

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Oversight of the Internal Revenue Service's Response to the American Rescue Plan Act of 2021

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Background

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)¹ and the Consolidated Appropriations Act, 2021² were enacted to provide financial relief and economic stimulus to American taxpayers. Subsequently, on March 11, 2021, the President signed the American Rescue Plan Act of 2021 into law.³ This Act includes approximately \$1.9 trillion in economic relief and stimulus to address the continuing impact of the coronavirus pandemic on the economy, public health, state and local governments, individuals, and businesses. It also contains numerous tax-related provisions intended to provide relief to individuals and businesses. These provisions will have a significant impact on Internal Revenue Service (IRS) operations and Federal tax administration. The Act provides the IRS with over \$1.8 billion in additional funding for the implementation of certain provisions, including advance payments and taxpayer assistance, and for modernizing and securing IRS systems. Much of this additional funding will remain available to the IRS through Fiscal Year (FY) 2023.

After the enactment of the CARES Act, the Treasury Inspector General for Tax Administration (TIGTA) immediately shifted resources to provide comprehensive oversight of the IRS's implementation of this Act. As of February 2021, TIGTA had initiated 18 reviews⁴ and 416 investigations as part of its oversight efforts of both the CARES Act and Consolidated Appropriations Act. Although many investigations are still ongoing, TIGTA's investigative work to date has resulted in 63 criminal indictments, 22 convictions, and more than \$86.9 million in seizures, restitutions, or interdictions of illicit payments.

Additionally, a provision was included in the American Rescue Plan Act of 2021 which addressed a TIGTA recommendation to help improve tax compliance in the gig economy, virtual currency exchange markets, and other emerging economies by addressing the disparity of information reporting between third-party settlement organizations and other types of businesses. Section 9674 of the American Rescue Plan changed the exception for de minimis payments by third party settlement organizations, reducing the exception threshold to \$600 annually⁵ so that these organizations are subject to the same reporting requirements as other businesses.

Oversight Plan

TIGTA's oversight of the American Rescue Plan Act will focus on the IRS's continuing response to the coronavirus pandemic, specifically the implementation of the Act's significant tax-related provisions. This document contains details of TIGTA's oversight projects and investigative actions beginning in FY 2021. TIGTA will also monitor the IRS's implementation of American Rescue Plan Act provisions to determine whether additional oversight and investigative actions are needed in the future.

¹ Pub. L. No. 116-136, 134 Stat. 281 (2020).

² Pub. L. No. 116-260, 134 Stat. 1182 (2020).

³ Pub. L. No. 117-2, 135 Stat.

⁴ See Appendix I for a listing of TIGTA's reviews related to the CARES Act.

⁵ The exception threshold for de minimis payments was previously \$20,000 and an aggregate number of transactions exceeding 200.



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Significant Tax-Related Provisions of the American Rescue Plan Act of 2021⁶

Issues Recovery Rebates



Provides \$1,400 payments to individuals (\$2,800 for married couples)

Provides an additional \$1,400 for qualifying dependents

Expands the Child and Dependent Care Tax Credit



Increases the amount of expenses that qualify for the credit

Makes the credit fully refundable

Expands the Premium Tax Credit



Increases the eligibility and amount of the credit for 2021 and 2022

Extends Employee Retention Credit



The credit, originally enacted under the CARES Act, is extended to December 31, 2021

Excludes Certain Amounts from Income



Excludes \$10,200 of unemployment compensation from income for Tax Year 2020 for households with less than \$150,000 in adjusted gross income

Excludes discharged student loan debt from income in 2021 through 2025

Expands the Child Tax Credit



Increases the credit from \$2,000 to \$3,000 per child (\$3,600 for children under age 6)

Raises the age limit for qualifying children from 16 to 17

Establishes monthly advance payments of the credit

Expands the Earned Income Tax Credit



Increases the credit amount for childless taxpayers

Modifies existing rules to expand eligibility

The Joint Committee on Taxation estimates the cost of Recovery Rebates to be approximately \$410 billion dollars.

