax return in Processing Years 2019 through 2021, as of September 23, 2021.
- 1,922 ITINs filed a tax return but did not claim tax treaty benefits.
- 865 ITINs filed a tax return and claimed a tax treaty benefit.

6,550 + 1,922 = 8,472 ITINs.

### **Type and Value of Outcome Measure:**

- Revenue Protection – Potential; 910 ITINs that were required to be deactivated by January 1, 2021 (see Recommendations 10 and 11).

### **Methodology Used to Measure the Reported Benefit:**

Our analysis of the NAP as of July 2021 and Individual Master File Transactions Table as of May 2021 identified active ITINs that have not been deactivated based on issuance date or for nonuse as required by the PATH Act. ITINs assigned prior to Calendar Year 2013 should be deactivated by January 1, 2020, or January 1, 2021, respectively, if not renewed. The legislation also requires ITINs that have not been used on at least one U.S. Federal tax return in the last three tax years to expire on December 31 on the third consecutive year.

We queried the NAP to pull all the ITINs with an active or inactive ITIN status. We then matched the NAP file to the Data Center Warehouse Transaction Table to obtain transactions codes on the Individual Master File entity account for deactivations (Transaction Code 971, Action Code 193) and reactivations (Transaction Code 972, Action Code 193). We filtered the ITINs in two groups: 1) ITINs issued prior to Calendar Year 2013 and 2) ITINs issued after Calendar Year 2013. ITINs issued after Calendar Year 2013 were reviewed further to determine if deactivation was required.

To identify ITINs not used on a tax return, we used the same NAP file and matched against the SSN Lookup file to obtain all the ITINs used on filed tax returns. We performed separate matches for Tax Years 2017, 2018, and 2019 returns and applied filters to identify missing ITINs on a filed tax return for those years. We then traced those ITINs to the NAP file to review the ITIN status code.

Because of data limitations in identifying ITINs used when there were more than four dependents listed on the return, we also queried the Modernized Tax Return Data base SSN Lookup File as of October 3, 2021, and found that 12,046 of the 12,764 ITINs were dependents claimed on electronically filed tax returns not listed as one of the first four dependents. Due to data limitations, we could not determine if 716 ITINs were used on a tax return.

Our review identified 910 ITINs that were not deactivated as required:

- 194 ITINs that have not been deactivated based on issuance date.
- 716 ITINs that have not been deactivated based on nonuse.

**Type and Value of Outcome Measure:**

- Taxpayer Burden – Potential; 2,118 ITINs deactivated in error (see Recommendations 12 and 13).

**Methodology Used to Measure the Reported Benefit:**

We used the NAP as of July 2021 and the SSN Lookup File as of July 22, 2021, to identify ITINs deactivated in error. We queried the NAP and matched to the SSN Lookup file to identify all ITINs used on filed tax returns. We performed separate matches for Tax Years 2017, 2018, and 2019. We then applied filters where the ITIN is not missing and was used on a filed tax return for Tax Years 2017, 2018, and 2019. We then traced those ITINs to the NAP file to review the ITIN status code. Our review identified 2,118 ITINs were used on at least one filed tax return for Tax Years 2017, 2018, and 2019 that should have remained active but were deactivated incorrectly.

**Type and Value of Outcome Measure:**

- Taxpayer Privacy and Security – Potential; 3,412 documents not returned to the ITIN applicant (see Recommendations 14 through 19).

**Methodology Used to Measure the Reported Benefit:**

We requested and received information from IRS management. This 3,412 documents included 2,220 documents that were destroyed and 1,192 passports that were returned to their respective issuing countries during Calendar Year 2020. In addition, 383 requests for documents were received during Calendar Year 2020 from applicants who had their documents destroyed.

**Type and Value of Outcome Measure:**

- Revenue Protection – Potential \$2,150,351 received by taxpayers on 1,887 returns without a timely issued TIN whose Child Tax Credit was incorrectly allowed (see Recommendation 18).

**Methodology Used to Measure the Reported Benefit:**

We identified 1,335,352 Tax Years 2017 and 2018 tax returns that claimed a tax credit (Additional Child Tax Credit, Child Tax Credit, American Opportunity Tax Credit, and Earned Income Tax Credit) and analyzed the TINs used as the primary taxpayer, secondary taxpayer, or dependents to claim the tax credit by analyzing the Individual Return Transaction File. We analyzed the issuance dates to determine if the TINs used to claim the tax credits were issued by the due date of the returns. If the primary or secondary taxpayer TIN are not issued by the due date of the return, no tax credit should be paid on the tax return.

