

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Alvaro M. Bedoya

In the matter of

H&R BLOCK INC.,
a corporation,

HRB DIGITAL LLC,
a limited liability company, and

HRB TAX GROUP, INC.,
a corporation.

**DOCKET NO. 9427
PUBLIC VERSION**

COMPLAINT

The Federal Trade Commission, having reason to believe that H&R Block, Inc., HRB Digital LLC, and HRB Tax Group, Inc., (collectively, “Respondents” or “H&R Block”) have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent H&R Block, Inc., is a Missouri corporation with its principal office or place of business at 1301 Main Street, Kansas City, Missouri 64105.
2. Respondent HRB Digital LLC is a Delaware limited liability company with its principal office or place of business at One H&R Block Way, Kansas City, MO 64105.
3. Respondent HRB Tax Group, Inc., is a Missouri corporation with its principal office or place of business at One H&R Block Way, Kansas City, MO 64105.
4. Respondents have advertised, marketed, promoted, distributed, and sold online tax preparation products and services to consumers.
5. The acts and practices of H&R Block alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

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SUMMARY OF THE CASE

6. H&R Block advertises, markets, distributes, and sells commonly used tax preparation products and services that enable users to prepare and file their income tax returns online.

7. H&R Block has designed its online tax preparation products (“Online Products”) to unfairly encumber consumers attempting to move from a more expensive Online Product to a less expensive or free product, or “downgrade.” First, H&R Block has an unfair customer service contact requirement that does not permit consumers to downgrade without first contacting H&R Block’s customer service department either by phone or online chat to request and complete the downgrade. Second, H&R Block unfairly employs data-wiping, meaning that H&R Block deletes all information the consumer has entered to that point for their tax return after the consumer chooses to downgrade. These two distinct unfair practices (collectively, H&R Block’s “Downgrade Policies”) coerce consumers into purchasing more expensive Online Products than they would have otherwise preferred. H&R Block’s unfair Downgrade Policies stand in stark contrast to its upgrade policy, which is completed at the push of a button and automatically transfers all the customer’s information into the more expensive Online Product to which the consumer has upgraded, without the need to contact customer service.

8. H&R Block knows that consumers spend significant time entering their tax information into the Online Products and that many consumers end up filing their tax returns using a more expensive Online Product than they need. Nevertheless, H&R Block’s customer service contact requirement forces consumers seeking to downgrade to contact customer service to request the downgrade, which often requires substantial wait times in addition to time already spent entering tax filing information. Then, H&R Block’s data-wiping practice requires consumers to choose between sacrificing their progress and starting over to switch to a less expensive product or paying for the unwanted and more expensive product to avoid duplicating the time and effort they have already expended to complete their tax return.

9. Separate from H&R Block’s unfair Downgrade Policies, H&R Block deceptively markets its Online Products by representing to consumers that they can file for free using H&R Block, when in fact, many consumers have tax situations that are not covered by H&R Block’s free Online Product.

10. As detailed herein, H&R Block has engaged in, and is engaging in, unfair and deceptive business practices in the advertising, marketing, distribution, and sale of its Online Products.

BUSINESS ACTIVITIES

I. H&R Block’s Unfair Downgrade Policies Coerce Consumers into Paying More than Necessary for Tax Preparation Products

11. H&R Block offers tax preparation and filing services in multiple forms: (1) assisted in-person or virtual tax preparation by H&R Block “tax pros,” (2) tax preparation software that can be purchased in stores like Best Buy or downloaded, and (3) “do it yourself” online tax preparation software products (i.e., the Online Products).

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12. Since at least 2013, H&R Block has offered multiple Online Products during each “Tax Season,” or the period of time each year during which consumers file their taxes for the prior calendar year (December 1 of the prior year through November 30 of the current year—e.g., Tax Season 2021 is December 1, 2020, through November 30, 2021). Since at least Tax Season 2018, H&R Block has offered “Free Online,” “Deluxe,” “Premium” and “Self Employed” versions of its Online Product.

13. The main difference among the Online Products, other than cost, is the number of tax forms, schedules, and tax situations supported or covered by the product. For example, the Free Online product covers the least number of tax forms and schedules (including subsections of those forms and schedules), with Deluxe covering everything included in Free Online plus additional forms and schedules, Premium covering everything included in Deluxe plus additional forms and schedules, and Self-Employed covering everything included in Premium plus additional forms and schedules. H&R Block also offers an intermediate product between the Free Online and Deluxe Online Products that includes only those forms available in Free but also includes the additional non-tax form features available in Deluxe, Premium, and Self-Employed.

14. Consumers may begin preparing their tax return in any of the Online Products. Some consumers may begin preparing their tax return in a product that includes more forms than they need when a less expensive product may be sufficient, while other consumers may be prompted to upgrade to a more expensive product partway through the process. If the consumer accepts an upgrade, all previously entered information is seamlessly transferred into the more expensive product.

15. In contrast to the seamless process to upgrade to more expensive products, H&R Block has designed its Online Products to make downgrading a pain point. Consumers who wish to file using a less-expensive product are first required by H&R Block to spend time attempting to contact H&R Block’s customer service department. Next, because of H&R Block’s use of data-wiping practices, consumers must start from scratch and reenter all of their tax information if they still wish to file using a cheaper or free H&R Block Online Product. These practices coerce consumers into purchasing products they otherwise would not have paid for.

16. H&R Block’s customer service contact requirement makes the mere process of inquiring about downgrades difficult. Through this unfair practice, H&R Block has made it impossible for consumers to downgrade their product on their own. Instead, H&R Block requires consumers to spend time and effort contacting H&R Block’s customer service and either speak with a live customer service agent on the phone or through the Online Product’s customer service chat option to downgrade. If H&R Block’s system is able to authenticate the consumer’s account, consumers may request to downgrade through an automated Interactive Voice Response system (“IVR”) over the phone.

17. During Tax Season 2014, consumers seeking to downgrade had to call customer service and then wait to be escalated to a “Tier 2” customer service agent to complete the downgrading process. In a 2014 email discussing the numerous consumer questions about downgrading on social media, a Senior Vice President of DIY Tax at H&R Block stated, “I don’t necessarily want the entire FB community knowing we’re able to downgrade[,] so

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I'm hesitant to put that out broadly." By 2019, "Tier 1" customer service agents were able to complete downgrades for consumers.

18. In January 2015, H&R Block added its IVR virtual assistant as a potential downgrade method. To downgrade via the IVR virtual assistant, consumers must call H&R Block's customer service line and be able to authenticate their account using their telephone number. If H&R Block is unable to authenticate the consumer's account, they are put on hold to speak with a live customer service agent.

19. In 2018, an H&R Block digital content editor raised the issue that consumer feedback indicated H&R Block's online "help center isn't helpful for starting over or changing products." A lead product manager in DIY Tax, responded that "we do not necessarily want to[] promote the fact we do downgrades," and later, "I'm not convinced we should 'publicly' display how to downgrade themselves – even if it is only in help."

