

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act Issues but Faced Challenges in Identifying and Tracking Applicable Cases

October 20, 2021

Report Number: 2022-16-002

**HIGHLIGHTS: The Taxpayer Advocate Service Assisted Thousands of Taxpayers
With CARES Act Issues but Faced Challenges in Identifying and Tracking Applicable Cases**

Final Report issued on October 20, 2021

Report Number 2022-16-002

Why TIGTA Did This Audit

This audit is one in a series being conducted by TIGTA as part of our oversight role of the IRS's response to the coronavirus pandemic, including implementation of the applicable Coronavirus Aid, Relief, and Economic Security (CARES) Act provisions. Our overall objective was to assess the Taxpayer Advocate Service's (TAS) actions to assist taxpayers in response to the implementation of the CARES Act.

TIGTA previously issued an interim report describing the actions TAS has taken to assist taxpayers in response to the enactment of the CARES Act.

Impact on Taxpayers

Soon after the IRS began issuing Economic Impact Payments (EIP) in response to the CARES Act, TAS started receiving reports of EIP-related issues. TAS's statutory mission is assisting taxpayers in resolving tax problems with the IRS, identifying areas in which taxpayers have problems with the IRS, and making administrative and legislative recommendations to mitigate tax problems.

What TIGTA Found

TAS has taken numerous actions to assist taxpayers in response to the enactment of the CARES Act. This includes identifying and addressing CARES Act issues affecting large groups of taxpayers (Systemic Advocacy) and assisting individual taxpayers (Case Advocacy) as well as taking other actions to keep the public apprised of CARES Act issues. However, TIGTA determined that TAS accepted cases that did not meet its criteria and did not properly track CARES Act issues.

The IRS acted quickly to administer the main provisions of the CARES Act, specifically concerning the EIPs. While the distribution of the EIPs was mostly successful, EIP-related problems became apparent early in the process. However, the IRS initially lacked the capabilities to resolve EIP-related problems. As the IRS began implementing processes to fix EIP issues, TAS started accepting certain EIP cases in August 2020. TAS records indicate that it received over 6,000 cases it coded as CARES Act-related and that over 5,000 of these taxpayers were provided assistance or relief for their issue(s) through the TAS program.

Although TAS developed criteria specifying the types of issues it would accept, TIGTA's review of a statistical sample of TAS cases showed that 18 percent of the cases accepted did not meet TAS criteria. In these instances, TAS's ability to resolve taxpayer problems was limited, and its resources might have been better spent assisting taxpayers whose issues met its criteria.

Additionally, TAS cannot accurately identify the number of CARES Act cases received, although employees were advised to use specific coding to identify cases involving these issues. TIGTA reviewed 575 cases that did not include a CARES Act designation code and determined that 225 cases involved CARES Act issues but were not coded as such on the Taxpayer Advocate Management Information System. Additionally, TIGTA reviewed a statistical sample of 110 cases designated as CARES Act-related and determined that five cases were coded as having CARES Act issues when they did not. TAS management agreed and has corrected the miscoded cases.

What TIGTA Recommended

TIGTA recommended that the National Taxpayer Advocate reinforce existing guidance to ensure that TAS employees are adhering to guidance concerning contacts not meeting TAS criteria and consider establishing an issue code to identify cases involving stimulus-type payments. TAS management agreed with both recommendations and will remind all employees to use the most current guidance when determining whether to accept a case and will create undesignated issue codes to track future stimulus payments or other emerging issues.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

October 20, 2021

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act Issues but Faced Challenges in Identifying and Tracking Applicable Cases (Audit # 202110612)

This report presents the results of our review to assess the Taxpayer Advocate Service's actions to assist taxpayers in response to the implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This review is part of the Treasury Inspector General for Tax Administration's oversight of the Internal Revenue Service's response to the Coronavirus Disease 2019 (COVID-19) pandemic and is included in our Fiscal Year 2021 Annual Audit Plan. It addresses the major management and performance challenge of *Responding to the COVID-19 Pandemic*.

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

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 Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

Table of Contents

Background	Page 1
----------------------------------	--------

Results of Review	Page 2
---	--------

The Taxpayer Advocate Service Continues to Address Systemic Issues Affecting Large Groups of Taxpayers	Page 2
--	--------

The Taxpayer Advocate Service Assisted Thousands of Individual Taxpayers but Also Accepted Some Cases That Did Not Meet Its Criteria	Page 6
--	--------

Recommendation 1:	Page 9
---	--------

The Taxpayer Advocate Service Continues to Educate and Assist Taxpayers	Page 9
---	--------

The Taxpayer Advocate Service Spent \$3.2 Million to Work COVID-19–Related Issues	Page 10
---	---------

The Taxpayer Advocate Service Cannot Accurately Identify the Number of CARES Act Cases Received	Page 10
---	---------