For those returns for which the dependent TIN was not issued by the due date of the return, we computed the amount of the tax credit associated with that dependent. We determined that 1,887 returns received \$2,150,351 in Child Tax Credits using TINs that were not issued by the due date of the Tax Years 2017 and 2018 tax returns.



## Appendix III

### Prior Treasury Inspector General for Tax Administration Reports Related to the Issuance of Individual Taxpayer Identification Numbers

Report Number and Issuance Date	Audit Title
Report No. 2012-42-081 Issued July 2012	Substantial Changes Are Needed to the Individual Taxpayer Identification Number Program to Detect Fraudulent Applications
Report No. 2013-40-052 Issued May 2013	Review and Verification of Individual Taxpayer Identification Number Applications Has Improved; However, Additional Processes and Procedures Are Still Needed
Report No. 2015-40-038 Issued May 2015	Tax Examiners Do Not Have the Tools or Expertise to Authenticate Documents Certified by a Foreign Issuing Agency
Report No. 2018-40-011 Issued January 2018	Some Legal Requirements to Deactivate Individual Taxpayer Identification Numbers Have Not Been Met
Report No. 2018-40-010 Issued January 2018	Processes Need to Be Improved to Identify Incomplete and Fraudulent Applications for Individual Taxpayer Identification Numbers
Report No. 2020-40-064 Issued September 2020	Processes Do Not Ensure That Individual Taxpayer Identification Numbers Are Issued Only to Qualifying Individuals With a Tax Administration Need

## Appendix IV

### Acceptable Documentation to Prove Foreign Status and Identity

Acceptable Supporting Documentation	Supports Foreign Status	Supports Identity
Passport (the only stand-alone document)	☑	☑
U.S. Citizenship and Immigration Services photo	☑	☑
Visa issued by the U.S. Department of State	☑	☑
U.S. driver's license	☒	☑
U.S. military identification card	☒	☑
Foreign driver's license	☒	☑
Foreign military identification card	☑	☑
National identification card	☑	☑
U.S. State identification card	☒	☑
Foreign voter's registration card	☑	☑
Civil birth certificate*	☑	☑
Medical records (for dependents under age 6)*	☑	☑
School records (for dependents under age 18)*	☑	☑
<b>*May be used to establish foreign status only if documents are foreign.</b>		

Source: Instructions for Form W-7.

## Appendix V

### Prior Reported Certifying Acceptance Agent Concerns

Report Number and Issuance Date	Identified Concerns
<p>Report No. 2012-42-081 Issued July 2012</p>	<p>Despite the use of ITINs to obtain substantial Federal tax benefits and its unintended use as a Federal identification number for other purposes, the IRS allows third parties (CAAs) to review and verify the identity and foreign status of individuals applying for an ITIN. These individuals are frequently tax return preparers and, as such, have a financial interest in preparing an individual's tax return, which may run counter to the incentive to protect the Government's interest of validating the taxpayer's identity and foreign status.</p> <p>In addition, the IRS has identified individuals who use the CAA designation to commit fraud. In one scheme, four CAAs were prosecuted for submitting fraudulent applications and filing more than 10,000 tax returns, resulting in erroneous tax refunds totaling more than \$20 million.</p>
<p>Report No. 2018-40-010 Issued January 2018</p>	<p>Annual Compliance Reviews show significant CAA noncompliance with program requirements. In addition, processes did not always ensure that CAA applicants met program suitability requirements before granting individuals or businesses the CAA designation, nor did they prevent ITINs from being issued for applications submitted by CAAs whose status has expired or been terminated.</p>
<p>Report No. 2020-40-064 Issued September 2020</p>	<p>The IRS continues to allow CAAs to authenticate the identity and foreign status of ITIN applicants despite its own compliance reviews of CAAs that identify significant noncompliance with program requirements. The IRS terminated 515 CAAs from the program during Fiscal Years 2016 through 2019. However, the IRS allows CAAs it has removed from the program due to significant noncompliance to apply the next year for reentry into the program. The IRS removes CAAs for failure to prove identity and foreign status of applicants and failure to submit complete or accurate documentation. Of the 94 CAAs that were terminated in Fiscal Year 2016, 15 reapplied to the program and are currently active CAAs.</p>