20. Consumer complaints about H&R Block's customer service contact requirement have continued steadily for years. For example, H&R Block received the following complaint in 2015:

- "HR Block is not allowing to downgrade the product without contacting service representative, I have been waiting for 45 minutes for the representative to respond to downgrade from deluxe to premium. If the HR Block determines that I am not using any of the Deluxe features it should automatically downgrade or at least it should let us to downgrade on our own. I think, this was intentionally DESIGNED so HR Block charge more money."

And, at least as recently as 2021, H&R Block continued to receive similar complaints:

- "There is no button to downgrade products, and the wait time to downgrade is hours on the phone. There needs to be a button to switch back to the free product if you accidentally upgrade."
- "I want to downgrade my account from Deluxe to Free version. But no option for me to do it my own. I have to wait more than 30 minutes on the phone call and then the line was cut. Wasting my time. I decide [sic] to use another tax service for this year."

21. During April 2022, an FTC investigator made at least five attempts to contact H&R Block customer service to downgrade an online tax product; twice through the online chat function and at least three times through phone calls. The attempted chat contacts were successful but took approximately 20 minutes each to complete, with most of that time spent waiting for a live customer service agent to join the chat. However, the attempts to downgrade via phone calls were all unsuccessful regardless of whether the investigator attempted to use the IVR virtual assistant or speak to a live customer service agent. H&R Block's IVR virtual assistant was unable to authenticate the account despite the investigator entering the necessary account-identifying information multiple times on each call and on each attempted call the investigator was ultimately placed on hold to wait for a live customer service agent. However, after approximately 10 to 15 minutes of waiting on hold, the calls all abruptly disconnected.

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22. The same FTC investigator contacted H&R Block again the following year, in April 2023, to request a downgrade using the IVR virtual assistant. On this attempt, which took roughly three minutes, H&R Block successfully authenticated the account, which H&R Block then downgraded. After the investigator logged out and back into the account, they were required to start the tax filing process from the beginning, including reentering their personal identifying information.

23. If a consumer successfully reaches a virtual or live customer service agent and insists that they wish to downgrade to a less expensive Online Product, since at least Tax Season 2014, H&R Block has unfairly designed its Online Products to delete almost all information entered by the consumer upon downgrading their product. This data-wiping practice results in consumers needing to restart their tax returns from the beginning, including re-entering income information such as W-2 information.

24. H&R Block has chosen to design the Online Products in such a way that consumers cannot be downgraded without erasing their entire tax return, which requires them to start the tax preparation process from the beginning. Notes from a 2015 meeting apparently attended by a product manager, senior product manager, lead product manager, and the vice president of digital products, among others, state that H&R Block “[n]eed[s] to be able to wipe data,” because downgrading “[h]as to come with a consequence.”

25. H&R Block has known for many years of complaints regarding its data-wiping practices. For example, in 2017, H&R Block received significant feedback from consumers about this policy:

- “I upgraded one too many times but was unable to return to the Deluxe option[.] I was able to contact Support Services but in order to downgrade I lost ALL the work I had done[.] As the system easily transferred my information up why could it not transfer my information back down[.]”
- “@HRBlock Is it true if I downgrade my account I loose [sic] EVERYTHING I entered?! Unbelievable...”

26. Similarly, in January 2017, a consumer emailed a complaint to H&R Block, stating:

I recently completed entering my information into HR block online tax preparation service. However, there is a problem. At the end it told me that I owed Medicare tax, and had to upgrade to Deluxe version to address the Medicare tax owed. It would not let me move forward (at the end). Now this is the 2nd year HR Block online has glitched on me. I am not pleased with the fact that all customer service (chat and phone) both say that all they can do is reset the online data and downgrade me. I spend hours entering my information, and this is a major inconvenience to start over.

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27. Some complaints have been raised by H&R Block's own employees. For example, in March 2018, H&R Block's then-Director of International Tax, reached out to employees in the DIY Tax division to complain about a "pretty poor experience" he had while preparing his parents' tax returns using H&R Block's Online Products. The employee stated, "The system upgraded me to Premium when I entered a 1099 amount as business income. I modified the 1099 placement in the return so a Schedule C was not required (accurately), and the system wouldn't downgrade my purchase." The employee continued, "I just paid the premium fee and moved on, I don't have time to reenter everything. I suppose that is what we want, but it seems customer unfriendly." In the chat transcript between the employee and an H&R Block customer service agent, the employee told the agent, "I don't want to redo the entire return, I'm done." When the customer service agent informed the employee that this was the only way to downgrade, the employee expressed frustration, stating "Ok. I just wasted an hour of my time."

28. In an April 2019 analysis of consumers' Net Promoter Score, a measure of consumer satisfaction, H&R Block acknowledged that clients consistently complain about "loss of data with downgrade" and "[h]idden costs." And in a 2019 internal presentation, H&R Block noted that "[w]e find that sometimes clients end up with forms that they attach but don't actually need. . . . This leads to clients being overcharged and disgruntled."

29. H&R Block knows that consumers end up in more expensive Online Products than they want or need. In a March 2020 internal presentation, H&R Block noted that

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The same presentation further noted that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

30. H&R Block demonstrated its ability to change the Online Products' design and move away from the data-wiping practice during Tax Season 2019 when it conducted [REDACTED] [REDACTED] which offered some users who had upgraded [REDACTED] [REDACTED] the opportunity to downgrade if they later decided they did not need to file [REDACTED] and attempted to delete the form.

31. H&R Block chose the [REDACTED] from at least 14 forms identified by an employee in H&R Block's [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

32. In the 2020 internal presentation discussed in paragraph 29 above, H&R Block [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] H&R Block did not implement either of these options.

33. H&R Block knows that consumers spend substantial time and effort over multiple sessions preparing their tax returns and that it is very important to them that their progress is not erased as they complete their tax returns. In a 2019 internal report, H&R Block found that on average consumers spent between 1.7 to 1.8 hours over multiple sessions—clicking through approximately 300 different screens—preparing their tax returns. A second 2019 report summarized 20 consumers’ experiences filing their tax returns using H&R Block’s Online Products and noted that a “key takeaway[.]” was “[v]ery few DIYers comp[.]ete their taxes in one session, including those with simple taxes. It’s extremely important for them to know that their work will be saved when they exit the program.”