Recommendation 2:	Page 12
---	---------

Appendices

Appendix I – Detailed Objective, Scope, and Methodology	Page 13
---	---------

Appendix II – Outcome Measure	Page 15
---	---------

Appendix III – Management’s Response to the Draft Report	Page 16
--	---------

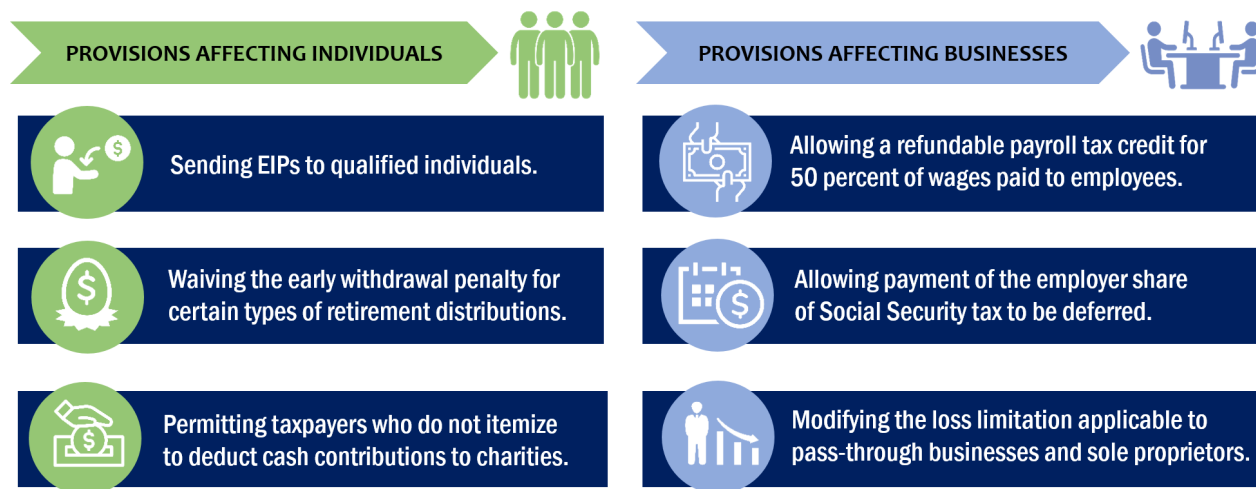
Appendix IV – Abbreviations	Page 20
---	---------

Background

The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act was enacted on March 27, 2020, and is the largest economic rescue package in U.S. history, providing for more than \$2 trillion in economic relief.¹ The Act was passed in response to the Coronavirus Disease 2019 (COVID-19) outbreak and its impact on the economy, public health, State and local governments, individuals, and businesses.

The CARES Act contains numerous tax-related provisions affecting individuals and businesses and provided approximately \$750 million in additional funding to the Internal Revenue Service (IRS) to administer and oversee these provisions. One of the significant CARES Act provisions involves the issuance of recovery rebates, also referred to as Economic Impact Payments (EIP), of \$1,200 per individual (\$2,400 to couples filing a joint return) and \$500 for each qualifying dependent. The payments were to be issued to all U.S. residents with income below certain threshold amounts who met certain other criteria, such as having a work-eligible Social Security Number.² Figure 1 shows highlights of some of the significant CARES Act provisions affecting individuals and businesses.

Figure 1: Highlights of CARES Act Provisions



Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of the CARES Act.

As an independent part of the IRS, the Taxpayer Advocate Service (TAS) has the responsibility to help taxpayers resolve problems with the IRS, identify administrative and legislative causes of those problems, and make recommendations to the IRS and Congress on how to mitigate the problems. TAS employees work in one of three main areas: Systemic Advocacy, Case Advocacy, or the Headquarters offices. Systemic Advocacy is charged with resolving IRS systemic problems that affect large groups of taxpayers, whereas Case Advocacy assists individual taxpayers in resolving tax problems. The Headquarters office oversees the overall administration of TAS functions.

¹ Pub. L. No. 116-136, 134 Stat. 281.

² The Social Security Administration assigns Social Security Numbers to U.S. citizens and people lawfully admitted to the United States on a permanent basis and to individuals authorized by the Department of Homeland Security to work in the United States on a temporary basis.

This audit is one in a series of audits being conducted by TIGTA as part of our oversight role of IRS's response to the coronavirus pandemic, including implementation of the applicable CARES Act provisions.³ We previously issued an interim report describing the actions TAS has taken to assist taxpayers in response to the enactment of the CARES Act.⁴

Results of Review

TAS has taken numerous actions to assist taxpayers in response to the implementation of the CARES Act. This includes:

- Identifying and addressing CARES Act issues affecting large groups of taxpayers (Systemic Advocacy).
- Assisting individual taxpayers (Case Advocacy).
- Taking other actions to educate and keep the public apprised of CARES Act issues.

However, TAS accepted cases that did not meet case acceptance criteria and did not properly track CARES Act cases received. As such, TAS cannot accurately identify the number of CARES Act cases received and used resources to handle cases that did not meet its criteria.

The Taxpayer Advocate Service Continues to Address Systemic Issues Affecting Large Groups of Taxpayers

Soon after the IRS began issuing the EIPs, TAS started receiving reports of EIP-related issues affecting certain groups of taxpayers. In an effort to identify and address systemic EIP issues, TAS established a COVID-19 Rapid Response Team. The team includes members from various functions within TAS and is responsible for identifying, researching, elevating, and responding to emerging issues that impact taxpayer burden and rights. The Rapid Response Team works directly with IRS operating divisions and responds to issues raised by employees and taxpayers. As part of its role, the Rapid Response Team identified problems requiring additional IRS guidance for taxpayers who were experiencing certain CARES Act-related problems. TAS management stated that the IRS created numerous Frequently Asked Questions on the IRS.gov website in response to recommendations made by the Rapid Response Team.

COVID-19-related problems account for a substantial number of systemic issues reported to TAS

Many of the issues raised were submitted to TAS through the Systemic Advocacy Management System (SAMS), a system available to IRS employees and the public to report IRS systemic

³ TIGTA, *2021 Annual Audit Plan*.

⁴ TIGTA, Report No. 2021-16-019, *Interim Report – Taxpayer Advocate Service Actions to Assist Taxpayers in Response to the Implementation of the Coronavirus Aid, Relief, and Economic Security Act* (Mar. 2021).

problems to TAS.⁵ During Calendar Year (CY) 2020, TAS received 1,264 issues on SAMS, and TAS identified 553 of these as COVID-19–related issues.⁶

CARES Act–related problems (primarily those pertaining to EIPs) comprise the largest category of COVID-19 issues. We identified 384 CARES Act–related issues that were reported on SAMS in CY 2020.⁷ The majority of these issues apply to the EIP, and the largest category involves injured spouse EIP problems. TAS classified COVID-19 issues into eight categories, but the majority of CARES Act issues (over 90 percent) were identified as being in one of four categories, as shown in Figure 2.