Management's Response to the Draft Report



COMMISSIONER  
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
ATLANTA, GA 30308

January 11, 2022

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin  Digitally signed by Kenneth C. Corbin  
Date: 2022.01.11 15:53:49 -05'00'  
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – Administration of the Individual Taxpayer Identification Number Program (Audit # 202140022)

Thank you for the opportunity to review and provide comments on the subject draft report. We appreciate the assistance and additional level of review provided by the Treasury Inspector General of Tax Administration (TIGTA) during this engagement.

Current legislation and regulations ensure that only individuals with a tax need are assigned an Individual Taxpayer Identification Number (ITIN), and processes are in place that allow for continuous evaluation of such needs. Individuals who apply for an ITIN are required to support a tax administration need by selecting one of the eight available options on Form W-7, *Application for an Individual Taxpayer Identification Number*. The tax need is substantiated by the presence of an attached tax return. If the individual is claiming an exception to the tax return filing requirement, other documentation is required to substantiate the application.

This review followed up on recommendations made in a previous report<sup>1</sup> where the IRS agreed with 13 of the 24 recommendations. Of the agreed recommendations, we are pleased to report that we have addressed or found alternative solutions to all, including the three outstanding recommendations cited in this audit report. The three remaining recommendations included a concern raised regarding a need for process improvement to prevent the duplicate use of supporting documents to obtain an ITIN. Although we were not able to immediately implement a systemic remedy, we established a manual process where a monthly analysis is conducted to identify these types of discrepancies and where appropriate, necessary action is taken to protect the integrity of the program.

<sup>1</sup> TIGTA, Report No. 2020-40-064, Processes Do Not Ensure That Individual Taxpayer Identification Numbers Are Issued Only to Qualifying Individuals With a Tax Administration Need (Sept. 2020).

The remaining two concerns pertained to establishing processes to identify and address retroactive tax credit claims erroneously paid and erroneously disallowed due to tax examiner errors. Both of these concerns have now been addressed. Programming was implemented on January 1, 2021, that prevented tax examiners from allowing the child tax or other dependent credit for taxpayers who are ineligible for the credit. With respect to recovery of erroneous credit payments or ensuring that taxpayers receive the benefits to which they are entitled, the IRS noted in Audit Report 2020-40-064 that the tax returns in question were for tax year 2016 and 2017 and that the assessment statute had already expired or would expire before the erroneous credits could be recovered. The recovery of the improper payment of the credits was accordingly not accomplished. With respect to the 371 tax returns that were identified in which retroactive tax credit claims were denied, we completed our review of those returns and took the steps needed to ensure that those taxpayers received the benefits to which they were entitled. By March 4, 2021, the IRS had allowed the improperly denied credits and accordingly adjusted the 371 accounts in question.

We appreciate your acknowledgement of our efforts to address the recommendation pertaining to the tax return requirement for renewal ITIN applications. For context, following the enactment of the Protecting Americans from Tax Hikes Act (PATH Act),<sup>2</sup> we temporarily decoupled the tax return requirement to allow taxpayers that needed to renew their ITIN to do so in a timely manner, reduce delays during the tax filing season, and allow the IRS time to comply with the schedule as outlined by Congress for completion of ITIN expiration for all numbers issued prior to 2013. We were able to complete the required actions without compromising the integrity of the ITIN program or placing undue burden on taxpayers. As of December 31, 2020, all required ITIN expirations are complete, so we are resuming the tax return requirement. Beginning January 2022, all Forms W-7, including new and renewal applications, will require an attached tax return unless claiming an exception to the tax return filing requirement.

With respect to establishing processes to ensure that ITINs issued for a tax treaty purpose are only used for this purpose, based on our legal analysis, we continue to assert that our current approach follows the law and Congress's intent. Taxpayers are only required to provide the required documentation at the time of ITIN application submission to support their reason for applying, which in this case is entitlement to a tax treaty benefit. This is the same requirement for all ITIN applicants, and those who fail to do so are not assigned an ITIN. The equal scrutiny, regardless of the reason for the ITIN application, allows us to establish a process that is not burdensome on the taxpayer and the IRS, and does not require us to limit the use of some ITINs. Our current process has proven to be effective in ensuring the integrity of the overall ITIN program.