Office of Audit

In its oversight role, TIGTA's Office of Audit (OA) can help ensure that only eligible individuals and businesses receive coronavirus relief and that the IRS quickly identifies control weaknesses to prevent Federal Government funds from being wasted. In addition to the list of planned audits below, the OA will monitor the implementation of certain American Rescue Plan Act provisions, and any IRS operational support programs that may be impacted by these provisions, to assess whether additional audits are needed.

FY 2021

2020 Filing Season – The review will assess IRS efforts to identify and assist taxpayers who meet unemployment income exclusion criteria. Testing will include assessing IRS efforts to identify Tax Year 2020 returns filed by taxpayers who meet exclusion criteria but did not exclude the up to \$10,200 of excludable unemployment compensation.

Issuance of Recovery Rebates to Individuals – The review will evaluate the accuracy of the IRS's issuance of American Rescue Plan Recovery Rebate payments to individuals. Our testing will include an assessment of the IRS's processes to determine eligibility and efforts to ensure

⁶ The IRS commonly refers to Recovery Rebates as Economic Impact Payments.



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eligible individuals receive a payment, as well as an evaluation of controls in place to prevent payments to ineligible individuals.

Implementation of Expanded Child and Dependent Care Eligibility Requirements – The review will assess the IRS's development of processes and procedures to ensure that eligibility requirements are met at the time tax returns are processed.

Implementation of Child Tax Credit Periodic Advance Payments – The review will assess IRS processes and procedures to ensure that periodic advance payments are accurate and made to only those taxpayers that meet qualification requirements.

Expansion of Premium Tax Credit Eligibility Rules – The review will assess IRS efforts to identify and assist taxpayers who meet excess Advanced Premium Tax Credit repayment exclusion criteria. Testing will include assessing IRS efforts to identify Tax Year 2020 returns filed by taxpayers who meet excess Advanced Premium Tax Credit repayment exclusion criteria but did not exclude this amount from tax liability.

Development of Online Informational Portal for Child Tax Credit – This review will assess the IRS requirements review process and the development of the online informational portal for the Child Tax Credit.

Accuracy of Updates to Tax Accounts via Advanced Child Tax Credit Online Information Portal – The review will assess IRS processes and procedures to ensure the accuracy of taxpayer requests for modifications relating to the receipt of Advanced Child Tax Credit payments.

Compliance with Unemployment Compensation Provisions – The review will assess compliance efforts in the IRS's Automated Underreporter and Examination functions to identify taxpayers who improperly excluded unemployment compensation from their returns when they had income in excess of the statutory thresholds.

FY 2022-2023

Reconciliation of the Recovery Rebate in the 2022 Filing Season – The review will assess the effectiveness of the IRS's reconciliation of the Recovery Rebates issued and Recovery Rebate Credit claims⁷ during the 2022 Filing Season.

Expansion of the Child Tax Credit Eligibility Requirements and Reconciliation of Advance Payments – The review will assess the adequacy of IRS processes and procedures to ensure that expanded eligibility requirements and accurate reconciliation of advance payments are met at the time tax returns are processed.

Expansion of the Earned Income Tax Credit and Child and Dependent Care Credit Eligibility Requirements – The review will assess the adequacy of IRS processes and procedures to ensure that expanded eligibility requirements are met before these credits are allowed.

Accuracy of Taxpayers Reporting Discharge of Student Loan Debt – The review will assess IRS processes and procedures to ensure compliance with student loan forgiveness modifications.

⁷ If an eligible individual did not receive their payment in advance, it can be claimed on their tax return as a Recovery Rebate Credit.



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Controls Over American Rescue Plan Act Funding – The review will evaluate IRS controls to ensure that appropriated funds received as part of the American Rescue Plan Act are adequately tracked and used only for their intended purpose.