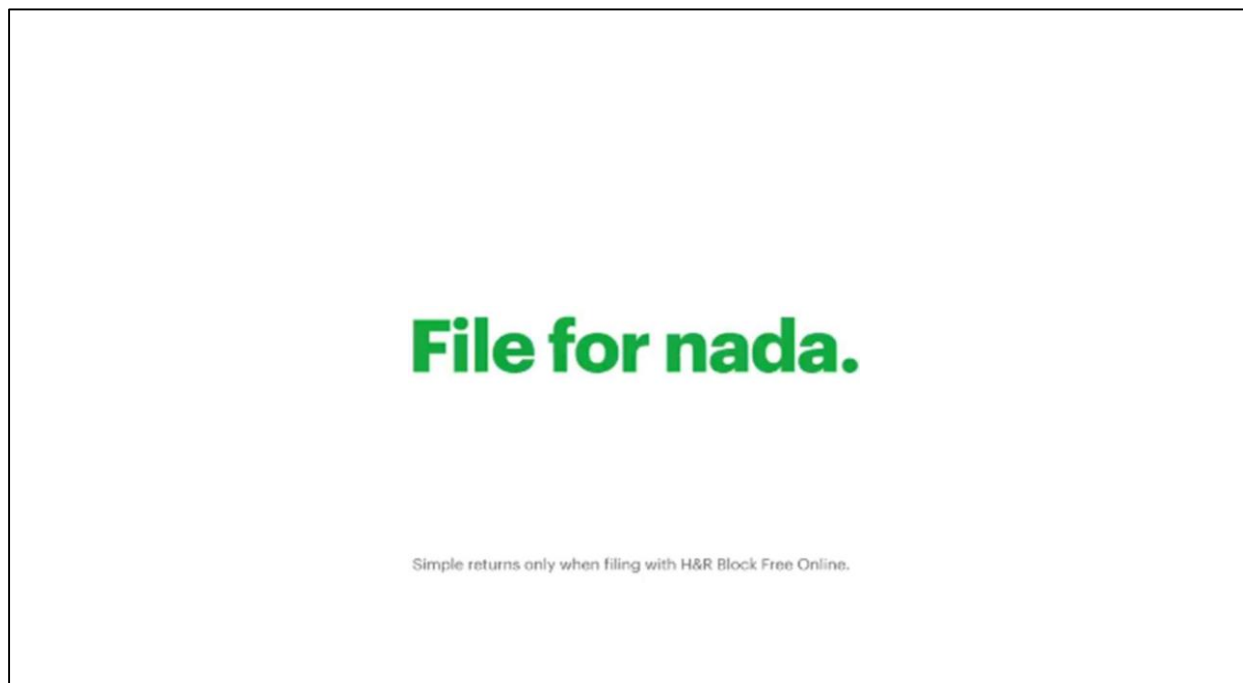
34. Nonetheless, H&R Block continues its data-wiping practices, requiring consumers who wish to downgrade to start their tax returns over in an effort to coerce consumers into purchasing Online Products that are more expensive than the consumer needs or wants.

II. H&R Block Deceptively Markets its Free Online Product

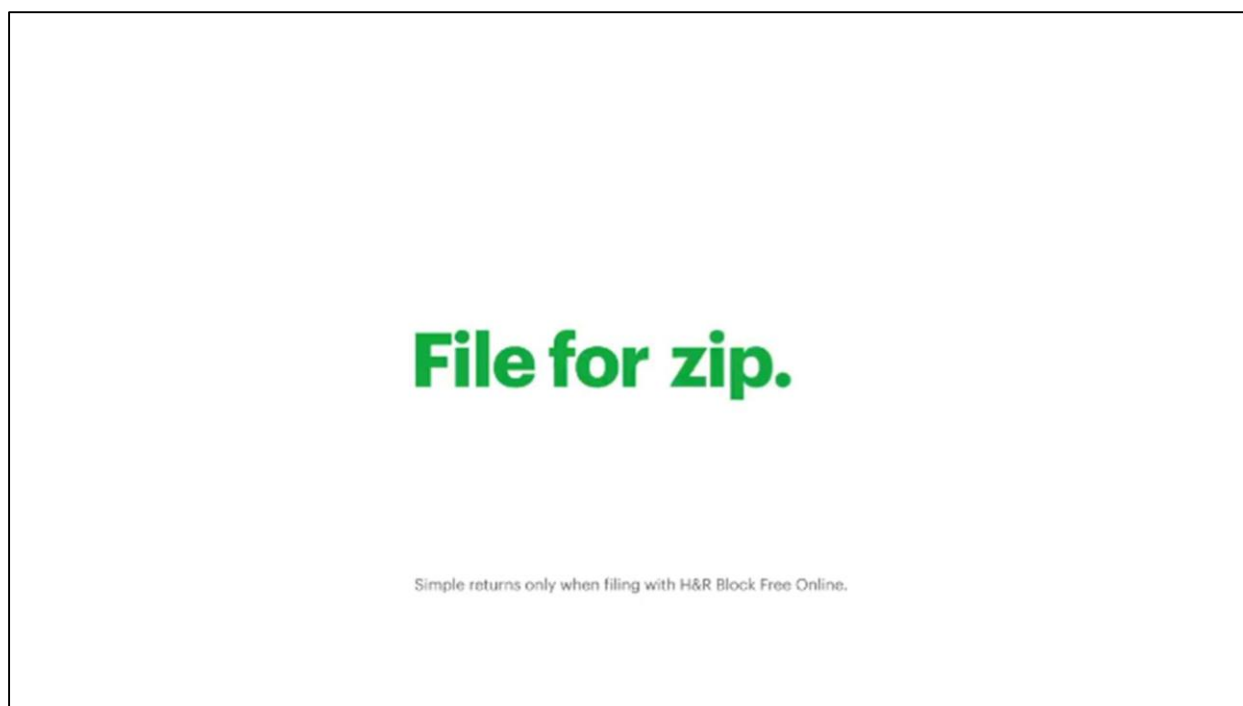
35. Since at least 2018, H&R Block has marketed its Online Products through a variety of methods, including video, social media, and online advertisements (including on its own webpage, hrblock.com).

36. Some of H&R Block’s advertisements promote the Free Online Product. From at least 2018 to 2020, H&R Block video advertisements touted Free Online as free with no limitations, disclosures, or disclaimers. Other video advertisements purported to qualify the offer using small font and vague statements that did not let consumers determine whether the product was free for them. For example, the following screenshots contain a Tax Season 2022 video advertisement on YouTube made up of five frames emphasizing in large, bright green text that consumers can file for “nada. . . zip. . . zilch. . . File for free. H&R Block, Help is here.” Each of the five frames state in small, inconspicuous, grey or black font towards the bottom of the screen, “Simple returns only when filing with H&R Block Free Online.” “Simple return” is not defined.

