TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

American Rescue Plan Act: Continued Review of Premium Tax Credit Provisions

June 14, 2023

Report Number: 2023-47-036

TIGTACommunications@tigta.treas.gov | www.treasury.gov/tigta

Final Audit Report issued on June 14, 2023 Report Number 2023-47-036

Why TIGTA Did This Audit

This audit was initiated to assess the IRS's processes and procedures to ensure expanded Premium Tax Credit eligibility requirements in the American Rescue Plan Act (ARPA) of 2021 are met prior to credits being allowed.

Eligible individuals can elect to have the Premium Tax Credit paid to their insurance provider in advance. Individuals who receive advance Premium Tax Credit must reconcile the advance payments on their tax return with the allowable Premium Tax Credit amount. Individuals who received excess advance Premium Tax Credit must repay all or some of the excess.

This audit is part of a series of reviews that TIGTA is conducting to monitor the IRS's continued response to the pandemic. This work is to help ensure that eligible individuals are receiving relief as intended.

Impact on Tax Administration

The ARPA temporarily expanded eligibility for the Premium Tax Credit and increased the amount of the Credit for individuals and families in all income brackets for Tax Years 2021 and 2022. In addition, under ARPA Section 9663, taxpayers who received or were approved to receive unemployment compensation in Calendar Year 2021 are to be treated as having met the household income eligibility requirement for Tax Year 2021 and as having household income of no more than 133 percent of the Federal Poverty Level for their family size when determining the allowable amount of Premium Tax Credit.

What TIGTA Found

The IRS accurately updated processes and procedures to reflect modified Premium Tax Credit rules for Tax Year 2021. As of May 5, 2022, 5.3 million taxpayers received the Premium Tax Credit to which they were entitled or repaid the correct excess advance Premium Tax Credit as required.

The IRS's processes also correctly identified nearly 1.1 million potentially incorrect claims. However, the IRS does not have adequate resources to address every potentially incorrect claim. To mitigate this, the IRS uses dollar thresholds to prioritize the returns it reviews. Tax returns below the dollar threshold are processed as filed by the taxpayer. Of the 801,941 tax returns TIGTA identified where the taxpayer received incorrect Premium Tax Credit benefits, 707,906 (88 percent) were below the dollar tolerance.

The IRS implemented a post-processing compliance filter to address the potential risk of improper payments associated with the unemployment rules. However, a programming error resulted in 4,308 tax returns incorrectly being considered for selection and excluded 15,124 tax returns from post-processing compliance review. In response to our concerns, IRS management stated that the potential examination listings will be adjusted to remove the returns TIGTA identified that did not meet the selection criteria and add the potentially erroneous tax returns that the filter did not identify.

Finally, the IRS has no processes to proactively assist taxpayers it identifies who are entitled to additional Premium Tax Credit or repaid more excess advanced Premium Tax Credit than required. TIGTA identified 317,418 taxpayers who either under claimed the Premium Tax Credit or overreported their excess advanced Premium Tax Credit repayment totaling $334.8 million. TIGTA also identified 10,069 taxpayers who received unemployment compensation during Calendar Year 2021 but did not check the unemployment box on Form 8962, *Premium Tax Credit*. These taxpayers either under claimed the Premium Tax Credit or overreported their excess advanced Premium Tax Credit repayment totaling $20.1 million.

What TIGTA Recommended

TIGTA made five recommendations to the IRS. These include expanding the use of soft notices to address potentially erroneous Premium Tax Credit claims and developing processes to proactively assist taxpayers who may be eligible for additional Premium Tax Credit or who repaid more excess advance Premium Tax Credit than required.

The IRS agreed with four recommendations and partially agreed with one recommendation. While the IRS did not agree to review the 317,418 taxpayers TIGTA identified who are potentially entitled to additional Premium Tax Credit or repaid more advance credit than required, the IRS is evaluating forming a dedicated team to assist taxpayers it identifies in the future.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

June 14, 2023

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – American Rescue Plan Act: Continued Review of Premium Tax Credit Provisions (Audit # 202240720)

This report presents the results of our review to assess the adequacy of processes and procedures to ensure expanded Premium Tax Credit eligibility requirements are met prior to credits being allowed. This review is part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Administering Tax Law Changes*.

Management's complete response to the draft audit report is included as Appendix III. If you have any questions, please contact me or Diana Tengesdal, Acting Assistant Inspector General for Audit (Returns Processing and Account Services).

Table of Contents

Appendices

Background

Under the Affordable Care Act, an individual who enrolls, or enrolls a tax dependent, in a qualified health plan may be eligible for a Premium Tax Credit (PTC).[1] The PTC reduces the cost of the qualified health plan's premium and is claimed on the individual's Federal tax return for the year of coverage. Individuals may also be eligible for advance payments of the PTC (APTC). The amount of the APTC for which an individual is eligible is determined when the individual signs up for health insurance coverage through the HealthCare.gov marketplace (also known as the Exchange) or the individual's State Exchange. The amount of an individual's APTC is based on the estimated income the individual expects to earn that year as well as other qualifying factors.