Figure 2: Primary CARES Act Issues Reported

Issue	Description
COVID EIP Injured Spouse	This issue involves instances in which a nonliable spouse’s portion of the EIP (or the entire EIP) was offset to the liable spouse’s child support debt, regardless of whether an injured spouse claim was filed.
COVID Processing	This issue involves problems caused by changes in processes and procedures that prevented timely resolution of certain issues. For example, the identity verification processes delayed issuance of stimulus payments.
COVID EIP	This issue involves instances relating to nonreceipt of EIPs for various reasons and instances in which the EIP was not the amount expected.
COVID Website	This issue involves problems related to the <i>Get My Payment Tool</i> ; submitting nonfiler information, etc.

Source: TIGTA review of issues reported on SAMS in CY 2020.

Once an issue is submitted through SAMS, it generally goes through a three-stage review process to determine how best to address the concern raised. Based on this review, TAS may identify a systemic issue in need of attention and create one of three types of projects to address the issue:

1. **Information Gathering Projects (IGPs)** are used to identify emerging trends or issues generated from new legislation or significant IRS policy, process, or procedural changes. These projects are categorized as either Research or Monitor IGPs.
 - A **Research IGP** is created to determine if an issue is a systemic problem that should potentially be addressed in an Advocacy Project or an Immediate Intervention Project or be assigned to a collaborative team or task force.
 - A **Monitor IGP** is used to track SAMS issues or developments on an emerging issue. For example, Systemic Advocacy may wish to collect information related to the passage of new legislation or a new administrative procedure. This allows Systemic Advocacy to be aware of the issue for discussions with the IRS and for keeping the public apprised of the issue through outreach efforts.

⁵ SAMS is overseen by TAS’s Systemic Advocacy group. Both internal (*e.g.*, IRS employees) and external (*e.g.*, taxpayers) submitters can use SAMS to report systemic issues that adversely impact taxpayers. The issues put on SAMS are reviewed by employees in the Systemic Issue Review and Evaluation group. The goal is to resolve the systemic issue (problem), and this often involves recommendations to change IRS procedures and processes.

⁶ These are unaudited results; we did not assess the accuracy of this coding.

⁷ The remaining 169 issues fall into one of four categories: COVID–Exam, COVID–Collection, COVID–Individual Issue, or COVID–Taxpayer Service.

2. **Immediate Intervention Projects** are the result of an operational issue that causes immediate, significant harm to multiple taxpayers and demands an urgent response.
3. **Advocacy Projects** are used to identify and address systemic and procedural issues, analyze the underlying causes of problems, and propose corrective actions.

Most of the CARES Act issues submitted on SAMS did not result in the creation of a new project. Over 70 percent were closed on SAMS under the category “Already Resolved” or “Systemic Issue Elevated.” This includes 137 issues that were identified as having been resolved by the IRS, were in the process of being resolved, or were addressed through IRS guidance. For example, TAS received multiple SAMS submissions relating to EIPs received in the name of a deceased spouse, and these issues were closed as “Already Resolved” on SAMS because the concerns raised were addressed on the Frequently Asked Question’s section of the IRS.gov site or there was existing internal guidance.

Another 133 issues were closed when the issue was “elevated” in that it was brought to the attention of the applicable personnel in TAS or the IRS. According to TAS management, these submissions may have included issues that were already being addressed as part of an IGP. For example, Systemic Advocacy received more than 100 SAMS submissions related to EIP injured spouse claims and created an IGP soon after problems were initially identified in April 2020. Subsequent receipts of injured spouse issues were “elevated” as the issue was being considered as part of the existing IGP. The remaining CARES Act issues were closed under 10 other issue disposition categories, with 14 resulting in the creation of an IGP.

Sixteen CARES Act Systemic Advocacy projects were created

As of December 31, 2020, TAS Systemic Advocacy created 16 CARES Act–related projects, most (14 of 16) of which were IGPs. Six of the IGPs are categorized as Research IGPs, with eight being categorized as Monitor IGPs. All but four of the projects were closed as of June 30, 2021. Figure 3 shows the disposition of the 12 closed projects.

**The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act Issues
but Faced Challenges in Identifying and Tracking Applicable Cases**

Figure 3: Disposition of Twelve Closed CARES Act Systemic Advocacy Projects

CARES Act Project Issue	Type of Project	Disposition As Indicated by TAS
Estimated Tax Penalties From Net Operating Losses	Research IGP	Issue not resolved but affects a small number of taxpayers.
Prior Year Refund Claims Preventing EIP Issuance	Monitor IGP	Issue not systemically resolved, but affected taxpayers may still claim the Recovery Rebate Credit (RRC) on Tax Year (TY) 2020 returns.
Reduced EIP for Married Recipients of Supplemental Security Income	Monitor IGP	Issue considered resolved – recovery was implemented in September 2020 for most Social Security Administration/Social Security Income recipient EIP issues.
Primary and Spouse Taxpayer Check Box Issues	Research IGP	Partially resolved – systemically corrected but not in time for issuance of all EIPs in CY 2020.
EIP Reduced to \$250 for Dependent Child	Monitor IGP	Issue not systemically resolved, but affected taxpayers may still claim RRC on TY 2020 returns.
EIP Debit Cards Not Issued As Indicated on the IRS System	Research IGP	Issue to be monitored by Systemic Advocacy COVID-19 Rapid Response Team.
Returned International EIPs	Research IGP	Issue to be monitored by Systemic Advocacy COVID-19 Rapid Response Team.
External Leads – EIP	Monitor IGP	Issue considered resolved – Internal Revenue Manual (IRM) was updated in July 2020.
Non-Filer Tool Programming Error – EIP for Dependents	Monitor IGP	Issue considered resolved – a systemic fix was implemented in August 2020.
EIPs Returned Undeliverable	Research IGP	Issue considered resolved – IRM was updated; however, not all accounts were timely corrected. Taxpayers may still claim RRC.
Form 7200 – Advance of Employer Credit	Research IGP	Issue considered resolved – internal guidance was developed.
C Freeze Holding Refund	Advocacy Project	Issue considered resolved – once the Bureau of the Fiscal Service issued the majority of the EIPs, the IRS released the freezes that were preventing the issuance of tax refunds.