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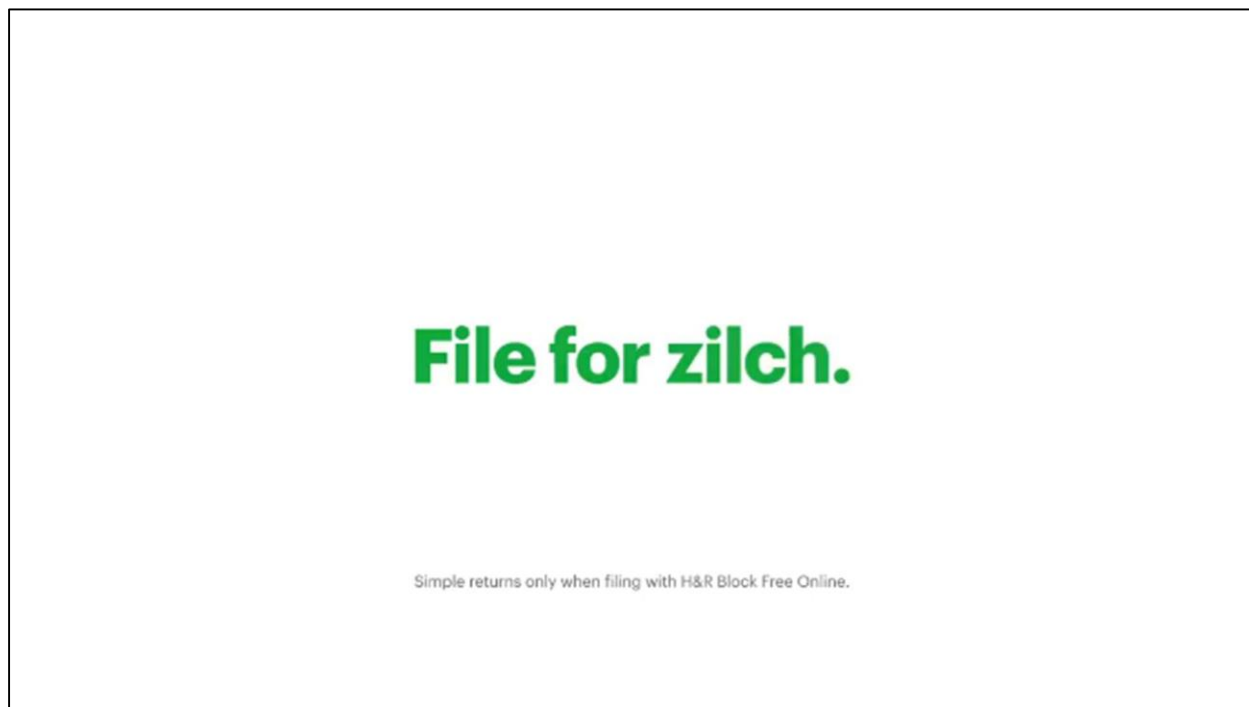


Tax Season 2022 Free Video Ad, Frame 1

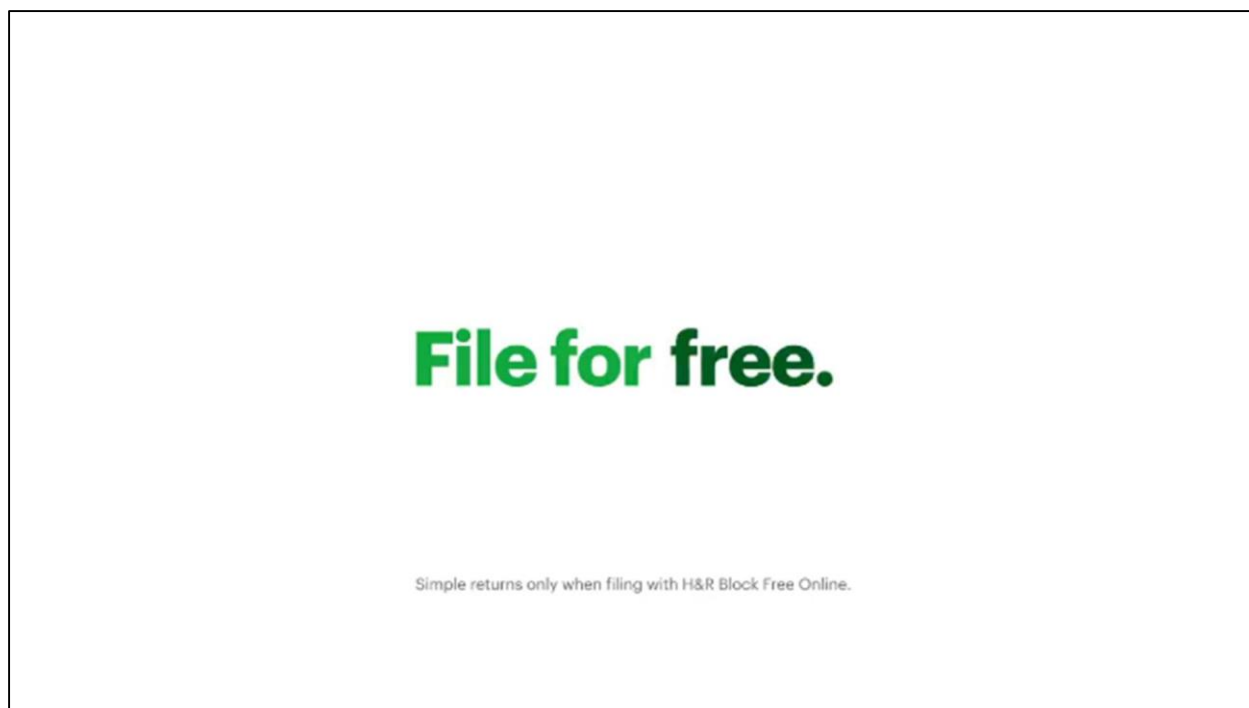


Tax Season 2022 Free Video Ad, Frame 2

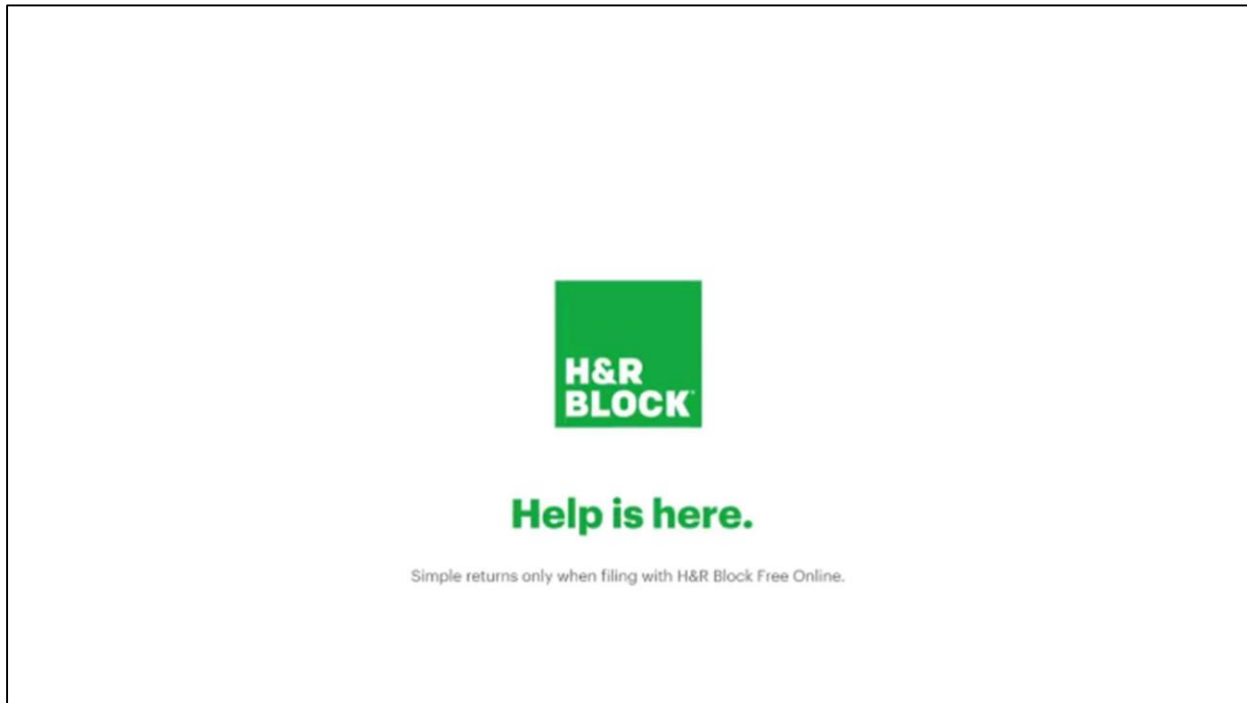
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Tax Season 2022 Free Video Ad, Frame 3