Taxpayers who receive the APTC must file a Federal tax return and reconcile the amount of their APTC with the amount of PTC they are allowed for the year. The amount of the allowed PTC is based on the taxpayer's actual income for the year and other factors. This reconciliation is completed on Form 8962, *Premium Tax Credit*. If the APTC is more than the allowable PTC, the taxpayer has excess APTC and must repay the excess subject to certain limitations. If the APTC is less than the allowable PTC, the taxpayer can get a credit for the difference, which reduces their tax payment or increases their refund.

The American Rescue Plan Act of 2021 (ARPA), enacted on March 11, 2021, includes several provisions that temporarily enhanced benefits and expanded the eligibility for the PTC.[2] These changes temporarily expanded eligibility for the PTC and increased the PTC for individuals and families in all income brackets for Tax Years 2021 and 2022. In addition, under ARPA Section 9663, a taxpayer who received or was approved to receive unemployment compensation for as little as one week during Calendar Year 2021 qualified for special PTC rules for the entire year. Figure 1 provides a comparison of the pre-ARPA PTC rules to the modified rules for Tax Years 2021 and 2022.

---

[1] Patient Protection and Affordable Care Act (Affordable Care Act), Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in scattered sections of 26 and 42 U.S.C.), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.

[2] Pub. L. No. 117-2, 135 Stat. 4 (codified in scattered sections of 7, 12, 15, 19, 20, 26, 29, 42, and 45 U.S.C.).

Figure 1: Changes to the PTC for Tax Years 2020 through 2022

	Prior to ARPA	ARPA
Payment Amount	The maximum PTC is the lesser of the total premium amount or the Second Lowest Cost Silver Plan premium amount minus the individual's contribution amount. The contribution amount is dependent on the individual's household income and is not less than 2.06 percent and not more than 9.78 percent of the individual's household income. Individuals must reconcile the APTC paid on their behalf with the PTC they are allowed on their annual tax return. Individuals who have excess APTC must repay all or a portion of the excess APTC. The amount that must be repaid is dependent on the individual's household income.	Effective for Tax Years 2021 and 2022, the contribution amount is not less than 0 percent and not more than 8.5 percent. For Tax Year 2020 only, individuals with excess APTC do not have to pay back the excess.
Phase-Out	PTC is generally allowed only for individuals with household income of at least 100 percent of the Federal Poverty Level (FPL) and not above 400 percent of the FPL for their family size.	For Tax Years 2021 and 2022, removes the household income cap of 400 percent of the FPL. Allows individuals who receive or were approved to receive unemployment compensation during Calendar Year 2021 to be treated as having met the household income eligibility requirement. In addition, their household income is treated as no more than 133 percent of the FPL for their family size when determining the amount of PTC.
Eligibility	An individual or a family member must enroll in health insurance coverage through the Marketplace. An individual and their family members must not be eligible for coverage from an employer or government plan. Household income (modified Adjusted Gross Income) is at least 100 percent but not more than 400 percent of the FPL for the individual's family size (with exceptions). Referred to as an applicable taxpayer. An individual cannot be claimed as someone else's dependent. Do not file Married Filing Separate (with exceptions for victims of domestic violence and spousal abandonment).[3] All of the individual's health insurance premiums were paid (by the APTC, the individual, or someone else).	No change with the exception of: For Tax Years 2021 and 2022, removing the household income cap of 400 percent of the FPL. Allowing individuals who receive or were approved to receive unemployment compensation during Calendar Year 2021 to be treated as having met the household income eligibility requirement.

Source: Treasury Inspector General for Tax Administration's (TIGTA) review of the ARPA and the Internal Revenue Code § 36B.

[3] A taxpayer is a victim of spousal abandonment for a tax year if, taking into account all other facts and circumstances, the taxpayer is unable to locate their spouse after reasonable diligence.

The Inflation Reduction Act of 2022, enacted on August 16, 2022, extended the changes lowering the contribution amounts and eliminating the income cap of 400 percent of the FPL through tax years beginning before January 1, 2026.[4]

As of May 5, 2022, the Internal Revenue Service (IRS) processed 6.2 million Tax Year 2021 returns with $42.5 billion in PTCs that were either received in advance or claimed at the time of filing. A total of $3.6 billion in APTC reported by these taxpayers was in excess of the amount to which they were entitled, of which $2.6 billion must be repaid. Figure 2 presents PTC statistics for Tax Years 2020 and 2021.