Source: TAS management and TIGTA analysis of project status on SAMS effective June 30, 2021.

Figure 4 shows the details of the four open CARES Act–related Systemic Advocacy projects:

Figure 4: Status of Four Open CARES Act–Related Systemic Advocacy Projects

CARES Act Project Issue	Type of Project	Details
EIP Injured Spouse	Monitor IGP	Pertains to instances in which a nonliable spouse's portion of the EIP (or the entire EIP) was offset to the liable spouse's child support debt, regardless of whether an injured spouse claim was filed. Although the IRS has implemented three systemic corrections, not all taxpayer accounts have been corrected.
Delays in Processing Net Operating Loss Refund Claims	Monitor IGP	Addresses IRS handling of the increased volume of refund claims related to changes in the Net Operating Loss Carryback rules established under the CARES Act.
Deductibility of Paycheck Protection Loans	Monitor IGP	Systemic Advocacy is seeking clarification on the tax treatment of forgivable loans received by companies through the Paycheck Protection Program.
Refunds Intercepted by the Bureau of the Fiscal Service	Advocacy Project	Involves instances in which current year refunds and EIPs were stopped by the Bureau of the Fiscal Service. The IRS has implemented systemic corrections, but it is not yet apparent if all affected taxpayer accounts have been corrected.

Source: TAS management and TIGTA analysis of project status on SAMS effective June 30, 2021.

The Taxpayer Advocate Service Assisted Thousands of Individual Taxpayers but Also Accepted Some Cases That Did Not Meet Its Criteria

The IRS acted quickly to administer the main provisions of the CARES Act, specifically concerning the EIPs.⁸ While the distribution of the EIPs was mostly successful, problems involving certain groups of taxpayers became apparent soon after the Act was passed.

During our interim review, we reported that TAS capabilities to resolve EIP-related issues were initially limited because the IRS had not established processes and procedures to resolve most of these issues. As other IRS functions began implementing processes to fix EIP issues, TAS established criteria for the types of cases it would take and started accepting certain EIP-related cases on August 10, 2020. TAS criteria include issues involving:

- Unresolved lost/missing/undeliverable EIPs.

⁸ TIGTA, Report No. 2020-46-041, *Interim Results of the 2020 Filing Season: Effect of COVID-19 Shutdown on Tax Processing and Customer Service Operations and Assessment of Efforts to Implement Legislation Provisions* (June 2020).

- EIPs returned by joint filers of which one spouse is ineligible (*e.g.*, deceased or incarcerated).⁹
- Unprocessed injured spouse claims associated with the tax return used to calculate the EIP (TYs 2019 or 2018, as applicable) or secured by TAS.¹⁰

Additionally, since the CARES Act stipulates that EIPs cannot be made or allowed after December 31, 2020, TAS implemented a policy to stop accepting EIP-only cases by November 24, 2020.¹¹

We identified a population of 6,260 CARES-coded closed cases received by TAS between August 10, 2020, and December 31, 2020. According to TAS records, over 5,000 (81 percent) of these cases involved taxpayers who received assistance (13 percent) or relief (68 percent) for their issue(s).¹² Although TAS was not able to provide the relief requested in 32 percent of cases, it reported providing assistance to 817 (13 percent) of these taxpayers. TAS considers assistance to be provided if helpful information is shared with the taxpayer even if it had no direct bearing on the relief the taxpayer requested.

As part of our review, we selected a statistical sample of 110 cases to determine if the cases were properly identified as having CARES Act issues and if TAS's decision to accept the case was based on the criteria in effect at the time.¹³ We determined that five of the 110 cases were erroneously coded as having CARES Act issues. Of the remaining 105 cases, 19 (18 percent) did not meet TAS criteria at the time they were accepted.

Nine of the 19 cases involve taxpayer disagreements with the factors used in determining their eligibility for the EIP. For example, if the taxpayer's TY 2018 tax return was used as the basis for determining the EIP amount because their TY 2019 tax return had not yet been processed, the IRS could not subsequently change this determination. Instead, these taxpayers would need to claim the RRC on their TY 2020 tax return.¹⁴ Similarly, if taxpayers were claimed as dependents on the base year (TY 2018 or TY 2019) return, they were ineligible for the EIP but may be entitled to the RRC on their TY 2020 tax return.

Additionally, TAS accepted cases that were being resolved by the IRS through "recovery" processes. Some EIPs were erroneously offset to spousal child support obligations or were intercepted by the Bureau of the Fiscal Service because they were issued to deceased or

⁹ Pursuant to a permanent injunction entered in *Scholl v. Mnuchin*, No. 20-cv-05309 (N.D. Cal. Oct. 14, 2020), the IRS cannot deny a payment to someone solely because they are incarcerated. In October and November 2020, the IRS took action to issue EIPs to individuals that were previously denied EIPs due to their incarceration.

¹⁰ This pertains to instances in which a nonliable spouse's portion of the EIP (or the entire EIP) was offset to the liable spouse's child support debt.