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<sup>2</sup> Consolidated Appropriations Act, 2016; Pub. L. No. 114-113, 129 Stat. 2242 (2015).

With regard to processes to control, track, and safeguard original supporting documents, we remain committed to safeguarding sensitive taxpayer documentation submitted in support of an ITIN application while in our possession. We are diligent in ensuring that those documents are returned to the taxpayer at their mailing address of record once their Form W-7 is processed. Documents are returned to taxpayers by the U.S. Postal Service (USPS) using First Class Mail. This has proven to be a viable solution in returning millions of documents safely to their respective owners, while maintaining cost efficiencies. Additionally, processes are in place to track and securely store documents that are returned as undeliverable by the USPS, until the taxpayer provides a better address.

Our position remains, Certifying Acceptance Agents (CAA) are an important intermediary in the ITIN application process. Approved CAAs are geographically dispersed as encouraged by the PATH Act. We have a shared commitment to ensure proper oversight and monitoring of all CAAs, domestic and abroad. Currently, foreign CAAs represent approximately five percent of all CAA locations in the IRS Acceptance Agent Program. All CAAs are subject to compliance reviews per the terms of their CAA Agreement with the IRS. We will strive to incorporate more foreign CAAs that are abroad in future compliance reviews proportionate to their rate of participation and our risk criteria.

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 Grant, Director, Customer Account Services, Wage and Investment Division, at (470) 639-3504.

Attachment

**Recommendations**

The Commissioner, W&I Division, should:

**RECOMMENDATION 1**

Work with the IRS Information Technology organization to ensure that ITIN managers receive complete RTS extracts for use in the monthly reviews to identify ITIN applications with duplicate entity information or supporting documents.

**CORRECTIVE ACTION**

We will ensure Individual Taxpayer Identification Number (ITIN) managers receive complete Real-Time System (RTS) extracts.

**IMPLEMENTATION DATE**

May 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 2**

Implement systemic RTS processes to alert tax examiners when the supporting documents associated with an ITIN application have already been used by another ITIN applicant, and require tax examiners to research the potential duplicate before assigning a new ITIN.

**CORRECTIVE ACTION**

Funding and resource constraints have been obstacles to obtaining an automated solution. We established a manual process to conduct a monthly analysis to address the use of duplicate supporting documents by multiple applicants to obtain an ITIN to identify these types of discrepancies and will take action as appropriate.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 3**

Implement processes and procedures, as previously agreed, to periodically identify retroactive claims that were erroneously paid or disallowed and correct the identified tax accounts to ensure that taxpayers receive only the amounts to which they are entitled.

**CORRECTIVE ACTION**

We will perform a periodic review of cases with retroactive claims that are erroneously paid or disallowed in error resolution, but the review will be limited and subject to availability of resources.

**IMPLEMENTATION DATE**

July 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 4**

Review the 719 tax returns we identified for which the IRS incorrectly denied retroactive credit claims and take steps needed to ensure that these taxpayers receive the benefits to which they are entitled.

**CORRECTIVE ACTION**

We will review and correct, as appropriate, the 719 tax returns that were denied benefits from retroactive claims.

**IMPLEMENTATION DATE**

July 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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



**RECOMMENDATION 5**

Review the 5,298 tax returns we identified for which the IRS incorrectly allowed retroactive credit claims and take steps to ensure that these erroneous benefits are recovered.

**CORRECTIVE ACTION**

We will review and correct, as appropriate, the 5,298 tax returns incorrectly allowed benefits from retroactive claims.

**IMPLEMENTATION DATE**

July 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**Recommendations**

**RECOMMENDATION 6**

During this audit, we issued an e-mail alert to the IRS recommending that the Commissioner, Wage and Investment Division, implement systemic RTS processes to reject ITIN renewal applications when the required tax return is not provided.

**CORRECTIVE ACTION**

We initiated Unified Work Request (UWR) 373287 with requirements to implement systemic RTS processes to reject ITIN renewal applications when the required tax return is not provided. The UWR, which is contingent upon Information Technology resources and funding, was submitted in the Work Request Management System (WRMS) on August 5, 2021, with a requested implementation date of January 1, 2022. We have since been informed the anticipated implementation date will be July 15, 2022. Until the programming is updated, a manual process is in place for ITIN employees to reject renewal applications when the required tax return is not provided. The procedures are found in Internal Revenue Manual (IRM) 3.21.263.6.4.1, *Temporary W-7 Status and Final W-7 Status Screen*.