Figure 2: PTC Statistics for Tax Years 2020 and 2021

	Tax Year 2020 Tax Returns Processed as of August 5, 2021[5]	Tax Year 2021 Tax Returns Processed as of May 5, 2022
Total Tax Returns With PTC or APTC	**3.8 million**	**6.2 million**
Total APTC Amount	$27.3 billion	$40.1 billion
Total PTC Claimed in Excess of the APTC	$1.6 billion	$2.4 billion
Sum of APTC and PTC Claimed at Filing in Excess of the APTC	$29.0 billion	$42.5 billion
Tax Returns With Excess APTC Payments – *(taxpayer receives more APTC payments than the PTC amount to which they are entitled)*		
Total Tax Returns	1.4 million	2.0 million
Total PTC Amount	$7.2 billion	$8.6 billion
Total APTC Amount	$9.4 billion	$12.2 billion
Total APTC Reported in Excess of the PTC	$2.2 billion	$3.6 billion
Total Excess APTC Reported that Must Be Repaid	$0[6]	$2.6 billion

Source: TIGTA's analysis of the Individual Master File. Totals may not add due to rounding.

Validation of PTC claims

The IRS developed the following processes to validate PTC claims during tax return processing.

- Preprocessing error screening. Prior to the IRS accepting an electronically filed (e-filed) tax return with a PTC claim, the tax return is screened through PTC reject conditions. For

[4] Pub. L. No. 117-169, 136 Stat. 1818 (2022).

[5] Tax Year 2020 returns selected through August 5, 2021, due to the IRS extending the filing season to May 17, 2021.

[6] The ARPA temporarily suspended the APTC repayment requirement for Tax Year 2020.

example, one reject condition ensures that a Form 8962 is included if the taxpayer is required to reconcile the APTC on Form 8962.[7]

Similar to the validation performed for e-filed tax returns, paper-filed tax returns are perfected by tax examiners in the IRS's Code and Edit function before the tax return information is entered into the IRS's computer system. Once perfected by the Code and Edit function, the information from the paper-filed tax return, along with the perfected return coding, is entered into the tax return processing system.

- Real-time error identification. Once a tax return with a PTC claim is accepted for processing (e-filed and paper), the Affordable Care Act Verification System compares the Exchange data and information reported on the return. A return with a discrepancy identified during this process is assigned an error code and is sent to the IRS Error Resolution function for manual review. Errors that are based on return information (*e.g.*, mathematical errors) are usually handled via the Math Error process.[8] Depending on the dollar amount of the discrepancy, the IRS will correspond with the taxpayer for additional information to support their PTC claim or process the tax return and identify it for evaluation for post-processing compliance treatment by the Examination function.
- Prerefund Automated Questionable Credit Program. In addition to the previously discussed error screenings, returns may be identified for prerefund treatment by the IRS's PTC fraud filters. If any exceptions are identified, a refund freeze condition is triggered. The IRS then determines the correct treatment stream based on the programming in the filters and available resources.

Results of Review

Processes and Procedures Were Accurately Updated to Reflect Modified Premium Tax Credit Rules

Our review of 6.4 million Tax Year 2021 returns with a Form 8962 filed as of May 5, 2022, found that:

- Programming was updated for the APRA changes, including the unemployment rules, and correctly calculated taxpayers' allowable PTC and required excess APTC repayment, if applicable.
- Processes were developed to verify the accuracy of PTC claims when unemployment compensation was reported.
- Processes correctly identified potentially incorrect PTC claims. Returns with a discrepancy between the IRS calculated PTC and the amount claimed by the taxpayer were identified for additional review.

---

[7] Taxpayers who do not agree that a Form 8962 is required can submit a statement and continue to e-file.

[8] An exception to deficiency procedures that the IRS can use for certain purposes defined in statute, including correcting calculation errors and checking for other obvious noncompliance, such as claims above income and credit limits.

As of May 5, 2022, 5.3 million taxpayers received the PTC to which they were entitled or repaid the correct excess APTC as required. The IRS's processes also correctly identified nearly 1.1 million potentially incorrect claims.[9]

Additional steps were taken to implement the special unemployment rules for Tax Year 2021

Under ARPA Section 9663, a taxpayer who receives or is approved to receive unemployment compensation for as little as one week during Calendar Year 2021 qualifies for special PTC rules for the entire year. Under this rule, the taxpayer's household income in excess of 133 percent of the FPL for the individual's family size is not taken into account when calculating the PTC. This will generally increase a taxpayer's PTC because a taxpayer with a household income at 133 percent of the FPL does not pay premiums if enrolled in the benchmark plan or one of the other less expensive options.

The IRS updated Form 8962 instructions and conducted taxpayer outreach, such as posting information on IRS.gov, issuing news releases, *etc*. In addition, the IRS added a check box on Form 8962 which serves as attestation and documentation of the taxpayer's receipt or approval to receive unemployment compensation (see Figure 3). Our review of Tax Year 2021 tax returns filed as of May 5, 2022, identified 1.3 million returns that checked the unemployment box on Form 8962.