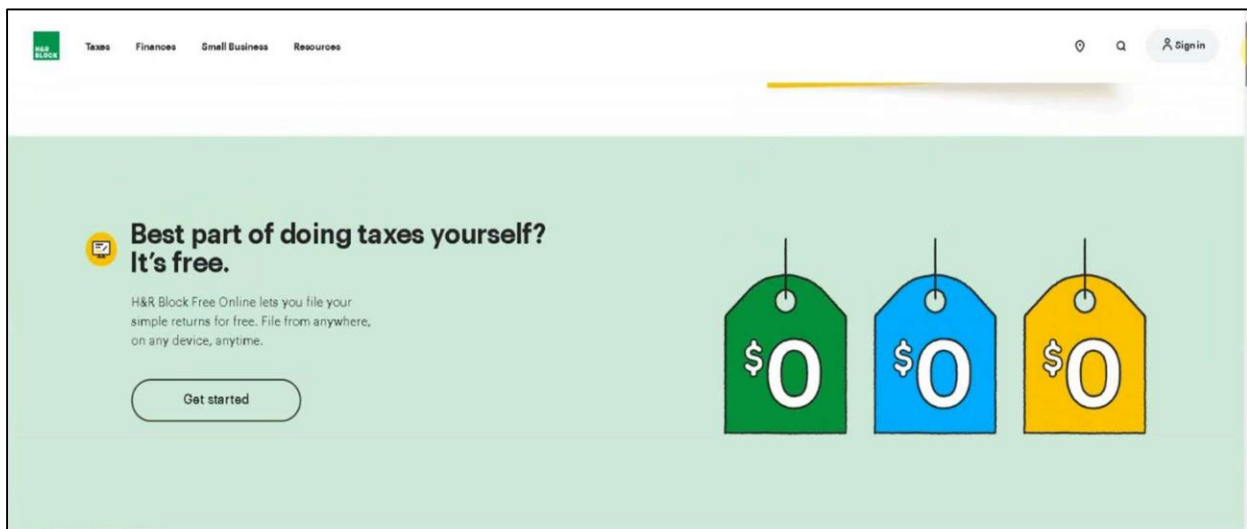


Tax Season 2022 Free Video Ad, Frame 4



Tax Season 2022 Free Video Ad, Frame 5

37. In another Tax Season 2022 advertisement for the Free Online Product, this time on the H&R Block webpage, H&R Block stated, “Best part of doing taxes yourself? It’s free.” Below, in small, inconspicuous black front, it states: “H&R Block Free Online lets you file your simple returns for free.” Again, “simple return” is not defined.



Tax Season 2022 Free hrblock.com Ad

38. During Tax Season 2023, H&R Block continued advertising its Online Products without disclosing material limitations, namely which tax situations are covered or excluded by each Online Product. For example, in a 15-second TV advertisement titled “Football Season,” a voiceover invites consumers to “Do [their] own taxes online with H&R Block.” The voiceover later states “Simple returns file free,” a phrase that then appears in large letters on screen. As

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shown below, for approximately three seconds of the 15-second ad, in small, inconspicuous white text on a moving background, the screen reads “Not all taxpayers qualify. See [hrblock.com](https://www.hrblock.com) for details.” This phrase is not included in the voiceover, and the ad does not include any other information regarding any limitations of the free offer.



Tax Season 2023 Free Television Ad

39. H&R Block deceptively advertises the Free Online Product by representing its product as free when in fact it is not free for many consumers. The advertisements above purport to qualify the Free Online Product offering by stating it is limited to “simple returns.” What constitutes a simple return, however, is not defined or explained in the advertisements and, in fact, changes from year to year as H&R Block alters which forms the Free Online Product covers.

40. Consumers are often surprised and dismayed to discover they cannot file their taxes using Free Online. H&R Block knows that its advertising leads consumers to believe they can file using Free Online, because consumers regularly report their frustration after learning they do not qualify. For example, in response to a 2021 survey of “nonconverters,” or consumers who began preparing their return in an Online Product but ultimately did not pay, H&R Block received the following feedback:

- Why are you charging me? I thought this was free.
- What kind of scam are you guys operating? At the beginning of the tax prep it says i [sic] can file online for free then you want to charge me 49.99 at the end. WTH?
- Why do you advertise free tax service and then charge me at the end? That's misleading!!!!
- I opt for free filing. Why am I being charged 102.00 to file my taxes?

41. On [hrblock.com](https://www.hrblock.com), where the Football Season ad directs consumers to search for more details, no definition or explanation is provided to explain the phrase “simple returns.” For