¹¹ Beginning January 1, 2021, taxpayers who did not receive an EIP or received an amount less than they were entitled to in CY 2020 can claim or reconcile the RRC on their TY 2020 Form 1040, *U.S. Individual Income Tax Return*, or Form 1040-SR, *U.S. Income Tax Return for Seniors*. The last date that TAS could issue an Operations Assistance Request to the Wage and Investment Division to request an adjustment be made to the EIP was November 30, 2020.

¹² TAS records indicate that 4,246 taxpayers (68 percent) received full or partial relief of the problem that resulted in their TAS case. In these instances, the CARES Act issue could be either the primary or secondary issue.

¹³ See Appendix I for details on our sampling methodology.

¹⁴ The EIPs were issued as advance payments of the RRC. Eligible individuals who did not receive the full EIP amount may claim the RRC on their TY 2020 tax return.

incarcerated individuals.¹⁵ As a result, the IRS took action to recover and reissue these EIPs (as applicable) through systemic processes. For example, TIGTA previously reported that, in some instances, EIPs were issued in the names of two spouses although one spouse was recently deceased.¹⁶ Some of these EIPs were intercepted and were later reissued in the name of the surviving spouse. This includes instances in which TAS erroneously requested EIPs on behalf of the surviving spouse who were also issued duplicate EIPs through the systemic process.¹⁷ In other instances, TAS accepted EIP cases not meeting criteria after the November cut-off date for case acceptance. Figure 5 shows the categories of cases in our sample that did not meet TAS criteria but were accepted in the TAS program.

**Figure 5: CARES Act Cases Accepted by TAS That
Did Not Meet TAS Case Acceptance Criteria**

Reason TAS Criteria Was Not Met	Number of Cases
Disagreements with the factors used to determine EIP eligibility or how the EIP was calculated (applicable tax year used, dependency status, validity of Social Security Number, etc.)	9
Issues addressed through the recovery process – EIPs intercepted by the Bureau of the Fiscal Service	7
Miscellaneous noncriteria	3
Total	19

Source: TIGTA review of a statistical sample of TAS case files.

The TAS IRM provides guidance on handling cases that do not meet TAS case acceptance criteria. However, TAS management indicated the procedures to return a case that does not meet criteria are burdensome and were not used in these instances.¹⁸ Further, TAS contend that taxpayers benefit from receiving an explanation from TAS even if TAS is unable to provide the relief they requested. Management also cited a number of factors contributing to the errors, including changes in IRS guidance and guidance that was not always clear. Further, 11 of the 19 cases were established based on referrals from congressional offices, and employees may not have been aware that the policies for accepting cases from congressional offices were revised during CY 2020.

In general, TAS cannot provide the assistance requested by taxpayers if the IRS has no procedures in place to do so. Further, if the taxpayer's issue is being resolved through systemic processes, there is generally no advantage to establishing a case with TAS. In both instances, TAS is using resources that may be better spent assisting taxpayers whose problems can be

¹⁵ Established on October 7, 2012, with the consolidation of two Department of the Treasury bureaus: the Bureau of the Public Debt and the Financial Management Service. The Bureau of the Fiscal Service operates the Federal Government's collections and deposit systems, provides central payment services to the American public on behalf of Government agencies, and assists in the prevention of improper payments.

¹⁶ TIGTA, Report No. 2021-46-034, *Implementation of Economic Impact Payments* (May 2021).

¹⁷ At the time TAS requested the duplicate EIPs on behalf of the surviving spouse, they were erroneously issued. However, the Consolidated Appropriations Act, enacted on December 27, 2020, clarified that individuals who died in CY 2020 are eligible to receive the RRC. Therefore, while the surviving spouses were not entitled to receive the EIPs, they would have been entitled to receive the amount by claiming the RRC.

¹⁸ IRM 13.1.16.15, *Contacts Not Meeting TAS Criteria*, March 11, 2021, provides detailed instructions on actions to be taken by TAS employees who receive taxpayer inquiries that do not meet TAS criteria.

resolved using existing IRS procedures. This is especially important now because TAS is experiencing a significant increase in the volume of case receipts compared to same period in the previous year.¹⁹

TAS criteria has been revised since our review was completed and are always subject to change as conditions within the IRS change. For example, per a memorandum issued May 4, 2021, TAS will generally not accept cases related to unemployment compensation received in TY 2020 because the IRS is already implementing a systemic relief processes that will adjust taxpayer accounts and TAS cannot “meaningfully advocate” on behalf of affected taxpayers. Given that TAS lacks the authority to resolve all account-related issues and frequently requires the assistance of other functions within the IRS, it is important for TAS to focus its limited resources on issues that meet its criteria and can be resolved through established processes.

Recommendation 1: The National Taxpayer Advocate should reinforce existing guidance to ensure that TAS employees are adhering to: a) the IRM guidance concerning contacts not meeting TAS criteria and b) TAS policies related to the handling of congressional referrals.

Management’s Response: Management agreed with this recommendation and will remind all employees to use the most current guidance in place when determining whether to accept a case.

The Taxpayer Advocate Service Continues to Educate and Assist Taxpayers

TAS has continued to post informative and relevant blogs to keep the public apprised of CARES Act issues. In the first four months of CY 2021, TAS posted 11 blogs (five corresponding Spanish blogs) on various CARES Act–related topics.

Notably, TAS posted two blogs related to the IRS’s refund offset process in which it discussed the impact on stimulus payments. The IRS is authorized to offset a taxpayer’s refund to pay outstanding Federal tax liabilities and is generally required to offset refunds to certain nontax debts, including past-due child support, unpaid student loans, and other Federal and State liabilities. TAS noted that the CARES Act did not allow for the EIPs or RRC’s to be offset to satisfy outstanding debts, with the exception of past-due child support. The Consolidated Appropriations Act of 2021 went further and protected the second round of stimulus payments from all offsets, including past-due child support. However, it limited the exception only to advance payments and retroactively revised CARES Act § 2201(d), subjecting RRCs to regular offset rules for unpaid Federal taxes and certain other debts. TAS noted disparate treatment of EIP payments resulting from these two legislative actions.