Figure 3 – Form 8962, Premium Tax Credit (PTC) – Tax Year 2021

Form **8962** Department of the Treasury Internal Revenue Service	**Premium Tax Credit (PTC)** ► Attach to Form 1040, 1040-SR, or 1040-NR. ► Go to *www.irs.gov/Form8962* for instructions and the latest information.	OMB No. 1545-0074 **2021** Attachment Sequence No. **73**
Name shown on your return		Your social security number

A. If you, or your spouse (if filing a joint return), received, or were approved to receive, unemployment compensation for any week beginning during 2021, check the box. See instructions . . . . . ► ☐

B. You cannot take the PTC if your filing status is married filing separately unless you qualify for an exception. See instructions. If you qualify, check the box ► ☐

Source: Excerpt of Tax Year 2021 Form 8962.

Limited Resources Affect the Internal Revenue Service's Ability to Address Incorrect Premium Tax Credit Claims

Although the IRS's processes accurately identified potentially incorrect PTC claims, once identified, the IRS does not have adequate resources to address every potentially incorrect claim. To mitigate this, the IRS uses dollar thresholds to prioritize the returns it reviews. Tax returns below the dollar threshold are processed as filed by the taxpayer. Our review of the nearly 1.1 million tax returns with potentially incorrect PTC claims identified that taxpayers associated with 801,941 (76 percent) tax returns had a potential PTC reporting discrepancy of

[9] An incorrect PTC claim could constitute an overpayment or an underpayment of the PTC.

more than $100 on their tax return, for a total discrepancy of $741.7 million.[10] However, 707,906 (88 percent) of the 801,941 tax returns were below the Error Resolution Program's dollar tolerance, and thus were processed as filed by the taxpayer. These taxpayers received [redacted] in potentially incorrect PTC benefits.

Once selected for review, the IRS uses its Math Error Authority to correct mathematical errors on the return that affect the accuracy of the taxpayer's PTC claim. However, the IRS does not have the authority to adjust PTC claims that are not supported by the Exchange data. Instead, IRS management stated that the IRS must use its Statutory Notice of Deficiency procedures (*e.g.*, an audit) to address PTC claims with an Exchange discrepancy.[11] In these instances, the IRS corresponds with the taxpayer for additional support for their PTC claim. If the taxpayer does not respond to the IRS notice, the return is processed as filed and considered for potential Statutory Notice of Deficiency processes by either the Automated Questionable Credit or Examination Programs.

Similar to the Error Resolution Program, the number of tax returns the IRS can address using these processes is limited to available program resources. Our review of the 94,035 tax returns with potentially incorrect PTC claims above the Error Resolution Program's dollar threshold found that 1,194 (1.3 percent) returns were selected for compliance treatment.[12] However, the IRS plans to implement additional post-filing compliance processes to help taxpayers become compliant and prevent unnecessary audits. According to the IRS Inflation Reduction Act Strategic Operating Plan, these processes include options such as a soft notice to encourage self-correction instead of an audit.

Recommendation 1: The Commissioner, Wage and Investment Division, and the Commissioner, Small Business/Self-Employed Division, should consider expanding the use of soft notices to address potentially erroneous PTC claims. These notices should provide individuals with information specific to the eligibility or reporting requirements related to the potential error the IRS identified and suggest the filing of an amended return, if an error has occurred.

> **Management's Response:** IRS management agreed with the recommendation and is evaluating the expanded use of soft notices for the purpose of addressing potentially erroneous PTC claims.

---

[10] We did not include tax returns with PTC reporting discrepancies of $100 or less in our assessment because it is not reasonable to expect the IRS to work PTC reporting discrepancies this small with its limited resources. Of the nearly 1.1 million tax returns with potentially incorrect PTC claims, 254,765 tax returns had a PTC reporting discrepancy of $100 or less. For the remaining 801,941 tax returns, we identified 484,523 taxpayers who potentially received more PTC or repaid less excess APTC than they should have and 317,418 taxpayers who potentially received less PTC or repaid more excess APTC than they should have.

[11] Statutory Notice of Deficiency procedures require the IRS to formally notify the individual by certified or registered mail of the deficiency, giving the taxpayer the opportunity to appeal the determination before an assessment is made.

[12] The IRS selected 1,010 returns for the Automated Questionable Credit Program and 185 returns for the Examination Program. [redacted].

A programming error resulted in some tax returns being incorrectly considered for selection or excluded from post-processing compliance review

The ARPA established special PTC rules for individuals who received or were approved to receive unemployment for at least one week during Calendar Year 2021. The IRS receives Form 1099-G, *Certain Government Payments*, from State unemployment agencies reporting the amount of unemployment compensation an individual received during the year. However, the IRS has no third-party information regarding individuals who were approved to receive unemployment benefits but did not use them.

Our analysis of Forms 1099-G filed as of September 1, 2022, identified 91,812 taxpayers who claimed the unemployment exception on their return, but their unemployment status was not supported. By checking the unemployment box on Form 8962, these taxpayers potentially received $65.4 million more in net PTC than they were entitled or repaid $125.8 million less in excess APTC than required.