Deductibility of Employee Compensation – The American Rescue Plan Act provides future increases on the number of employees subject to the limit on corporations' ability to deduct the compensation of "covered employees." The review will assess the IRS's efforts to enforce the current limits which generally prohibit publicly-held corporations from deducting more than \$1 million in compensation paid to a current or former "covered employee" in a taxable year.⁸

Economic Injury Disaster Loans – The review will assess the IRS's implementation and compliance efforts related to provisions in the American Rescue Plan Act which exclude from gross income advances from the Small Business Administration of Economic Injury Disaster loans.

Office of Investigations

TIGTA's Office of Investigations (OI) administers investigative programs that protect the integrity of the IRS and detect and prevent fraud and other misconduct within IRS programs. This includes investigating allegations of criminal violations and administrative misconduct by IRS employees, as well as protecting the IRS against external attempts to corrupt or threaten its employees. As with the CARES Act, the OI projects an increase in IRS impersonation activity, fraudulent and counterfeit Treasury checks, manipulations of IRS data service portals, and threats against the IRS as a result of the implementation of the American Rescue Plan Act. The OI also anticipates that this increase will require additional outreach and awareness efforts. The OI will continue to allocate investigative resources in a triaged approach to address the most significant impacts on Federal tax administration.

IRS Impersonation Scams

Historically, scammers have not needed legislation or national emergencies to encourage them to engage in scams impersonating the IRS to victimize taxpayers through e-mail or the telephone. However, since 2013, this activity has increased to a historically high volume of activity using robocalls from foreign-based call centers. These types of scams generally only work if the scammer is able to instill in the victim a sense of urgency such as a pending "arrest" for failing to pay Federal income taxes, and if the reason why the IRS is allegedly calling the victim is plausible from the victim's standpoint. Given the widespread media coverage of both the CARES Act and American Rescue Plan Act provisions offering payments to many tens of millions of taxpayers, and the economic hardships caused by the coronavirus, both plausibility and sense of urgency have been met with the average taxpayer, giving scammers a "target rich" environment.

Treasury Checks

As it did for the CARES Act, the IRS will be disbursing Treasury (paper) checks to certain taxpayers pursuant to the American Rescue Plan Act. The number of paper checks issued by the Department of the Treasury has increased dramatically as a result of these Acts. By way of

⁸ I.R.C. Section 162(m) defines the limits and the term "covered employee."



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comparison, for Tax Years 2018 and 2019 the IRS issued over 26 million paper refunds each year, but issued approximately four times that number of paper checks as a result of the CARES Act.

On average, TIGTA initiates 53 investigations each year of forged/counterfeit Treasury checks, valued at approximately \$37.4 million. The OI has identified a 68 percent increase in these types of investigations since the passage of the CARES Act. We expect the number of investigations of counterfeit and forged Treasury checks to continue to increase as a result of the CARES Act and the American Rescue Plan Act.

IRS Employee Misconduct

As CARES Act and American Rescue Plan Act investigations continue to dominate the investigative resource landscape, limited resources will be available to detect and investigate traditional mission areas, including significant misconduct by IRS employees. The \$1.8 billion in additional funding that the IRS was provided by the American Rescue Plan Act, coupled with the likely return of IRS employees to physical IRS offices from remote work, may increase the number of IRS employee investigations.

Cyber Attacks Against and Manipulation of IRS Web Portals

Under the American Rescue Plan Act, the IRS issued 127.3 million recovery rebate payments. Of these payments, 107.4 million were direct deposits into bank accounts and 19.9 million were paper checks or prepaid debit cards issued to taxpayers who met the requirements for the payments.

TIGTA has identified the theft of approximately \$1.5 million in CARES Act payments. Because the IRS used the same distribution methodology for American Rescue Plan Act payments as it did for CARES Act payments, TIGTA estimates that a similar amount of theft will occur. In April 2020, the IRS launched the "Get My Payment" application, a web-based tool that allows taxpayers to make changes to their bank account information if the IRS does not currently have it in order to expedite payments. The OI advised the IRS to implement more advanced security measures to mitigate cyber fraud. However, the IRS elected to implement the web portal application as originally planned. The OI projects that at least 100 million taxpayers are at an elevated risk of having their bank account information or recovery rebate payments stolen.