**IMPLEMENTATION DATE**

August 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 7**

The Commissioner, Wage and Investment Division, should review the 6,688 ITINs TIGTA identified and take appropriate actions to ensure that these ITINs do not remain active unless the individual can demonstrate a continued tax filing need.

**CORRECTIVE ACTION**

We will review the 6,688 ITINS and take action as appropriate.

**IMPLEMENTATION DATE**

September 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**Recommendations**

The Commissioner, Wage and Investment Division, should:

**RECOMMENDATION 8**

Establish processes to identify ITINs that are not being used for a tax treaty purpose and update IRS data to reflect the current reason for which the ITIN is being used (to meet a tax return filing requirement, claim a refund, *etc.*).

**CORRECTIVE ACTION**

We consulted with Counsel on this issue, and they concluded the IRS is fully compliant with the requirements of the Protecting Americans from Tax Hikes (PATH) Act<sup>1</sup>, because we do not assign ITINs to be used solely for purposes of tax treaty benefits. Section 6109(i)(4) addresses a situation that does not and will not apply.

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<sup>1</sup> Consolidated Appropriations Act, 2016; Pub. L. No. 114-113, 129 Stat. 2242 (2015).

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 9**

Require individuals who indicate they have a tax treaty need for an ITIN to provide documentation to support their need (tax return claiming a treaty benefit, proof of excludable income, withholding agent documentation, *etc.*).

**CORRECTIVE ACTION**

Section 6109(i)(1) of the PATH Act requires that all ITIN applicants submit an application and include the "required documentation." Section 6109(i)(2) establishes that the required documentation for all ITIN applicants is original documents or certified copies that prove the applicant's identity, foreign status, and residency. Section 6109(i)(4) acknowledges that applicants must also have a tax need and that, under prior practice, some ITIN applicants submit Form W-7, *Application for Individual Taxpayer Identification Number* with a tax return and some ITIN applicants submit it without a tax return to obtain an ITIN for treaty benefits purposes.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 10**

Review the 716 ITINs we identified to determine why these ITINs were not identified by systemic programming for deactivation due to nonuse and modify the programming as appropriate.

**CORRECTIVE ACTION**

We will review the 716 ITINs and take action as appropriate.

**IMPLEMENTATION DATE**

September 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 11**

Review the 910 ITINs we identified that were not deactivated as required and revoke or deactivate them as appropriate.

**CORRECTIVE ACTION**

We will review the 910 ITINs and take action as appropriate.

**IMPLEMENTATION DATE**

September 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 12**

Review the 2,118 ITINs we identified that were deactivated in error and reactivate as appropriate.

**CORRECTIVE ACTION**

We will review the 2,118 ITINs and take action as appropriate.

**IMPLEMENTATION DATE**

November 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 13**

Ensure that the taxpayers associated with the 2,118 ITINs who had a tax return rejected because their ITIN was no longer valid receive the benefits to which they are entitled.

**CORRECTIVE ACTION**

When a taxpayer submits a return and it is determined their ITIN is not active (correctly or in error), their tax return is processed, and a Computer Paragraph notice is sent to them explaining why their tax credits were disallowed. At that time, they are given the opportunity to address the status of their ITIN. If it's determined the ITIN was deactivated erroneously, their ITIN is reactivated, and the credits are allowed. We will take action to restore any benefits to which these individuals were entitled, yet denied, by the erroneous deactivation

**IMPLEMENTATION DATE**

November 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 14**

Evaluate whether extending the six-month holding period for original identification documents will improve the identification of a better return address and reduce the number of applicants who request documents that have been destroyed or returned to an embassy.

**CORRECTIVE ACTION**

Prior to June 2016, the IRS retained loose or undeliverable documents other than the passport for at least one year. Research is performed to locate a better mailing address for undeliverable mail when a document is returned from the U.S. Postal Service (USPS), and again at variable intervals before placing them in storage. We will evaluate the current process to determine if it should be updated.