The IRS implemented a post-processing compliance filter to address the potential risk of improper payments associated with the unemployment rules. The IRS stated that the filter identified 9,431 PTC claims for review as of October 31, 2022. These included 5,123 of the tax returns we identified with no associated Form 1099-G. However, we found that 4,308 of the returns identified by the filter did not meet the filter criteria. We also identified 15,124 potentially erroneous PTC claims that should have been identified by the filter but were not. We shared the results of our analysis with IRS management in November 2022. IRS management agreed with our assessment and stated that the returns the IRS identified were incorrectly identified or excluded from identification because the data on Form 1099-G was incomplete at the time of their initial analysis. In addition, the estimate of the potential tax liability on these returns was based on limited return data and did not properly account for the additional data elements used by TIGTA in its analysis.

IRS management stated that they will modify the filter's selection criteria. In addition, management stated that the potential examination listings will be adjusted to remove the returns we identified that did not meet the selection criteria and add the potentially erroneous tax returns that the filter did not identify. IRS management noted that none of the cases have been selected and reiterated that the number of returns selected for post-refund audits is dependent on available resources.

The IRS has no processes to proactively assist taxpayers who are entitled to additional PTC or repaid more excess APTC than required

Of the taxpayers associated with 801,941 tax returns who had a potentially incorrect PTC benefit in excess of $100, 317,418 taxpayers under claimed the PTC or overpaid their excess APTC repayment. These taxpayers either under claimed the PTC or overreported their excess APTC repayment totaling $334.8 million. In addition, our review of Tax Year 2021 tax returns filed as of May 5, 2022, identified 10,069 taxpayers who received unemployment compensation during Calendar Year 2021 but did not check the unemployment box on Form 8962. These taxpayers either under claimed the PTC or overreported their excess APTC repayment totaling $20.1 million.

The Affordable Care Act Verification Service identifies taxpayers who potentially under claim the PTC or overpay excess APTC. The IRS also has the ability to identify taxpayers who are eligible for additional PTC or reduced APTC repayments because they received unemployment compensation. However, the same resource limitations that prevent the IRS from addressing erroneous PTC claims also affect the IRS's ability to proactively assist these taxpayers.

Taxpayers who are entitled to more PTC or repaid too much excess APTC generally must file an amended tax return to claim the additional credit or request a refund of the overpayment. However, we question how many of these taxpayers are aware that they may be entitled to additional PTC or a lower APTC repayment considering their original PTC claim was incorrect.

Recommendation 2: The Commissioner, Wage and Investment Division, should notify the 317,418 taxpayers we identified, who potentially received less PTC than they were entitled or repaid more APTC than required, that they may qualify for additional PTC or overpaid APTC and encourage them to file an amended Tax Year 2021 return, if applicable.

> **Management's Response:** IRS management partially agreed with the recommendation. IRS management is evaluating the formation of a dedicated team that will notify taxpayers identified in the future, who potentially receive less PTC than entitled or repay more APTC than required, that they may qualify for additional PTC or overpaid APTC and encourage them to file an amended return. IRS management stated that there are multiple reasons why a taxpayer may appear to have claimed less PTC than the amount to which they are entitled. For example, in the case of separated parents who share an Affordable Care Act Marketplace policy but who file separate returns and split dependents, one parent might agree to allow the other to claim all of the PTC on their return. The parent who does not allocate any of the health coverage premiums to their return would appear to be claiming less PTC than entitled based on the marketplace data alone. Notifying these taxpayers that they should claim additional PTC could cause confusion and lead to taxpayers filing erroneous claims.
>
>> **Office of Audit Comment:** While IRS management did not agree to review the 317,418 taxpayers we identified, IRS management's corrective action, along with the corrective action to Recommendation 3, satisfies the intent of our recommendation.

Recommendation 3: The Commissioner, Wage and Investment Division, should develop processes, such as the use of courtesy letters to notify individuals of their potential eligibility, to proactively assist taxpayers who, based on available tax return and Exchange data, potentially claimed less PTC than entitled or paid more APTC than required.

> **Management's Response:** IRS management agreed with the recommendation and will evaluate potential treatments for notifying taxpayers of potential tax benefits to which they may be eligible.

Recommendation 4 (E-Mail Alert): On October 26, 2022, we notified the Director, Submission Processing, of our concerns regarding taxpayers who are potentially eligible for additional PTC based on their unemployment status during Tax Year 2021. We recommended that the Director, Submission Processing, notify these taxpayers that they may qualify for additional PTC or be able to reduce the amount of excess APTC they must repay and encourage them to file an amended Tax Year 2021 return, if they qualify.

Management's Response to Alert: IRS management agreed with the recommendation. IRS management stated they are reviewing the 10,069 taxpayer accounts identified and are developing a notice to notify impacted taxpayers that they may have under claimed PTC or overreported excess APTC payments.