As such, TAS recommended that the IRS use its discretion and refrain from offsetting RRC’s against Federal tax debts, noting that, while the Internal Revenue Code permits such offsets, the IRS has the authority to “bypass” the offsets. Subsequently, the IRS agreed to use its discretion to bypass offsets (for Federal tax debts) when processing RRC claims on TY 2020 tax returns.

¹⁹ Results from TAS first quarter Fiscal Year 2021 Business Performance Review show the volume of case receipts increased 54 percent from first quarter Fiscal Year 2020 receipts. A fiscal year is 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.

Our review of TAS records shows that TAS continued to work with the IRS to address ways to ensure that taxpayers whose payments had already been offset are made whole.

Additionally, in a blog dated April 29, 2021, TAS provides guidance on the tax treatment of Paycheck Protection Program loans. Under the CARES Act, a Paycheck Protection Program loan recipient is eligible for forgiveness of indebtedness for all or a portion of the stated principal amount of the loan if certain conditions are satisfied. To qualify, the loan had to be made to an eligible business (with no more than 500 employees) and be used for payroll costs and certain other expenses (*e.g.*, rent, mortgage interest, utilities) within a certain period of time. The TAS blog addresses concerns raised with the implementation of the Paycheck Protection Program and directs readers to the available guidance to address these concerns.

The Taxpayer Advocate Service Spent \$3.2 Million to Work COVID-19–Related Issues

TAS received \$3.2 million in CARES Act funds in Fiscal Year (FY) 2020 to address work related to COVID-19 and more than \$90,000 for cash award payouts. Due to cancelled in-person training and travel, TAS experienced cost savings in FY 2020 and did not expend any of the \$3.2 million until FY 2021.²⁰ By April 15, 2021, TAS had expended the entire \$3.2 million on employee labor charges and overtime to address CARES Act–related work. We found this to be reasonable due to the significant increase in the number of phone calls and cases (related to EIP issues) received. TAS reported a 54 percent increase in the volume of cases received in the first quarter of FY 2021 as compared to the first quarter of FY 2020. TAS management anticipates that additional supplemental funding will be needed to address the influx.²¹ TAS continues to offer employees limited overtime as it anticipates that case work and call volumes will continue to increase for the foreseeable future.

TIGTA is currently conducting a review to evaluate the controls implemented by the IRS to ensure that appropriated CARES Act funds are adequately tracked and used. An interim report has been issued, and the final report is expected to be issued in February 2022.²²

The Taxpayer Advocate Service Cannot Accurately Identify the Number of CARES Act Cases Received

When TAS provides assistance to taxpayers through the Case Advocacy program, it is important that there is a process in place to track the number and type of issues that required TAS assistance. Without accurate information, TAS management cannot reliably use the Taxpayer Advocate Management Information System (TAMIS) for decision-making and planning

²⁰ While TAS experienced cost savings due to cancelled travel and training in FY 2020 and FY 2021, due to the effects of the pandemic, it did not track the surplus.

²¹ TAS advised that employees record COVID-19–related time charges in the IRS’s Single Entry Time Reporting system. TAS tracks its budget and spending in the Integrated Financial System.

²² TIGTA, Report No. 2021-16-026, *Status of Coronavirus Response Funding* (May 2021).

purposes.²³ During our interim review, we identified 70 cases involving CARES Act issues that were not coded as such on TAMIS. TAS management agreed and subsequently updated the coding on these cases. TAS also advised that it provided CARES Act-specific training to its employees that should reduce the number of miscoded cases. We conducted a follow-up review of cases received after the EIP training was delivered in October 2020 to determine whether the case coding had improved.

We identified 575 TY 2020 closed cases that were received between October 20, 2020, and November 24, 2020, that did not include a CARES Act code. We determined that 225 of the 575 cases involved CARES Act issues but were not coded as such on TAMIS. TAS confirmed our finding and corrected the miscoded cases in TAMIS.²⁴

Additionally, as part of our review of a random sample of 110 CARES Act-coded cases, we determined that five of the cases had the "CARES" designation on TAMIS although we did not identify any CARES Act issue. TAS management agreed with our finding and corrected the coding for these cases.

Per TAS guidance, cases involving issues stemming from the CARES Act must be coded accurately and timely to capture information about the types of questions and assistance requests received in TAS. Employees are instructed to enter the "CARES" code in TAMIS for problems related to:

- EIPs.
- Form 7200, *Advanced Payment of Employer Credits Due to COVID-19*.
- Deferred Employer Tax Payments, Employee Retention Credits, and the Qualified Sick and Family Leave Wages Credit.

Further, employees are to use this coding when casework involves CARES Act-related discussions and when addressing secondary issues and "incidental matters." Advocates should also enter "2020" as the applicable tax year for cases involving the EIP.

Although the majority of CARES Act cases involve problems related to the EIP, there is currently no issue code for stimulus payments, and employees are required to manually enter "CARES" into a TAMIS field that is not commonly used.²⁵ We asked TAS management if they had considered creating an issue code for stimulus-type payments. While they acknowledged that their tracking process could be improved, they indicated they had not considered creating a specific issue code because additional stimulus payments were unlikely. They stated that they

²³ TAMIS is an Oracle web-based inventory control and report system used to control and track TAS cases and provide management information. In April 2020, TAS created a code to identify certain CARES Act cases on TAMIS and instructed employees to use the code when the taxpayer's inquiry involves the EIP or the employer credits for paid sick leave and employee retention.

²⁴ We identified an additional seven cases that were improperly coded as COV19 instead of CARES. TAS management advised that they include cases for which the designation was intended, but input incorrectly, when attempting to quantify CARES Act cases. TAS subsequently corrected the coding on these cases.