**IMPLEMENTATION DATE**

October 15, 2022

**RESPONSIBLE OFFICIAL**

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

**CORRECTIVE ACTION MONITORING PLAN**

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

**RECOMMENDATION 15**

Ensure that existing processes and procedures for researching IRS systems for a better address to use in returning loose original supporting documents are being followed.

**CORRECTIVE ACTION**

We make every effort to ensure existing processes and procedures for researching IRS systems for a better address in returning loose original supporting documents are being followed. Additional research for a better address is completed before loose documents are retired. As outlined in IRM 3.21.263.6.10.4, *Undeliverable Mail*, employees have several research tools available to assist them in locating a better address for undeliverable mail including the ITIN RTS, Integrated Data Retrieval System, and USPS.com.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 16**

Obtain access to the Accurint and CLEAR databases for use in researching addresses.

**CORRECTIVE ACTION**

The Accurint and CLEAR databases are research tools that are used in certain IRS functions, usually associated with compliance or investigative work. These tools only provide a proximal match, so there would be inherent disclosure and Personally Identifiable Information (PII) risks in sending sensitive taxpayer documents to an address that the taxpayer has not confirmed. We believe that our current processes and research tools ensure we are exercising due diligence in our efforts to return taxpayer documents.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 17**

Establish processes and procedures to control original supporting documents from receipt by the IRS to the return of the documents to the mailroom for mailing to the applicant.

**CORRECTIVE ACTION**

The processes and procedures currently in place to control original and certified copies of identification documents, from the time they are received and returned to the applicant, safeguard all documents and remittances received by the IRS against the risk of loss, destruction, or theft. All ITIN employees are required to follow specific procedures and guidance as outlined in IRM 3.21.263.6.2.1, *Receipt and Control Operations*, and IRM 3.21.263.6.3.4.2.5, *Maintaining Supporting Identification Documents*. Work is transported between IRS locations via a courier in a secured IRS truck per IRM 3.13.62.8, *Transmittal Procedures to Other Offices*. Once received, the inventory is stored in the secure building until it is input by ITIN Tax Examiners. The applicant's Identification (ID) is returned within three-business days of the initial input. Undeliverable mail containing original and certified copies of supporting identification documents is maintained in loose document cabinets that are housed in an area that is only accessible by employees with area specific proxy cards. It remains in this secure location until it is either destroyed or returned to the appropriate property according to the set retention timeframes.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 18**

Establish processes to return original supporting documents to applicants using trackable means. These processes should include a requirement for the mailroom to provide the tracking number to the ITIN program.

**CORRECTIVE ACTION**

All ITIN employees are required to follow the guidance outlined in IRM 3.21.263, *IRS ITIN RTS*, when processing original supporting documents. This includes specific procedures and guidance as outlined in IRM 3.21.263.6.3.4.2.5, *Maintaining Supporting Identification Documents*. It is cost prohibitive to return all original identification

documents using expedited mail with tracking due to volume and weight. Realizing that cost is a major factor in returning original documents via expedited mail, the IRS has modified procedures in IRM 3.21.263.6.3.4.2.4, *Returning Original Supporting Identification Documents to Applicant*, to return original identification documents to applicants after initial input if documents were not deemed questionable.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 19**

Modify the RTS to enable employees to record the actions taken on loose or undeliverable documents, including the date the documents were returned and the mail tracking number or the date the document was destroyed so that all ITIN Program employees have access to this information when assisting applicants who contact the IRS asking about their documents.

**CORRECTIVE ACTION**

Existing procedures located in IRM 3.21.263.6.10.4, *Undeliverable Mail* provide employees with guidance on how to record the actions taken on loose or undeliverable documents in the RTS, including the date the documents were returned or destroyed. Due to non-implementation of trackable means to send documents, no tracking is available. Also, IRM 3.21.263.6.3.4.2.5, *Maintaining Supporting Identification Documents* states that documents are destroyed in 180 days. IRS personnel relay this information to taxpayers if they call in to inquire.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 20**

Terminate CAAs located in foreign countries from the IRS's CAA program and update policies to no longer allow foreign individuals entry into the CAA program. However, if the IRS continues to allow foreign individuals entry into the CAA program, it should



include foreign CAA's in its compliance reviews to ensure that they are complying with the requirements of the program.