Processes Ensure Victims of Domestic Violence or Spousal Abandonment Who File As Married Filing Separately Can Claim the Premium Tax Credit

To qualify for the PTC, a taxpayer cannot file a tax return using the filing status of Married Filing Separately, unless they qualify for certain exceptions (*e.g.*, victims of domestic violence, spousal abandonment). Taxpayers use the check box on Line B, above Part I of Form 8962 to note this exception (see Figure 3). Our review of Tax Year 2021 Forms 8962, e-filed as of May 5, 2022, identified 8,147 taxpayers who checked the box for victims of domestic violence or spousal abandonment and found that their PTC claims were processed correctly. These taxpayers received $45.4 million in PTCs.

In addition, in May 2022, we recommended and the IRS agreed to update the Form 8962 instructions to inform taxpayers of the methods for reporting that they are a victim of domestic violence.[13] Our review of the draft Tax Year 2022 Form 8962 instructions found the IRS included the National Domestic Violence Hotline and a reference to Publication 3865, *Tax Information for Survivors of Domestic Abuse*. However, the instructions do not include information about the actions taxpayers can take to have a victim of domestic violence indicator placed on their tax account.

The IRS developed a specific indicator denoting a taxpayer could be a victim of domestic violence. The indicator is set on tax accounts when a victim contacts the IRS and requests the indicator be placed on their account or completes Part V of Form 8857, *Request for Innocent Spouse Relief*. As of May 5, 2022, 38,185 taxpayers had a victim of domestic violence indicator on their tax account.

Recommendation 5 (E-Mail Alert): On October 25, 2022, we notified the Director, Submission Processing, of our concerns with the draft Tax Year 2022 Form 8962 instructions. We recommended that the IRS revise the instructions to inform taxpayers that they have an option to set a domestic violence indicator on their tax return.

Management's Response to Alert: The IRS agreed with this recommendation and revised the instructions for Form 8962, effective November 9, 2022, to include information on domestic violence and instructions on how the victims may indicate their qualification for the exception to the requirement they file jointly with their spouse to qualify for the PTC.

[13] TIGTA, Report No. 2022-47-034, *American Rescue Plan Act: Implementation of Premium Tax Credit Provisions* (May 2022).

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to assess the adequacy of processes and procedures to ensure expanded PTC eligibility requirements are met prior to credits being allowed. To accomplish our objective, we:

- Identified relevant forms, instructions, and publications related to the PTC and ensured they have been updated to include accurate information related to PTC changes for Tax Year 2021.
- Assessed the accuracy of the processing of PTC claims during Processing Year 2022. Specifically, we ensured computer programming for the IRS's systemic calculation of the PTC had been updated to reflect new and modified PTC eligibility rules for Tax Year 2021.
- Assessed IRS processes to ensure individuals claiming the unemployment income exception were eligible. We quantified the number of taxpayers whose unemployment exception was not supported. We also quantified taxpayers who received unemployment income but did not claim the PTC unemployment exception.
- Followed up on our prior recommendation to update the Form 8962 instructions to inform taxpayers of the options available to have the IRS mark their tax account with a Victim of Domestic Violence indicator and quantified the population of taxpayers with this indicator. We also quantified the population of taxpayers who checked box B on Form 8962, Married Filing Separately exception, and verified that these taxpayers' PTC claims were correctly processed.

Performance of This Review

This review was performed with information obtained from the Wage and Investment Division Submission Processing function office in Covington, Kentucky, and Return Integrity and Compliance Services function in Atlanta, Georgia, during the period April 2022 through January 2023. 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 Russell P. Martin, Deputy Inspector General for Inspections and Evaluations; Diana M. Tengesdal, Acting Assistant Inspector General for Audit (Returns Processing and Account Services); Deann L. Baiza, Director; Jane G. Lee, Audit Manager; Ngan B. Tang, Audit Manager; Michael J. Bibler, Lead Auditor; Hee Koo Kang, Auditor.

Validity and Reliability of Data From Computer-Based Systems

During this review, we obtained extracts from the Error Resolution files for Processing Year 2022, Individual Master File for Tax Year 2021, Individual Return Transactions File for Processing Year 2022, and Information Returns Master File for Tax Year 2021 that were available on the

Treasury Inspector General for Tax Administration Data Center Warehouse. We evaluated the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for 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: the IRS implementation strategy to address the new and modified PTC eligibility rules for Tax Year 2021. We evaluated these controls by verifying the accuracy of IRS's systemic calculation of the PTC, meeting with IRS management, and reviewing IRS procedures.

Appendix II

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:

- Taxpayer Rights and Entitlements – Potential; 316,672 taxpayers that either under claimed PTC or overreported excess APTC repayments totaling $333.8 million (see Recommendation 2).