²⁵ Issue codes are used to identify the problem as stated by the taxpayer (Taxpayer Issue Code); identify the underlying IRS policy, procedure, or issue that generated the TAS case (Primary Core Issue Code); and identify additional issues for which TAS performed additional research or took some action to resolve before closing the case (Secondary Core Issue Code).

have the capability to data mine TAMIS if there is a need to identify cases involving specific issues.

However, stimulus-type advance payments have been issued in the past in response to another economic crisis²⁶ and are continuing per recent legislation.²⁷ Creating an issue code for stimulus/advance payments is appropriate given that the Primary Core Issue Code field is a required entry on TAMIS and, unlike the current process, TAS personnel would not be required to add typed-in entries in a separate field. Further, case advocates are required to verify the accuracy of the issue codes as part of their closing actions. This additional level of review could help improve accuracy. We believe that proper TAMIS case coding helps management identify trends affecting taxpayers and assists management in readily identifying and reporting case information.

Recommendation 2: The National Taxpayer Advocate should consider establishing an issue code for stimulus-type payments.

Management's Response: TAS management agreed with this recommendation and will create undesignated issue codes to track future stimulus payments or other emerging issues.

²⁶ TIGTA, Report No. 2009-40-069, *Evaluation of Efforts to Ensure Eligible Individuals Received Their Economic Stimulus Payment* (Apr. 2009).

²⁷ The Economic Stimulus Act of 2008, Pub. L. No. 110-185, 122 Stat. 613, provided for economic stimulus payments that began on April 28, 2008. The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), and the American Rescue Plan of 2021, Pub. L. No. 117-2, 135 Stat., provided for economic stimulus payments that began on December 27, 2020, and March 11, 2021, respectively. In addition, the American Rescue Plan of 2021 provides for advance payments of child tax credits.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to assess TAS's actions to assist taxpayers in response to the implementation of the CARES Act. To accomplish our objective, we:

- Assessed TAS's efforts to identify and address CARES Act–related issues impacting individual taxpayers.
 - Identified the number of TAS cases involving TY 2020 that were received after October 20, 2020, (after TAS employees received CARES Act specific training) and before November 24, 2020 (when TAS employees were instructed to stop accepting EIP–only cases).
 - Identified the number of cases with CARES Act issues that did not have the CARES Act code.
 - Confirmed exception cases with TAS management.
 - Identified the number of CARES Act cases received between August 10, 2020, when TAS began accepting certain EIP cases, and December 31, 2020.
 - Selected a statistically valid sample of 110 closed CARES Act cases from a population of 6,260 cases received between August 10 and December 31, 2020, using information available in TAMIS. The sample was selected using a confidence level of 95 percent, a precision rate of ± 6 percent, and an expected error rate of 10 percent. Our sampling methodology was developed with assistance from our contracted statistician.
 - Determined if cases were properly identified as involving CARES Act issues.
 - Determined whether TAS's decision to accept the cases was based on appropriate criteria established as a result of IRS process changes or other guidelines.
 - Confirmed exception cases with TAS management.
- Assessed TAS's efforts to identify and address CARES Act–related systemic issues impacting a large number of taxpayers.
 - Queried SAMS to identify the number of CARES Act–related Systemic Advocacy referrals and the total number of referrals received in SAMS during CY 2020.
 - Determined the number of CARES Act referrals that became projects and identified the type and status of the projects.
- Determined how TAS used CARES Act funding.

Performance of This Review

This review was performed with information obtained from TAS Headquarters office located in Washington, D.C., and other TAS locations throughout the United States during the period from February through July 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Heather Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Troy Paterson, Director; Debbie Kisler, Acting Director; Melinda Dowdy, Audit Manager; Mary Herberger, Lead Auditor; and Yasmin Ryan, Senior Auditor.

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data obtained from TAMIS. We evaluated the data by reviewing fields for reasonableness and matching the data to statistical information provided by TAS. We determined that the data were sufficiently reliable for the purposes of this report.

We also performed tests to assess the reliability of data from SAMS. We evaluated the data by reviewing fields for reasonableness and comparing the data to information provided by TAS. We determined that the data were sufficiently reliable for the purposes of this report.

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: TAS's policies, procedures, and practices for identifying and processing individual CARES Act cases on TAMIS and systemic issues submitted on SAMS. We evaluated these controls by interviewing TAS management, reviewing internal and external guidance and the applicable sections of the IRM, reviewing a statistical sample of cases coded as being related to the CARES Act, reviewing cases that were not coded as being related to the CARES Act, and reviewing issues submitted and the CARES Act projects that were created on SAMS.

Appendix II

Outcome Measure

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

Type and Value of Outcome Measure:

Reliability of Information – Actual; 225 cases not captured as CARES Act cases as required (see Recommendation 2).

Methodology Used to Measure the Reported Benefit:

We determined that 225 of the 575 TY 2020 closed cases that were received between October 20 and November 24, 2020, involved CARES Act issues but did not include the CARES Act code on TAMIS as required.

Appendix III

Management's Response to the Draft Report



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

October 4, 2021

MEMORANDUM FOR Michael E. McKenney
Deputy Inspector General for Audit

FROM: Erin M. Collins
National Taxpayer Advocate

SUBJECT: TAS Response to Draft Audit Report: The Taxpayer Advocate
Service Assisted Thousands of Taxpayers With CARES Act
Issues, but Faced Challenges in Identifying and Tracking
Applicable Cases (Audit # 202110612)

Thank you for the opportunity to review and comment on the draft report entitled: *The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act issues, but Faced Challenges in Identifying and Tracking Applicable Cases*.