**CORRECTIVE ACTION**

The Certifying Acceptance Agents (CAA) are an important intermediary in the ITIN application process. They facilitate the process by conducting required interviews with the taxpayer to determine ITIN eligibility, assist in the proper completion of Form W-7 and have taken required Forensic Identification Document Training to ensure they have the necessary skillsets to properly authenticate original or certified copies of documents from the issuing agency that are required to obtain an ITIN. Approved CAAs are geographically disbursed as encouraged by the PATH Act. We have a shared commitment to ensure proper oversight and monitoring of all CAAs, domestic and abroad. In the past we directed our limited compliance review staffing resources to the approximately 95 percent of approved domestic CAAs. We will strive to incorporate more foreign CAAs that are abroad in future compliance reviews proportionate to their rate of participation and our risk criteria.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 21**

Implement varying levels of compliance treatment for CAAs based on the risk level to ensure that the highest risk CAAs receive in-person compliance reviews.

**CORRECTIVE ACTION**

Under our current Compliance Review guidelines, all CAAs are subject to compliance reviews. Resources for in-person compliance reviews are prioritized to those CAAs that pose the greatest risk to the program. Follow-up reviews, such as CAAs on probation, high risk CAAs, and referrals, though rare, are all prioritized. Initial reviews will also be prioritized if they fall in any of the aforementioned review types. Otherwise, they are subject to the available resources and compliance review selection limit. Compliance review selections of low risk CAAs are not made before considering high risk CAAs. Additional considerations for selections that meet the criteria include CAAs currently on probation, available Small Business Self Employment resources, and geographic locations. Priority is given to high risk.

**IMPLEMENTATION DATE**

N/A

12

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

## Appendix VII

### Glossary of Terms

<b>Term</b>	<b>Definition</b>
Acceptance Agent	An individual or entity authorized by the IRS to assist individuals in completing their ITIN application. Acceptance Agents are not authorized to certify the authenticity of supporting documents used to prove an applicant's identity and foreign status.
Certifying Acceptance Agent	An individual or entity authorized by the IRS to assist individuals with completing their ITIN application, including certifying the authenticity of supporting documents used to prove an applicant's identity and foreign status.
CLEAR	A database that provides access to key data for individuals, such as addresses.
Data Center Warehouse	A TIGTA repository of IRS data.
Filing Season	The period from January 1 through mid-April when most individual income tax returns are filed.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Individual Master File	The IRS database that maintains transactions or records of individual tax accounts.
Individual Return Transaction File	A database the IRS maintains that contains information on the individual tax returns it receives.
Individual Taxpayer Identification Number	A nine-digit number assigned by the IRS to taxpayers who are required to have a TIN for Federal tax purposes but are not eligible to obtain an SSN.
Integrated Data Retrieval System	IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
National Account Profile	IRS database that is a compilation of selected entity data from various IRS Master Files that also includes data from the Social Security Administration.
Personally Identifiable Information	Any information about an individual maintained by an agency, including any information that can be used to distinguish or trace an individual's identity, such as name, SSN, date and place of birth, and mother's maiden name.
Processing Year	The calendar year in which the tax return or document is processed by the IRS.

## Administration of the Individual Taxpayer Identification Number Program

<b>Term</b>	<b>Definition</b>
Real-Time System	A web-based application used by ITIN tax examiners to process, assign, and record applicant submissions from individuals with tax consequences who do not have and are not eligible for an SSN. Tax examiners review all applications and attached documents then input the information into the ITIN RTS.
Tax Processing Center	The site that processes paper and electronic submissions, corrects errors, and forwards data to the Computing Centers for analysis and posting to taxpayer accounts.
Tax Year	A 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.
Taxpayer Assistance Center	An IRS office with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.
Taxpayer Identification Number	A nine-digit number assigned to taxpayers for identification purposes. Depending upon the nature of the taxpayer, the TIN is an Employer Identification Number, an SSN, or an ITIN.

## Appendix VIII

### Abbreviations

CAA	Certifying Acceptance Agent
COVID-19	Coronavirus Disease 2019
CP	Computer Paragraph
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
ITIN	Individual Taxpayer Identification Number
NAP	National Account Profile
PATH Act	Protecting Americans From Tax Hikes Act of 2015
PII	Personally Identifiable Information
RTS	Real-Time System
SRT	Secondary Review Team
SSN	Social Security Number
TAC	Taxpayer Assistance Center
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number



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