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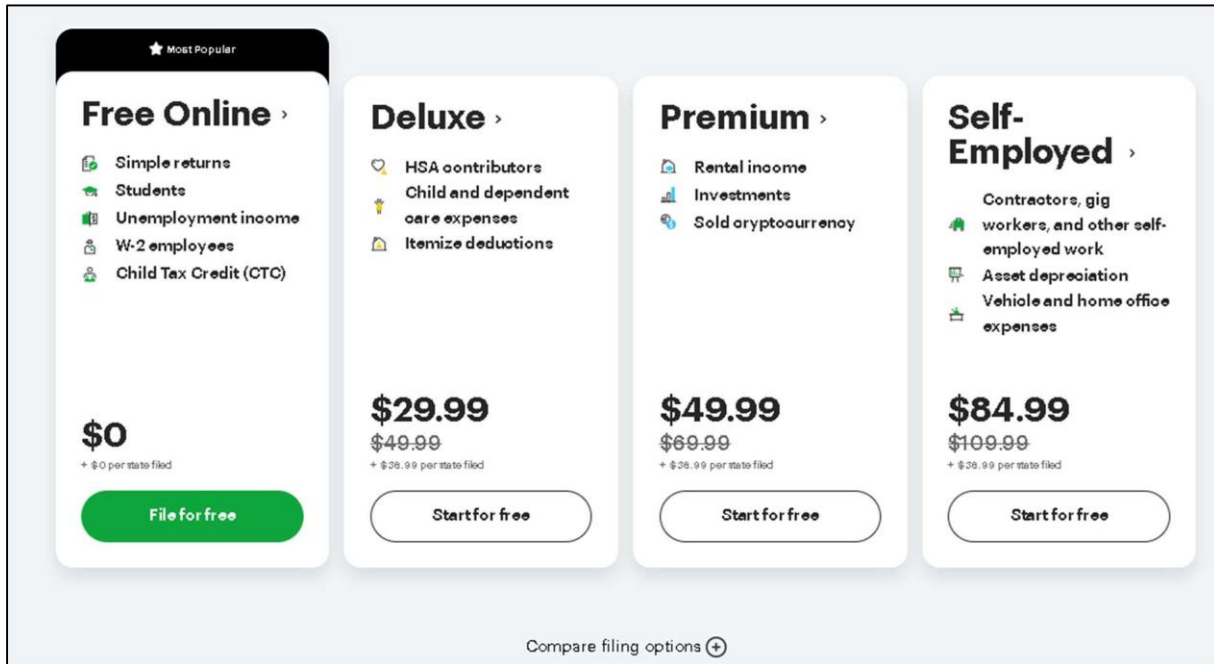
at least Tax Seasons 2018 through 2023, the Online Product “Selector Page”—the central page advertising and comparing H&R Block’s Online Products—did not include or display the tax forms and schedules that were included in the Free product.

42. To access material information about the forms supported by the Free Online Product, H&R Block required consumers to navigate to the Free Online Product’s specific landing page. Even on the product-specific landing page, consumers were required to locate and then click on an inconspicuous link to view the product’s “Tech specs and supported forms” before they could access a complete list of tax forms and schedules that could be completed using the Free Online Product.

43. In Tax Seasons 2018 through 2022, H&R Block’s Online Product Selector Page displayed certain information about each product on a “card” listing the product name, generic tax situations for which H&R Block recommends using that specific product, and cost. Above the Online Product cards, the Online Product Selector Page also included a series of “tiles” that a consumer could select to prompt a product recommendation from H&R Block, which H&R Block indicates by placing a black bar with white text stating “★ Recommended” above the recommended Online Product. For example, if a consumer selected a small tile that read “I’m a freelancer or contractor” or “I have an HSA,” the black bar above Free Online product card moved to the Deluxe product “card,” recommending the consumer should use Deluxe.

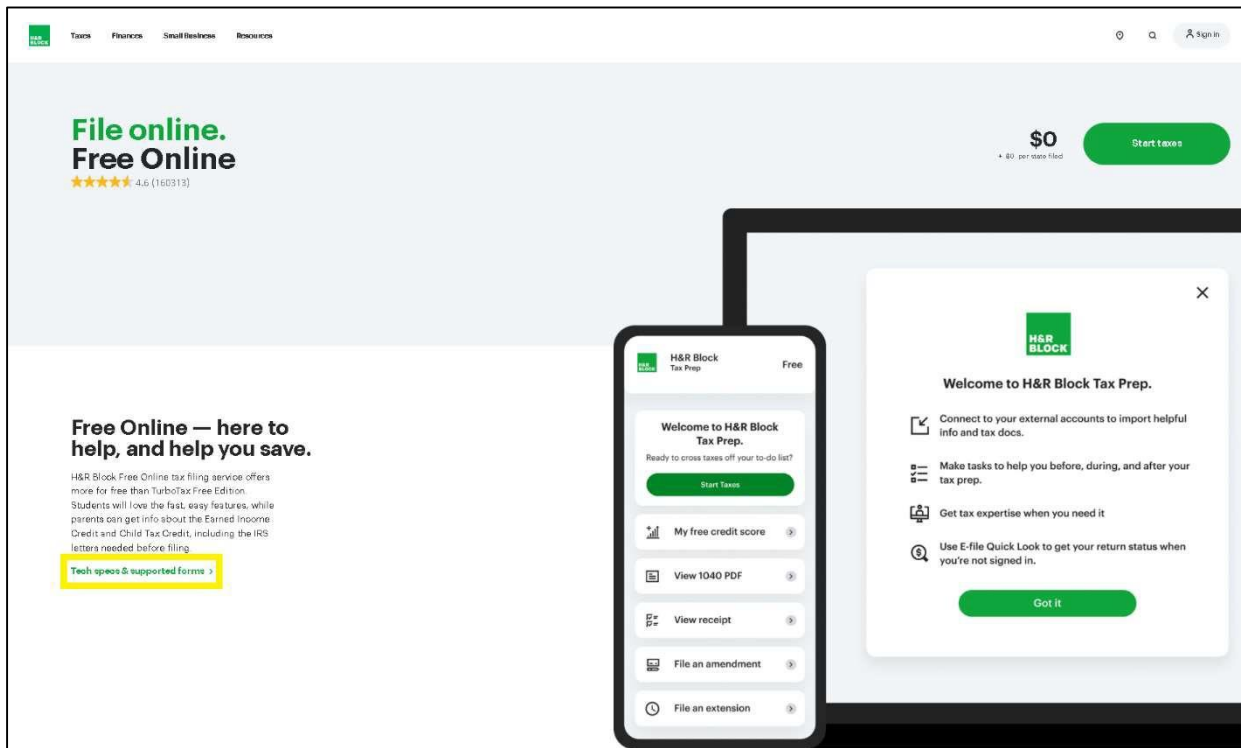
44. However, consumers were not required to select any of these tiles to use an Online Product. Rather, consumers could simply ignore the small tiles and click “File for Free” or “Start for Free” on any of the Online Products’ cards below and begin filling out their tax return information. In at least Tax Seasons 2018 into 2023, the information for consumers to understand whether they qualified for the Free Online Product was not included anywhere on the Online Product Selector Page. During at least those Tax Seasons, consumers viewing the Product Selector Page had to click through three different inconspicuous links before they could access a complete list of tax forms available for any of the products.

45. During at least those Tax Seasons, to access the complete list of tax forms for the Free Online Product, consumers first would have to click on the name of the individual product on the card (e.g., “Free Online”), which is itself an inconspicuous hyperlink. Clicking the Online Product name took consumers to a product-specific subpage of H&R Block’s website.



Tax Season 2022 Online Product Selector Page; Online Product names displayed on cards are hyperlinks.