The audit accurately describes the challenging environment faced by taxpayers during this period, and TAS's efforts to help including: (1) our work to identify and address systemic problems affecting large groups of taxpayers, (2) our work to help individual taxpayers, and (3) our efforts to educate taxpayers. The audit notes the sixteen systemic issues identified and addressed by TAS. The audit tracks TAS's evolving response to helping individual taxpayers resolve EIP issues as our ability to help changed. The report summarizes TAS's extensive efforts to educate taxpayers about EIP and other CARES Act issues. Finally, the report makes two recommendations for areas where TAS can make improvements.

First, I want to thank our employees and highlight the incredible work TAS employees performed during this time – and continue to perform every day. During a major upheaval in their work and personal lives, our employees continue to work every day to advocate for taxpayers even as new tax provisions were added and employees were struggling to keep up with changing rules and guidance. Second, in a time when taxpayers needed help more than ever, TAS employees worked hard to assist taxpayers with issues and provide answers to questions, even where we could not assist. If, as a result, TAS helped taxpayers who did not technically meet our criteria, as the safety net for taxpayers we would rather error on providing assistance over and above our criteria than turn away taxpayers who need our assistance.

**The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act Issues
but Faced Challenges in Identifying and Tracking Applicable Cases**

Attached is a detailed response outlining the corrective actions TAS will take to address your recommendations. If you have any questions, please contact me at (202) 317-6100 or a member of your staff may contact Ken Drexler at (202) 317-3520.

Attachment

**The Taxpayer Advocate Service Assisted Thousands of Taxpayers With CARES Act
issues, but Faced Challenges in Identifying and Tracking Applicable Cases**

Recommendation 1: The National Taxpayer Advocate should reinforce existing guidance to ensure that TAS employees are adhering to: a) the IRM guidance concerning contacts not meeting TAS criteria and b) TAS policies related to the handling of congressional referrals.

TAS agrees. As discussed in the draft report, within a six-month window TAS's guidance on accepting Economic Impact Payment (EIP) cases changed twice as the IRS created processes to make EIP adjustments. Initially, no processes to make adjustments were available so TAS accepted no "EIP only" cases. TAS continued to accept cases where we could resolve an issue with the taxpayers 2018 or 2019 return that was preventing the taxpayer from receiving EIP.

From August 10, 2020 until November 24, 2020, the IRS had the necessary programming in place allowing adjustments. TAS helped thousands of taxpayers resolve their EIP problems in this short period of time. TAS had to stop taking new EIP cases after November 24, 2020 to meet the statutory requirement for the IRS to make no EIPs after December 31, 2020. Taxpayers eligible but unable to claim the EIP by that date were required to claim the Recovery Rebate Credit when they filed their 2020 return.

In addition to the programming involving individual taxpayers, the IRS also created programming to systemically resolve some of the identified problems preventing large numbers of taxpayers from receiving EIP. TAS accordingly provided guidance to our employees to not accept cases with these issues, since they would be resolved by the IRS systemic process.

The interaction of these rules created a very complex environment for TAS employees accepting new cases during this period. TIGTA looked at a sample of cases and found a significant number were accepted despite not meeting the case acceptance guidance in place at the time. TAS is proud of the work our employees did handling large numbers of referrals in this complex and constantly changing environment but agrees our limited resources should focus on the cases where we can most effectively advocate for a resolution.

Corrective Action: TAS will send out an appropriate message to all employees reminding them to use the most current guidance in place when determining whether to accept a case into TAS.

Implementation Date: December 31, 2021

Responsible Official: Bonnie Fuentes, EDCA-ITS

Monitoring Plan: TAS will use JAMES to monitor this action plan.

Recommendation 2: The National Taxpayer Advocate should consider establishing an issue code for stimulus-type payments.

TAS agrees. TAS provided guidance to our employees working EIP issues to use a special case code to identify and track these cases. There was insufficient time for TAS to do the programming necessary to create a new issue code for EIP. The field for the special case code was already available in TAMIS. However, these fields are used in a small minority of TAS cases, so our employees are less familiar with them. As noted by TIGTA, our employees are also dealing with a significant increase in receipts. The high receipts combined with our employees' unfamiliarity with these fields in TAMIS resulted in inconsistent tracking of our EIP cases.

TAS has considered TIGTA's suggestion to create a new issue code for stimulus-type payments. The process to select issue codes for each case is fundamental to TAS's work, and very familiar to our employees. However, creation of an issue code requires programming to add the new code to TAMIS, reconfiguration of our reports, and a host of other administrative tasks. This work could prove to be unnecessary if congress does not create another stimulus payment or if that payment is not structured in a way that allows TAS to effectively advocate to resolve problems.

After discussing this suggestion with TIGTA's representatives, TAS plans to create several new "undesigned" issue codes. This will allow TAS to rapidly assign a new issue code to an emerging problem, including a future stimulus payment that we can effectively advocate to resolve. We believe this action addresses TIGTA's concern and will improve TAS's tracking of another stimulus payment or any other emerging issue.

Corrective Action: TAS will create undesigned issue codes to track future stimulus payments or other emerging issues.

Implementation Date: December 31, 2022

Responsible Official: Bonnie Fuentes, EDCA-ITS

Monitoring Plan: TAS will use JAMES to monitor this action plan.

Appendix IV

Abbreviations

CARES Act	Coronavirus Aid, Relief, and Economic Security Act
COVID-19	Coronavirus Disease 2019
CY	Calendar Year
EIP	Economic Impact Payment
FY	Fiscal Year
IGP	Information Gathering Project
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRC	Recovery Rebate Credit
SAMS	Systemic Advocacy Management System
TAMIS	Taxpayer Advocate Management Information System
TAS	Taxpayer Advocate Service
TIGTA	Treasury Inspector General for Tax Administration
TY	Tax Year



**To report fraud, waste, or abuse,
call our toll-free hotline at:**

(800) 366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.