Methodology Used to Measure the Reported Benefit:

As of May 5, 2022, using the Individual Return Transaction File, we identified 6,402,043 filed Tax Year 2021 tax returns with Form 8962, *Premium Tax Credit*. We developed a systemic program to independently compute net PTC and excess APTC repayment for all eligible taxpayers. We compared our amount of net PTC and excess APTC repayment to the amounts shown on the Individual Master File for each individual. Our analysis identified 317,418 taxpayers who under claimed PTC or overreported excess APTC repayment.

We removed 746 taxpayers who are also included in the 10,069 taxpayers in the following measure who received unemployment compensation during Calendar Year 2021 but did not check the unemployment box on Form 8962. We arrived at 316,672 taxpayers who are potentially eligible to receive $182,489,655 in additional PTC or overreported $151,357,615 in excess APTC repayments. These include:

- 125,377 taxpayers overreported $119,494,199 in excess APTC repayments.
- 124,076 taxpayers potentially received $132,751,618 less in PTC than they are entitled.
- 67,219 taxpayers should potentially receive $49,738,037 in PTC but did not. Instead, these taxpayers overreported $31,863,416 in excess APTC repayments.

Overall, 316,672 (125,377 + 124,076 + 67,219) taxpayers either under claimed the PTC or overreported excess APTC repayments totaling $333,847,270 ($119,494,199 + $132,751,618 + $49,738,037 + $31,863,416).

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 10,069 taxpayers who received unemployment compensation during Calendar Year 2021 but did not check the unemployment box on Form 8962. These taxpayers either under claimed PTC or overreported excess APTC repayments totaling $20.1 million (see Recommendation 4).

Methodology Used to Measure the Reported Benefit:

As of May 5, 2022, using the Individual Return Transaction File we identified 6,402,043 filed Tax Year 2021 tax returns with Form 8962, *Premium Tax Credit*. We used Forms 1099-G, *Certain*

Government Payments, information returns data as of September 1, 2022, and identified 10,069 taxpayers who received unemployment compensation during Calendar Year 2021 but did not check the unemployment box on Form 8962. These taxpayers are potentially eligible for $8,161,400 in additional PTC or potentially overreported $11,901,351 more in excess APTC. These include:

- 6,116 taxpayers should potentially receive $5,582,076 in PTC but did not. Instead, these taxpayers overreported $9,457,266 in excess APTC repayments.
- 2,011 taxpayers potentially received $2,579,324 less in PTC than they are entitled.
- 1,942 taxpayers overreported $2,444,085 in excess APTC repayments.

Overall, 10,069 (6,116 + 2,011 + 1,942) taxpayers either under claimed the PTC or overreported excess APTC repayments totaling $20,062,751 ($5,582,076+$9,457,266+$2,579,324+$2,444,085).

Appendix III

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

COMMISSIONER
WAGE AND INVESTMENT DIVISION

May 15, 2023

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin
Digitally signed by Kenneth C. Corbin
Date: 2023.05.15 11:53:30 -04'00'
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – American Rescue Plan Act: Continued Review of Premium Tax Credit Provisions (Audit # 202240720)

Thank you for the opportunity to review and provide comments on the subject draft report. The American Rescue Plan Act (ARPA)[1] was signed into law on March 11, 2021. As per Provision 9661 of the ARPA, the eligibility criteria for the Premium Tax Credit (PTC) were temporarily expanded, and the credit was increased for individuals and families in all income brackets for tax years 2021 and 2022. Under Provision 9663 of the ARPA, Affordable Care Act Marketplace participants may claim the maximum amount of premium assistance if they received or were approved to receive unemployment compensation income in tax year 2021, regardless of their household income.

In support of changes made by the ARPA, we updated applicable forms and instructions, and implemented programming changes that reflect those updates along with revised business rules for addressing unemployment compensation. As a result, we accurately calculated the taxpayers' allowable PTC and required excess advance PTC (APTC) repayments. Our processes verified the accuracy of PTC claims when unemployment compensation was reported and identified incorrect PTC claims.

The Treasury Inspector General for Tax Administration (TIGTA) reviewed nearly 6.4 million tax year 2021 returns with Form 8962, *Premium Tax Credit (PTC)*, to evaluate the IRS's processes and procedures for ensuring compliance with the expanded eligibility requirements. We are pleased that TIGTA's review found that 100 percent of the tax year 2021 PTC claims were processed correctly.

We appreciate the TIGTA's recognition that the IRS was responsive to many of their concerns, including working with the Office of Taxpayer Correspondence to develop a soft notice to inform taxpayers that they may qualify for additional PTC or reduce the

[1] Pub. L. 117-2

amount of excess APTC paid. Additionally, the Inflation Reduction Act[2] has provided funds to the IRS, allowing us to reconsider our approach to soft notices. We are in the early stages of developing a proactive strategy that will provide more assistance to taxpayers in the future.

To improve the accuracy of the PTC claims, we have updated Form 8962 to include a checkbox for taxpayers to self-certify their receipt or approval to receive unemployment compensation in tax year 2021. The Form 8962 instructions were also updated to provide additional resources to assist victims of domestic violence. Additionally, we conducted outreach regarding Provision 9663, including posting information on IRS.gov and distributing educational materials to stakeholders.