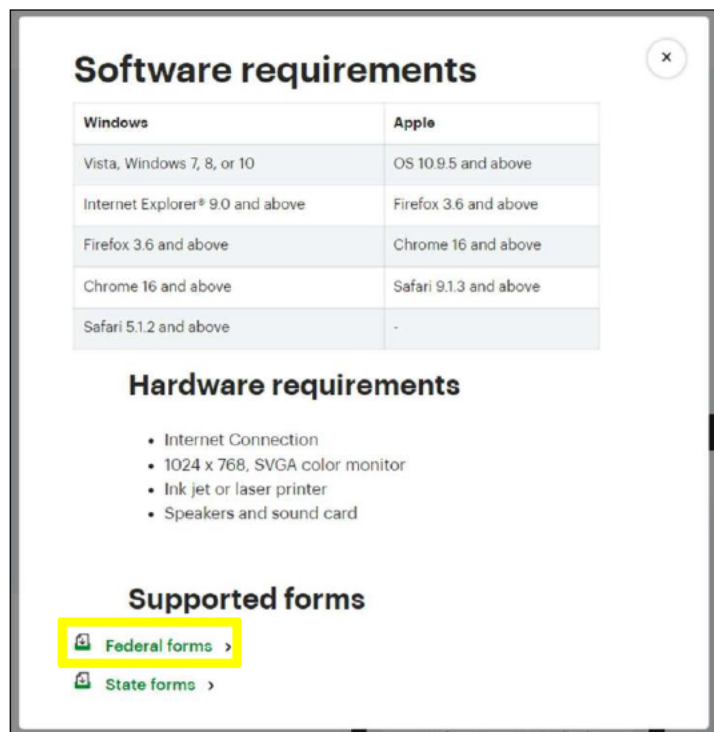
46. Second, consumers then had to notice and click on a link titled “Tech Specs and Supported Forms,” located on the Free Online Product subpage, and go past the technical specifications displayed in tabular format at the top of the pop-up that opens.



Tax Season 2022 Free Online subpage; yellow highlight box added to “Tech specs & supported forms” hyperlink.

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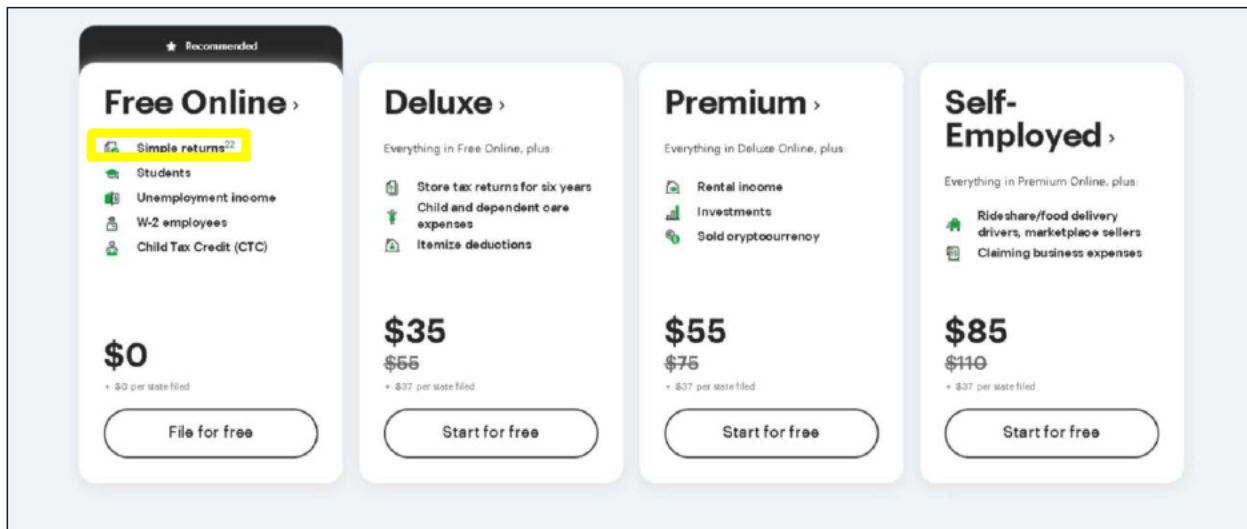
47. Third, consumers then had to select a link at the bottom of the pop-up titled “Federal Forms.”



Tax Season 2022 Free Online “Tech specs and supported forms” pop-up; yellow highlight box added to hyperlink to full list of federal forms included in Free Online.

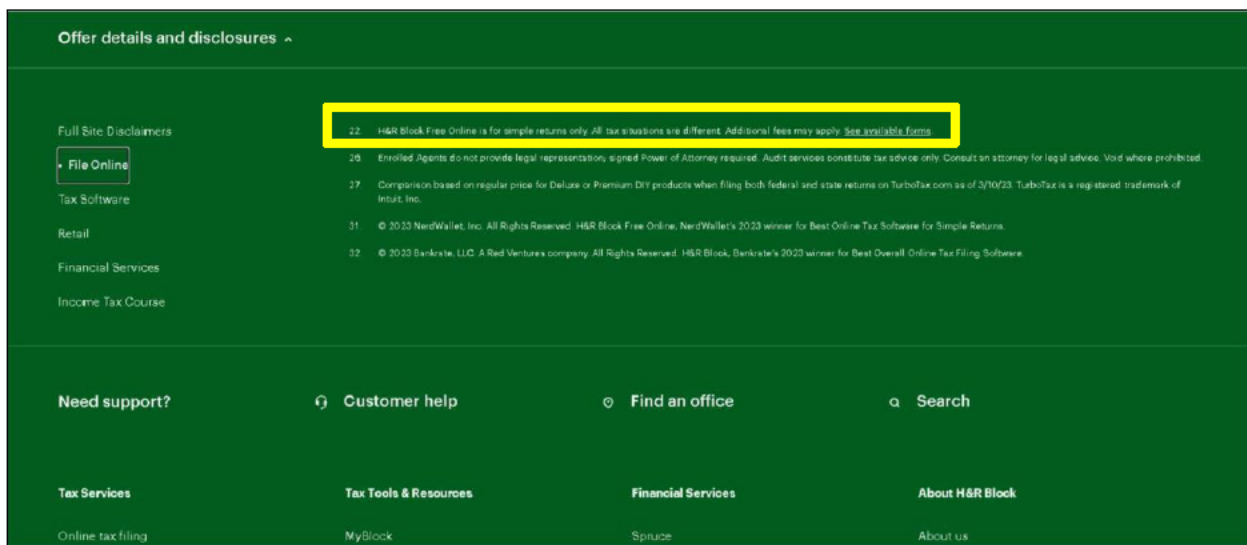
48. Only after wending through the above inconspicuous hyperlinks did H&R Block finally provide consumers with the full list of federal forms and schedules covered by the Free Online Product. This was true for the paid Online Products as well; consumers would have had to repeat this same multi-step process for each product to see and compare the full list of forms and schedules included in that product.

49. During Tax Season 2023, H&R Block made a minor change to the Free Online Product Card, adding a footnote after the phrase “Simple returns.”



Tax Season 2023 Online Product Selector Page; yellow highlight box added to hyperlink to highlight the new footnote after the phrase “Simple returns.”

50. If a consumer clicks on the new footnote after the phrase “Simple returns,” they are redirected to the bottom of the webpage footnote that is initially hidden in a collapsed series of footnotes.