Threats Against the IRS

The OI is also responsible for IRS employee and infrastructure security. The OI's Criminal Intelligence and Counterterrorism Division is responsible for analyzing and triaging threats directed at the IRS and/or threats that impact Federal tax administration. The OI's analysis has identified that approximately 18 percent of significant threats directed at the IRS are related to IRS impersonation scams. Accordingly, the OI expects to see a significant increase in threats to IRS operations nationwide due to the role of the IRS in implementing the CARES Act and the American Rescue Plan Act and issuing payments to individuals.

Outreach and Awareness

The OI regularly conducts outreach and awareness efforts directly to the public and through other Federal agencies. Historically, the OI has worked with the IRS, Social Security Administration, Department of Veteran's Affairs, and Federal Trade Commission, as well as professional and private entities who serve relevant populations, such as AARP.



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Office of Inspections and Evaluations

TIGTA's Office of Inspections and Evaluations provides a range of specialized services and products, including quick reaction reviews, onsite inspections of an office, and in-depth evaluations of major IRS functions, activities, or programs. The Office of Inspections and Evaluations efforts will focus on issues related to the pandemic response that cut across the IRS.

IRS Pandemic Response Capping Report – This evaluation will summarize the results of TIGTA's oversight work related to the IRS's pandemic response activity, including implementation of the CARES Act, IRS's People First Initiative, and the American Rescue Plan Act. The report will include information related to TIGTA's audit, investigative, and inspections and evaluations activity. This summary will consolidate TIGTA's findings and recommendations and inform stakeholders about significant and systemic issues of noncompliance and program inefficiencies that may warrant attention.



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Appendix I

Treasury Inspector General for Tax Administration Reviews Related to the CARES Act

No.	Report Number	Title	Report Issuance Date
1	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 Legislative Provisions	June 2020
2	2021-26-006	Systems Processing Economic Impact Payments Performed Well and the Get My Payment Application Security Vulnerabilities Are Being Remediated	December 2020
3	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	March 2021
4	2021-46-023	Results of the 2020 Filing Season and Effects of COVID-19 on Tax Processing Operations	March 2021
5	2021-16-020	Interim Audit Report- IRS COVID 19 Response Timeline and Policies to Protect Employee Health and Safety	March 2021
6	2021-IE-R002	Interim Report - The IRS Leveraged Its Telework Program to Continue Operations During the COVID-19 Pandemic	March 2021
7	202040636	Processing of COVID-19 Amended Return and Tentative Refund Claims	Ongoing
8	202040632	Implementation of the CARES Act Recovery Rebate for Individuals	Ongoing
9	202040633	Actions Taken to Ensure the Validity of Employer COVID-19 Relief Advance Credits	Ongoing
10	202010625	Review of Controls over Coronavirus Response Funding	Ongoing
11	202110620	Coronavirus Aid, Relief and Economic Security Act Provisions for Retirement Distributions	Ongoing
12	202040635	Impact of the COVID-19 Pandemic on IRS Customer Service Operations	Ongoing
13	202040637	Assessment of Efforts to Address Backlogs of Business Taxpayer Returns Due to Tax Processing Center COVID-19 Closures	Ongoing
14	202140621	Economic Impact Payment Tax Filing Reconciliation for Individuals	Ongoing



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No.	Report Number	Title	Report Issuance Date
15	202030628	IRS's People First Initiative	Ongoing
16	202140623	Continued Review of COVID-19 Related Business Tax Relief Provisions	Ongoing
17	202110611	IRS's Preparedness and Response to the COVID-19 Pandemic	Ongoing
18	202110612	TAS Response to Inquiries Regarding the Tax Provisions of the CARES Act	Ongoing