To ensure compliance with Provision 9663, we developed a new post-refund compliance filter to identify taxpayers who may not be eligible for the benefit. Taxpayers identified by this filter will be required to provide additional verification of eligibility for the PTC. We appreciate the TIGTA's review and feedback of this filter to ensure that only potentially non-compliant taxpayers will be considered for audit.

Our responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact James Clifford, Director, Return Integrity and Compliance Services, at 470-639-3505.

Attachment

[2] Pub. L. 117-169

Attachment

Recommendations

RECOMMENDATION 1

The Commissioner, Wage and Investment Division, and the Commissioner, Small Business/Self-Employed Division, should consider expanding the use of soft notices to address potentially erroneous PTC claims. These notices should provide individuals with information specific to the eligibility or reporting requirements related to the potential error the IRS identified and suggest the filing of an amended return, if an error has occurred.

CORRECTIVE ACTION

We are evaluating the expanded use of soft notices for the purpose of addressing potentially erroneous Premium Tax Credit claims.

IMPLEMENTATION DATE

October 15, 2026

RESPONSIBLE OFFICIAL

Director, Refundable Credits Program Management, Return Integrity and Compliance 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

The Commissioner, Wage and Investment Division, should notify the 317,418 taxpayers we identified, who potentially received less PTC than they were entitled or repaid more APTC than required, that they may qualify for additional PTC or overpaid APTC and encourage them to file an amended Tax Year 2021 return, if applicable.

CORRECTIVE ACTION

We are evaluating the formation of a dedicated team that will notify taxpayers identified in the future who potentially receive less PTC than entitled or repay more advance PTC (APTC) than required, that they may qualify for additional PTC or overpaid APTC and encourage them to file an amended return. There are multiple reasons why a taxpayer may appear to have claimed less Premium Tax Credit (PTC) than the amount to which they are entitled. For example, in the case of separated parents who share an Affordable Care Act Marketplace policy but who file separate returns and split dependents, one parent might agree to allow the other to claim all of the PTC on their return. The parent who does not allocate any of the health coverage premiums to their return would appear to be claiming less PTC than entitled based on the marketplace data alone. Notifying these taxpayers that they should claim additional PTC could cause confusion and lead to taxpayers filing erroneous claims.

2

IMPLEMENTATION DATE
October 15, 2026

RESPONSIBLE OFFICIAL
Director, Refundable Credits Program Management, Return Integrity and Compliance Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3
The Commissioner, Wage and Investment Division, should develop processes, such as the use of courtesy letters to notify individuals of their potential eligibility, to proactively assist taxpayers who, based on available tax return and Exchange data, potentially claimed less PTC than entitled or paid more APTC than required.

CORRECTIVE ACTION
We will evaluate potential treatments for notifying taxpayers of potential tax benefits to which they may be eligible.

IMPLEMENTATION DATE
October 15, 2026

RESPONSIBLE OFFICIAL
Director, Refundable Credits Program Management, Return Integrity and Compliance 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 (E-Mail Alert)
On October 26, 2022, we notified the Director, Submission Processing, of our concerns regarding taxpayers who are potentially eligible for additional PTC based on their unemployment status during Tax Year 2021. We recommended that the Director, Submission Processing notify these taxpayers that they may qualify for additional PTC or be able to reduce the amount of excess APTC they must repay and encourage them to file an amended Tax Year 2021 return, if they qualify.

CORRECTIVE ACTION
We are reviewing the 10,069 taxpayer accounts identified and are developing a notice to notify impacted taxpayers that they may have under claimed PTC or overreported excess APTC repayments.

3

IMPLEMENTATION DATE
October 15, 2023

RESPONSIBLE OFFICIAL
Director, Refundable Credits Program Management, Return Integrity and Compliance 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 (E-Mail Alert)
On October 25, 2022, we notified the Director, Submission Processing, of our concerns with the draft Tax Year 2022 Form 8962 instructions. We recommended that the IRS revise the instructions to inform taxpayers that they have an option to set a domestic violence indicator on their tax return.

CORRECTIVE ACTION
The instructions for Form 8962, *Premium Tax Credit (PTC)*, were revised, effective November 9, 2022, to include information on domestic violence and instructions on how its victims may indicate their qualification for the exception to the requirement they file jointly with their spouse to qualify for the PTC.

IMPLEMENTATION DATE
Implemented

RESPONSIBLE OFFICIAL
Director, Refundable Credits Program Management, Return Integrity and Compliance Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
N/A

Appendix IV

Abbreviations

APTC	Advanced Premium Tax Credit
ARPA	American Rescue Plan Act of 2021
E-file(d)	Electronically File(d)
FPL	Federal Poverty Level
IRS	Internal Revenue Service
PTC	Premium Tax Credit
TIGTA	Treasury Inspector General for Tax Administration

**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

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