Tax Season 2023 Footnotes to Online Product Selector Page; yellow highlight box added to highlight footnote 22, attached to the phrase “Simple returns” above and containing a hyperlink to a list of forms included in the Free Online Product.

51. The footnote states in small white text: “H&R Block Free Online is for simple returns only. All tax situations are different. Additional fees may apply. See available forms.” (Underline in original). The phrase “See available forms,” is a hyperlink, which if clicked, opens the list of forms included in the Free Online Product. In this way, Defendants require consumers to navigate to a fine print footnote and then a separate page in order to access all of the material limitations to the Free Online Product.

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52. H&R Block has known for many years that its failure to clearly and conspicuously disclose the material list of forms for each product makes it difficult for consumers to determine which product is right for them before starting to work on their returns, leading consumers to complain either about bait and switch pricing or filing using an Online Product that is more expensive than their tax situation required.

53. For example, in a May 2021 PowerPoint summary of consumer feedback prepared by H&R Block employees about Online Products, one slide was dedicated to comments relating to “Program Upgrades w/o Explanation.” These comments included:

- “The website is very confusing and despite advertising the opposite, there is not upfront knowledge of how much the service will cost me (the price I was told up front ended up being very different than the final price).”
- “It said it was free and it ended up charging me it didn’t let me remove the deluxe.”
- “I did not feel I needed to buy the more expensive package, not sure why it wanted to charge me so much.”

54. Another consumer complained to H&R Block in Tax Season 2018 that “I decided to try deluxe with the assumption that, should it not prove beneficial, I could change my plan back. Being roped into paying for the deluxe version was unhelpful to me, as it did not increase my refund.”

55. H&R Block’s advertisements about its Free Online product bring consumers to its website to begin filing their tax returns using Free Online. As described above, H&R Block’s Product Selector Page similarly omits material information (e.g., the tax forms and schedules included) for consumers to determine whether they qualify for the Free Online Product. Only after consumers are partway through preparing their tax returns does H&R Block disclose that many consumers do not qualify to use Free Online, and must upgrade and pay. This material information is provided to consumers only after they have spent significant time and energy and input sensitive personal and financial information into H&R Block’s user interface.

COUNT I – UNFAIR CUSTOMER SERVICE CONTACT REQUIREMENT

56. In numerous instances, Respondents have coerced consumers into purchasing more expensive Online Products than they need or want by requiring consumers to spend time either calling or chatting with H&R Block’s customer service department to downgrade an Online Product to a less expensive one.

57. Respondents’ customer service contact requirement for downgrades only has caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumer themselves. This practice is an unfair act or practice.

PUBLIC**COUNT II – UNFAIR DATA-WIPING PRACTICE**

58. In numerous instances, Respondents have coerced consumers into purchasing more expensive Online Products than they need or want by forcing consumers to choose between paying for an unnecessarily expensive product or losing their previously entered information and starting their tax returns over in a less expensive Online Product.

59. Respondents' data-wiping practice has caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumer themselves. This practice is an unfair act or practice.

COUNT III – DECEPTIVE ADVERTISEMENTS

60. In numerous instances, in connection with the advertising, promotion, offering for sale, or sale of online tax preparation products or services, Respondents have represented, directly or indirectly, expressly or by implication, that consumers can file their taxes for free using H&R Block's Free Online Product. The price of H&R Block's Online Product is material to consumers in their decision to use the product.

61. In fact, in numerous instances Respondents do not permit consumers to file their taxes for free using H&R Block's Free Online Product.

62. Therefore, the representation set forth in Paragraph 60 is false or misleading.

VIOLATIONS OF SECTION 5

63. The acts and practices of Respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

NOTICE

You are notified that on the twenty-third day of October, 2024, at 10:00 a.m., at the Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Room 532-H, Washington, DC 20580, an Administrative Law Judge of the Federal Trade Commission, will hold a hearing on the charges set forth in this Complaint. At that time and place, you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this Complaint.

You are notified that you are afforded the opportunity to file with the Federal Trade Commission ("Commission") an answer to this Complaint on or before the 14th day after service of the Complaint upon you. An answer in which the allegations of the Complaint are contested must contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the Complaint or, if you are without

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knowledge thereof, a statement to that effect. Allegations of the Complaint not thus answered will be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the Complaint, the answer should consist of a statement that you admit all of the material facts to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the Complaint and, together with the Complaint, will provide a record basis on which the Commission may issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under FTC Rule § 3.46.

Failure to answer timely will be deemed to constitute a waiver of your right to appear and contest the allegations of the Complaint. It will also authorize the Commission, without further notice to you, to find the facts to be as alleged in the Complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will hold an initial prehearing scheduling conference to be held not later than 10 days after the answer is filed by the last answering Respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room 532-H, Washington, DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than 5 days after the answer is filed by the last answering Respondent. Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a Respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the Complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations. Such relief could be in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the unfair and deceptive acts or practices challenged in this proceeding violates Section 5 of the Federal Trade Commission Act, as amended, the


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Commission may order such relief against Respondents as is supported by the record and is necessary and appropriate to fully protect the consuming public, including, but not limited to:

1. A prohibition against employing a more complicated or burdensome process to downgrade Online Products than upgrade.
2. A prohibition against failing to provide clear instructions to consumers on how to effectuate a downgrade.
3. A prohibition against misrepresenting that a good or service is “free.”
4. A prohibition against misrepresenting any material fact, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, including: (a) the cost of any of Respondents’ goods or services, including any Online Product or service; and (b) any other fact material to consumers concerning any good or service, such as: the total costs; any refund policy; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.
5. A requirement that Respondents notify customers of the relief ordered by the Commission.
6. A requirement to file periodic compliance reports with the Commission.
7. A requirement to create and keep certain records including: (a) accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss; (b) personnel records showing, for each person providing services in relation to any aspect of the relief ordered by the Commission; (c) copies or records of all consumer complaints and refund requests; (d) records of any market, behavioral, or psychological research, or user, customer, or usability testing, including any A/B or multivariate testing, copy testing, surveys, focus groups, interviews, clickstream analysis, eye or mouse tracking studies, heat maps, or session replays or recordings concerning the subject matter of this Complaint; and (e) a copy of each unique advertisement or other marketing material making a representation subject to the relief ordered by the Commission.
8. Any other relief appropriate to correct or remedy Respondents’ deceptive advertising and unfair acts or practices.

THEREFORE, the Federal Trade Commission this twenty-third day of February, 2024, has issued this Complaint against Respondents.

By the Commission.



April J. Tabor
Secretary

SEAL:

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2024, I filed the foregoing document electronically using the FTC E-File system, and sent courtesy copies of such filing to:

April Tabor
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Federal Trade Commission
600 Pennsylvania Avenue NW
Suite CC-5610
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable Jay L. Himes
600 Pennsylvania Avenue NW
Room H-110
Washington, DC 20580

I hereby certify that on May 9, 2024, I caused the foregoing document to be served via email on:

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/s/ Simon Barth

Simon Barth